

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 12 OF 22

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FIFTH JUDICIAL DISTRICT

No. CR-9226

Dept. No. 2

FEB 05 2021

Nye County Clerk
Deputy

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

THE HONORABLE ROBERT W. LANE, DISTRICT JUDGE

-oOo-

ORIGINAL

THE STATE OF NEVADA,

Plaintiff,

vs.

COLE D. ENGELSON,

Defendant.

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 4

NOVEMBER 9, 2020
9:10 A.M.
PAHRUMP, NEVADA

APPEARANCES:

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The Defendant:

COLE D. ENGELSON

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

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1 PAHRUMP, NYE COUNTY, NEVADA, MONDAY, NOVEMBER 9, 2020

2 9:10 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: Thank you. Good morning.

8 Please be seated.

9 MR. VITTO: Thank you, Your Honor. Good
10 morning, Your Honor.

11 MR. ARABIA: Good morning.

12 MR. MARTINEZ: Good morning, Judge.

13 MS. BOSKOVICH: Good morning, Your Honor.

14 THE COURT: We're on Day 4 of our trial.
15 We have all 15 jurors, and the State can begin its
16 case in chief.

17 MR. VITTO: Thank you, Your Honor. We're
18 going to begin this morning. I want to recall
19 Victoria Schlick to the stand.

20 THE COURT: Good morning. If you can
21 approach up here to the witness stand and have a seat.
22 You're still under oath.

23 / / /

24 / / /

25 / / /

1 Whereupon,

2 VICTORIA SCHLICK,
3 having been previously sworn to testify to the truth,
4 was recalled to the stand and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. VITTO:

7 Q. Good morning, Victoria. I wanted to go
8 over a couple of things this morning to start off.
9 Just briefly, I want to direct your attention to the
10 defendant coming home that Saturday morning back in
11 July of 2017. As far as you could tell, when the
12 defendant got home, had he been drinking?

13 A. No.

14 Q. Between the time he got home from work and
15 when you went to breakfast that morning together, had
16 he had anything to eat?

17 A. No.

18 Q. Do you happen to recall what it was that he
19 had for breakfast that morning?

20 A. Not exactly. He -- it was just normal
21 breakfast from what I can remember.

22 Q. Okay. Is normal breakfast a full plate of
23 food?

24 A. Yes.

25 Q. Does the defendant eat more than what you

1 would characterize as normal?

2 A. For a heavier man, yes.

3 Q. But he was trying to lose weight at that
4 time?

5 A. Correct.

6 Q. What was he doing to try to lose weight?

7 A. He was on the Keto diet.

8 Q. And what does that mean?

9 A. Meaning you have a high fat diet, low carb,
10 I believe. High good fats, low carb.

11 Q. All right. Between breakfast and arriving
12 back home, did the defendant have anything to eat?

13 A. No.

14 Q. Do you recall seeing him eat anything once
15 he got home and before you left to get your nails
16 done?

17 A. Not that I can remember, no.

18 Q. Now, Victoria, you were asked previously
19 about the defendant drinking that day; do you recall
20 that?

21 A. Yes.

22 Q. Do you recall seeing him drink anything at
23 all?

24 A. He had a glass of water.

25 Q. Do you remember what kind of glass it was?

1 A. It was in -- we had for us to drink pint
2 glasses. It was in a clear pint glass.

3 Q. Do you happen to remember if it bore any
4 kind of label or marking?

5 A. I don't remember.

6 Q. Just a normal pint glass. And I think you
7 testified that he was drinking water?

8 A. Yes.

9 Q. How do you know that?

10 A. I smelled it.

11 Q. Now, that might seem peculiar. Was there a
12 particular reason why you smelled what it was he was
13 drinking?

14 A. He had left my liquor cabinet cracked open,
15 and I assumed it was to start a fight.

16 Q. Now, you said that it was your liquor
17 cabinet?

18 A. It was mine.

19 Q. Okay. So you had a separate liquor
20 cabinet, or you had a liquor cabinet because it was
21 not something he was supposed to be getting into?

22 A. It was tucked away underneath. We had a
23 dresser inside of a -- basically where the wardrobe
24 was supposed to be, and it was underneath tucked in a
25 cabinet door.

1 Q. And is this in the master bedroom?

2 A. It is.

3 Q. Now, he had brought up in an interview the
4 jug of vodka. Remember that, we talked about that?

5 A. Correct.

6 Q. Is that where the jug of vodka was kept?

7 A. It was.

8 Q. And you noticed that that cabinet was ajar?

9 A. Yes.

10 MR. VITTO: I need the Court's indulgence a
11 moment, please.

12 THE COURT: Yes.

13 (State and Defense Counsel confer
14 regarding exhibits.)

15 Q. (By Mr. Vitto) Victoria, I'm going to show
16 you what is going to be preliminarily marked as 44A.

17 (Whereupon State's Proposed Exhibit
18 No. 44A is marked for identification and
19 State shows it to Defense Counsel.)

20 Q. (By Mr. Vitto) Showing you what has been
21 preliminarily marked as State's Proposed Exhibit 44A.
22 You referenced a pint glass a moment ago. Is that
23 what you're talking about?

24 A. Yes.

25 Q. And that's what he was drinking water from?

1 A. Yes.

2 Q. Now, let me show you what has been admitted
3 into evidence as 21D. Victoria, do you recognize
4 what's depicted there?

5 A. Yes.

6 Q. What is that?

7 A. Our restroom cabinet sink area, the master.

8 Q. And do you see your makeup kit depicted
9 there?

10 A. I do.

11 Q. And do you see anything behind your makeup
12 kit?

13 A. Yes.

14 Q. What do you see behind your makeup kit?

15 A. My multivitamins and his Antabuse.

16 Q. So let me show you State's Proposed
17 Exhibits 66A, B, and C.

18 (Whereupon State's Proposed Exhibits
19 Nos. 66A-C are marked for identification.)

20 Q. (By Mr. Vitto) Showing you State's
21 Proposed Exhibits 66A through C. Go ahead and look at
22 those. Look up when you've had the opportunity to see
23 them.

24 Victoria, do you recognize what's depicted
25 there?

1 A. Yes.

2 Q. What is being photographed there?

3 A. Pictures of his medication vials?

4 Q. And what medications was he taking?

5 A. Antabuse and naproxen.

6 Q. And the Antabuse was for his?

7 A. Alcoholism.

8 Q. And the naproxen was for his?

9 A. Gout.

10 Q. And were those the only prescription
11 medications in the house?

12 A. Correct.

13 Q. And they have child proof caps?

14 A. Yes.

15 Q. And lastly, Victoria -- well, almost
16 lastly, a couple -- had you ever seen the defendant
17 drink before going to work?

18 A. No.

19 Q. He wasn't supposed to be drinking at all,
20 was he?

21 A. No, he was not.

22 Q. And he worked in Las Vegas on Saturday
23 nights, and he would put in a full shift; is that
24 correct?

25 A. Correct.

1 Q. Victoria, how often would Yessenia be put
2 to bed naked?

3 A. Never.

4 Q. Not for a nap?

5 A. Never.

6 MR. VITTO: No more questions.

7 THE COURT: Counsel?

8 MR. MARTINEZ: Thank you, Judge.

9 CROSS-EXAMINATION

10 BY MR. MARTINEZ:

11 Q. Good morning, Victoria.

12 A. Good morning.

13 Q. Now, on direct, you testified that you
14 noticed the liquor cabinet was open; right?

15 A. It was ajar, yes.

16 Q. So not swung wide open, but cracked open?

17 A. Correct.

18 Q. And I think you testified that you believe
19 he did that just to upset you?

20 A. Correct.

21 Q. And would that have upset you because he
22 wasn't supposed to be drinking?

23 A. Correct.

24 Q. Was there -- there was a specific reason
25 why he wasn't supposed to be drinking?

1 A. He was supposed to be on his Antabuse.

2 Q. Did you keep the bottle of vodka in that
3 cabinet?

4 A. I did.

5 Q. Prior to that day, when was the last time
6 you had seen that bottle of vodka?

7 A. When we moved in.

8 Q. So back in May?

9 A. (The witness nods.)

10 Q. Right?

11 A. Correct.

12 Q. Sorry. We've got the court reporter; we've
13 got to get it down.

14 A. Yes.

15 Q. When you last saw that bottle of vodka, do
16 you remember how full it was?

17 A. Yes.

18 Q. How full was it?

19 A. A quarter -- it was a gallon bottle of
20 vodka so it was a quarter, a good amount, a quarter of
21 the way full, close to half.

22 Q. Okay. On July 16th when you were able to
23 go back inside the house, did you observe the bottle
24 of vodka again?

25 A. I did.

1 Q. How full was it?

2 A. It was -- maybe had about like that much
3 left in it.

4 Q. So not very much?

5 A. It would have been drank.

6 Q. Last week when you testified, you talked
7 about two specific occasions that you knew Cole went
8 off the Antabuse so he could drink; right?

9 A. Yes.

10 Q. Once on his birthday and the 4th of July?

11 A. Correct.

12 Q. Were those the only two occasions while you
13 guys were dating that he went off of Antabuse?

14 A. As far as my knowledge, yes.

15 Q. So you weren't around him very often when
16 he was drinking; right?

17 A. Yes.

18 Q. Earlier you testified that you knew he was
19 drinking water out of a pint glass but wasn't sure
20 which one; right?

21 A. I said a clear pint glass.

22 Q. Right. The State then showed you a picture
23 of one with a Dave and Buster's logo on it?

24 A. Correct.

25 Q. And you said that's the one he was drinking

1 out of?

2 A. Correct.

3 Q. Are you sure it was specifically that one,
4 or just one like that?

5 A. This is the glass from our cabinet.

6 Q. Okay. How many glasses do you have like
7 that or did you have like that?

8 A. We had clear ones, and we had ones with
9 logos on them.

10 Q. About how many of each?

11 A. To be honest, I don't remember.

12 Q. Okay. More than one of each?

13 A. Correct.

14 Q. More than ten of each?

15 A. I wouldn't go as far as ten. We probably
16 had between six to eight pint glasses. They were all
17 from my collection. I have a bar collection of
18 glasses and everything like that.

19 Q. Some had the Dave and Buster's logo on
20 them?

21 A. Correct.

22 Q. Did others have different logos on them?

23 A. Some were clear, and I think I had some
24 with Coors, Coors Light on them.

25 Q. So do you remember specifically if he was

1 drinking out of one with a Dave and Buster's logo?

2 A. I remember specifically it was a clear pint
3 glass.

4 Q. Last week, we talked about when you went
5 with Captain Boruchowitz to talk to Cole when he was
6 in jail. And Cole told you that he drank because he
7 wanted to have a nightcap; right?

8 A. Uh-huh.

9 Q. Did he ever drink when he got home from
10 work?

11 A. Not that I can recall, no.

12 Q. So having a nightcap, that wasn't something
13 regular for him?

14 A. No.

15 MR. MARTINEZ: I'll pass the witness,
16 Judge.

17 THE COURT: Mr. Vitto.

18 MR. VITTO: A little bit of redirect.

19 REDIRECT EXAMINATION

20 BY MR. VITTO:

21 Q. Now, you just testified that the last time,
22 not the last time, but the last time before the day in
23 question that you looked at the jug of alcohol, it
24 was -- correct me if I'm wrong -- it was close to half
25 full?

1 A. It was -- literally, I can measure it with
2 my fingers. It's a gallon bottle so.

3 Q. Less than half full?

4 A. Yes.

5 Q. Less than half full. And I think Counsel
6 directed you to the Sunday after the incident or the
7 next day, and you went and looked at it again --

8 A. Yes.

9 Q. -- is that correct? And it was --
10 obviously, some had been drunken?

11 A. Yes.

12 Q. And how would you characterize that?
13 You're using finger lengths. What are we talking
14 about?

15 A. He drank most of what was in the bottle.

16 Q. Most of the bottle --

17 A. Most of the bottle was gone, yes.

18 Q. So there was only --

19 A. -- I would say an eighth left. I don't
20 know how to do measurements. I'm that way.

21 Q. But you've never known him to take a
22 nightcap prior to work?

23 A. No.

24 Q. Now, the last time you recall looking at
25 the jug of vodka and seeing it less than half full,

1 that was when you moved there in May?

2 A. Correct.

3 Q. Okay. So in May, two months before this
4 incident, you looked and it was half full?

5 A. When we moved in, I put the alcohol away,
6 yes.

7 Q. You put it away. And you noticed that at
8 that time it was less than half full?

9 A. Correct.

10 Q. How often would you check that vodka to see
11 if any had been consumed between May and July?

12 A. I didn't. I didn't drink vodka so it was
13 pushed to the back.

14 Q. So you never checked between when you moved
15 in, in May when you looked at it and knew how much was
16 left and the Sunday after the incident; you never
17 checked?

18 A. I never checked.

19 Q. So you have no idea whether the defendant
20 had pulled from that jug between May and the day
21 Yessenia died?

22 A. I do not.

23 Q. And just briefly, I had asked you about
24 prescriptions. Those were the only prescriptions in
25 the master bathroom?

1 A. Correct.

2 Q. His?

3 A. Yes.

4 Q. There was actually some -- something to do
5 with Yessenia's?

6 A. She had a breathing machine, so she had --
7 when she was previous sick from Las Vegas, it moved
8 with us. I can't remember. It's a liquid you put
9 inside of a nebulizer to help open up the lungs.

10 Q. Okay. But you hadn't used that in how
11 long?

12 A. Since Las Vegas, so before May.

13 Q. Okay. She wasn't taking any breathing
14 treatments out in Pahrump?

15 A. No.

16 Q. Had her condition cleared up being in
17 Pahrump?

18 A. She -- well, she didn't have a condition
19 going out to Pahrump. She wasn't sick when we went
20 out to Pahrump. It was just when I -- I had purchased
21 it previous of our relationship because she needed a
22 breathing machine.

23 Q. You had it for a long time?

24 A. I did.

25 Q. You never used it in Pahrump?

1 A. Correct.

2 Q. So the medication that was used in that
3 would have been probably old and expired?

4 A. I think it lasts for one year.

5 MR. VITTO: Okay. I have no more questions
6 of this witness at this time.

7 MR. MARTINEZ: Briefly, Judge.

8 RECROSS-EXAMINATION

9 BY MR. MARTINEZ:

10 Q. Victoria, you don't know if Cole drank the
11 entirety of that vodka the day Yessenia died; right?

12 A. Correct.

13 MR. MARTINEZ: Nothing further, Judge.

14 THE COURT: Subject to recall?

15 MR. VITTO: Yes.

16 THE COURT: Don't talk about the case with
17 anyone but the attorneys.

18 THE WITNESS: Okay.

19 THE COURT: Thank you.

20 MR. ARABIA: Your Honor, the State calls
21 Dwight Camp to the stand.

22 THE COURT: Thank you.

23 MR. ARABIA: Your Honor, may I approach the
24 stand to get those exhibits off?

25 THE COURT: Thank you, sir.

1 Dwight, if you'll come up to this witness
2 stand. Before you sit down, we're going to have you
3 raise your right hand and get sworn by the clerk.

4 Whereupon,

5 DWIGHT CAMP,

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

8 THE WITNESS: I do.

9 THE COURT: Thank you. Have a seat.

10 Dwight, if you're scared of Covid, you can
11 leave your mask on. But it helps if they can see your
12 face and hear your voice. So you can take it down if
13 you like.

14 DIRECT EXAMINATION

15 BY MR. ARABIA:

16 Q. Good morning, Dwight.

17 A. Good morning.

18 Q. Can you please state your name and spell
19 your last name for the record?

20 A. Dwight Camp, C-a-m-p.

21 Q. Are you Yessenia's brother?

22 A. Yes.

23 Q. All right. Are you a little nervous this
24 morning?

25 A. Yes, sir.

1 Q. Do you sometimes laugh or giggle if you're
2 nervous?

3 A. Yes.

4 Q. All right. If you need anything at all,
5 let the Judge know and he will take care of you; okay?
6 And we won't have you up here for too long. I'm sure
7 this is difficult.

8 I want to go back with you to the evening
9 of Friday, July 14th, 2017, this was the night before.
10 Were you at the house on Manse that night?

11 A. What?

12 Q. Were you at the house in Pahrump that
13 night?

14 A. Yes.

15 Q. That evening did Yessenia get a bath?

16 A. Yes.

17 Q. Who was in charge of giving her that bath?

18 A. My mom.

19 Q. Were you present for the bath?

20 A. Yes.

21 Q. At some point during the bath, did your mom
22 step out to have a cigarette?

23 A. Yes.

24 Q. When she was out there, had left the
25 bathroom, who was in the bathroom?

1 A. Me and my sister.

2 Q. Yessenia?

3 A. Yes.

4 Q. Okay. Tell me what happened while it was
5 just the two of you?

6 A. I just watched her in the bath. Watched
7 her playing with her toy.

8 Q. Did you get wet during this time?

9 A. Yes.

10 Q. Can you explain how that happened?

11 A. She squirted me in the face with the water.

12 Q. Did she seem pleased at having squirted
13 you?

14 A. Yes.

15 Q. In general terms, how did she look?

16 A. She looked fine.

17 Q. Did she look battered and bruised?

18 A. No.

19 Q. Did you notice a bug bite on her leg?

20 A. Yes.

21 Q. Did you see any circle-shaped bruise on her
22 leg?

23 A. No.

24 Q. I'd like to move forward to the next
25 morning which would be Saturday July 15, 2017. As far

1 as you can remember, were you the first one up that
2 morning?

3 A. No.

4 Q. Who was?

5 A. My mom.

6 Q. Did you go with the family to breakfast?

7 A. No.

8 Q. Sorry. Can you speak up?

9 A. No.

10 Q. It's just we have a court reporter and then
11 the people way in the back; so there's a microphone
12 and -- you're doing fine, though?

13 All right. Instead of going to breakfast,
14 what did you do?

15 A. I went with my uncle to Las Vegas.

16 Q. All right. This was Uncle Steve?

17 A. Yes.

18 Q. Were you guys kind of pals?

19 A. Yes.

20 Q. Did you hang out together sometimes?

21 A. Uh-huh.

22 Q. Okay. On that day, did Steve come to pick
23 you up, or did you walk to Vegas or what?

24 A. He came to pick me up.

25 Q. And once he picked you up in Pahrump, what

1 did you do?

2 A. We went to Las Vegas.

3 Q. What did you do in Las Vegas?

4 A. We went go-karting.

5 Q. How did you do?

6 A. I got first place.

7 Q. Nice. What else, if anything, did you do?

8 A. We went to go get ice cream and --

9 Q. Anything else?

10 A. We went to Toys "R" Us, I'm pretty sure.

11 Q. What happened at Toys "R" Us?

12 A. We got a board game.

13 Q. And then at some point, did you head back
14 to Pahrump?

15 A. Yes.

16 Q. Just on an aside, do you remember at around
17 that time what Yessenia's favorite videos were to
18 watch?

19 A. Like YouTube videos or?

20 Q. Just videos. Do you have DVDs, videos,
21 whatever?

22 A. Movies. Big Hero 6 and Wreck-It Ralph.
23 And like YouTube videos, just like kid's stuff. Or
24 playing with dolls and toys.

25 Q. All right. Now, later Saturday, would it

1 be fair to say you got back to the house on Manse
2 there late afternoon?

3 A. Yes.

4 Q. Did Steve go into the house?

5 A. No.

6 Q. What did Steve do when he dropped you off?

7 A. He walked me up to the door.

8 Q. Okay. You went in -- did you go into the
9 house?

10 A. Yes.

11 Q. But Steve never went in the house?

12 A. No.

13 Q. When you got into the house, who else was
14 there?

15 A. Cole and Yessenia.

16 Q. When you say "Cole," are you referring to
17 the defendant Cole Engelson?

18 A. Yes.

19 Q. Where were your mom and your sister
20 Nickole?

21 A. Out having a girls' day.

22 Q. Did the defendant Cole Engelson have a son
23 who also lived at the house?

24 A. Yes.

25 Q. Where was he have that afternoon?

1 A. Camping out with his grandma.

2 Q. All right. So now you're in the house;
3 what do you do?

4 A. I go to play video games.

5 Q. Did you see the defendant a few minutes
6 after that?

7 A. Yes.

8 Q. And what did the defendant do?

9 A. He said Hi and went to go get water.

10 Q. All right. And then what?

11 A. I went to go play video games.

12 Q. All right. What did the defendant do after
13 he got the water?

14 A. He went back into his room.

15 Q. Okay. And you said that you continued
16 playing the games. Did you see the defendant
17 Cole Engelson a while after that?

18 A. Yes.

19 Q. I know it's difficult to try to estimate,
20 but how long would you say it was from the time he
21 came out and got the water to the next time you saw
22 him?

23 A. Like 30 to 45 minutes.

24 Q. All right. Like what, if anything, did the
25 defendant say to you at that point?

1 A. He told me to come wake up Yessenia.

2 Q. Did he say why he was asking you that?

3 A. No.

4 Q. What did you do?

5 A. I got up from the couch, and I went to the
6 room.

7 Q. Was there anyone besides the defendant in
8 the bedroom?

9 A. Yessenia.

10 Q. Could you please describe what you saw when
11 you saw Yessenia?

12 A. Yessenia was under the covers, and she was
13 naked.

14 Q. If she was under the covers, how could you
15 tell she was naked?

16 A. She didn't have a top on. All she had was
17 a diaper.

18 Q. You observed her, and then what did you do
19 next? Did you go over to her?

20 A. I tried to wake her up.

21 Q. How did you do that?

22 A. I was pushing on her chest.

23 Q. All right. When you pushed on her chest,
24 can you describe anything that you observed or felt or
25 whatever?

1 A. She was cold.

2 Q. When you touched her, did she move?

3 A. No.

4 Q. Did she make any sound?

5 A. No.

6 Q. At that point what did you think?

7 A. I just thought she was sleeping. She was a
8 heavy sleeper.

9 Q. Did you decide to keep trying to wake her
10 up?

11 A. No.

12 Q. Why not?

13 A. Because I just wanted to let her sleep.

14 Q. And where was the defendant while you were
15 trying to wake her up and then deciding to let that
16 go?

17 A. He was behind me.

18 Q. How did he seem to you at this point?

19 A. Normal.

20 Q. All right. What did you do then?

21 A. I went to go play the video game.

22 Q. Would this be in the living room?

23 A. Yes.

24 Q. As you were leaving the bedroom and going
25 back to the living room, what, if anything, did you

1 see the defendant do?

2 A. He got back on the bed.

3 Q. As far as you know, did the defendant call
4 911 at this point?

5 A. No.

6 Q. So you're back in the living room, and can
7 you tell me again what you did at that point?

8 A. I meant to say I was on my phone, not video
9 game.

10 Q. In the living room with your phone?

11 A. Yes.

12 Q. All right. About how long were you kind of
13 on your phone there, if you can just guess?

14 A. About 25, 30 minutes.

15 Q. All right. At that point, from the time
16 you had returned home to the time that you were out
17 playing on your phone for 25, whatever number of
18 minutes it was, did you hear any loud noises yelling,
19 screaming, anything like that?

20 A. No.

21 Q. All right. So you had been playing on your
22 phone for whatever number of minutes. Did your mom
23 and Nickole come in at some point?

24 A. Yes.

25 Q. Okay. Can you describe, as best as you

1 remember, how they came in? Were they in a hurry,
2 that sort of thing?

3 A. They ran -- there's a window next to the
4 door, and all I saw was them run to the door.

5 Q. All right. When they came in the house,
6 did they go to the bedroom?

7 A. Yes.

8 Q. At some point when this is going on, did
9 you go back into the bedroom?

10 A. No.

11 MR. ARABIA: Your Honor, Court's indulgence
12 just for one moment?

13 THE COURT: Yes.

14 MR. ARABIA: All right. Thank you, Dwight.
15 Nothing further at this point.

16 THE COURT: Counsel?

17 MS. BOSKOVICH: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. BOSKOVICH:

20 Q. All right. Are you 12 years old now?

21 A. Thirteen.

22 Q. Thirteen. Okay. When's your birthday?

23 A. September 20.

24 Q. And are you in sixth or seventh grade now?

25 A. Eighth.

1 Q. Okay. Have you talked to some people about
2 coming in to testify today?

3 A. What do you mean?

4 Q. Like were you told that you would be coming
5 in to talk in court today?

6 A. Yes.

7 Q. Was that Mr. Arabia that told you that?

8 A. Yes.

9 Q. And Ms. Kindel back there too?

10 A. Yes.

11 Q. Did they bring you into the courtroom
12 beforehand to show you where you would be sitting?

13 A. No.

14 Q. No. And you told them your story,
15 everything that you can remember from that day, before
16 coming into court today?

17 A. Yes.

18 Q. You're 13 now. This is probably going to
19 be a silly question, but I just want to make sure you
20 understand the difference between the truth and a lie;
21 right?

22 A. (No audible response.)

23 Q. Is that a "yes"?

24 A. Yes.

25 Q. Just to remind you, because we have a court

1 reporter so they have to hear your answers; okay?

2 A. Okay.

3 Q. And you know that you're not supposed to
4 tell any lies while you're up here today?

5 A. Yes.

6 Q. And if I were to tell you I'm wearing a red
7 shirt, would that be the truth or a lie?

8 A. A lie.

9 Q. My shirt is actually blue; right?

10 A. Yes.

11 MR. ARABIA: Your Honor, I'm sorry. I've
12 got to say one quick thing there. That's technically
13 not a lie. It would only be a lie if she knew the
14 shirt was blue and said it was red. People can be
15 mistaken without it being a lie.

16 THE COURT: Thank you.

17 Q. (By Ms. Boskovich) Okay. So let's go back
18 to the day that Yessenia passed away, July 15th of
19 2017. You were staying in Pahrump with your mom at
20 that time; right?

21 A. Yes.

22 Q. And you stayed with your mom I think it was
23 Thursday through Sunday?

24 A. Yes.

25 Q. And then you would stay with your dad in

1 Las Vegas Monday, Tuesday, and Wednesday?

2 A. Yes.

3 Q. And when you were staying at your mom's
4 house, it was you, your mom, your big sister Nickole
5 sometimes --

6 A. Yes.

7 Q. -- Yessenia, Cole, and then his son
8 Little Cole?

9 A. Yes.

10 Q. And Little Cole's grandma, which I think
11 you called Me-ma; right?

12 A. Yes.

13 Q. Did you call Cole, Big Cole or just Cole?

14 A. Big Cole.

15 Q. So it was Big Cole and Little Cole?

16 A. Yes.

17 Q. Do you remember roughly how long Big Cole
18 and your mom had been living together at that time?

19 A. No, I don't.

20 Q. Did they both hang out and start staying
21 the night when you had the apartment in Las Vegas with
22 your mom?

23 A. Yes.

24 Q. And you actually kind of liked hanging out
25 with Big Cole; right, because he would buy you guys

1 toys and board games and stuff?

2 A. Yeah.

3 Q. You liked joking around with Big Cole?

4 A. Yeah.

5 Q. And playing outside in the sprinklers?

6 A. Yes.

7 Q. And occasionally, you guys would roughhouse
8 and kind of wrestle and stuff like that?

9 A. Uh-huh.

10 Q. All right. So that Saturday, you had been
11 picked up by -- I think you called him Uncle Steve?

12 A. Yes.

13 Q. How long had you been hanging out with
14 Uncle Steve on the weekend?

15 A. What do you mean?

16 Q. Like, was that the first time that you had
17 hung out with Steve?

18 A. No.

19 Q. Do you know about how many Saturdays you
20 had hung out with him before?

21 A. Too many to remember.

22 Q. And you said he picked you up around 8:00
23 or 8:30 in the morning?

24 A. Yes.

25 Q. So you did not go to breakfast with your

1 family; right, that morning?

2 A. No.

3 Q. Was Cole home from work when Steve picked
4 you up that day?

5 A. Yes.

6 Q. And after your fun day with Uncle Steve in
7 Vegas, he brought you back to Pahrump around 5:30?

8 A. Somewhere around there.

9 Q. Okay. Maybe 5:20, somewhere around that
10 area.

11 A. Yeah. It was afternoon.

12 Q. And when you got home, you called your mom
13 to check in with her; right?

14 A. Uh-huh.

15 Q. And she told you that her and Nickole were
16 getting their nails done --

17 A. Yes.

18 Q. -- and having a girls' day? And when you
19 got home, you noticed that the dogs had had an
20 accident inside the house; right?

21 A. Yes.

22 Q. And you had to clean that up?

23 A. Yeah.

24 Q. But you called your mom to ask her how to
25 clean it up?

1 A. Yeah.

2 Q. Eventually, you got it cleaned up though;
3 right?

4 A. Yes.

5 Q. And you called your mom back and told her
6 you had cleaned it up?

7 A. Yeah.

8 Q. And then when you got home, the door to the
9 master bedroom is kind of -- it was kind of near the
10 living room; right?

11 A. Yeah.

12 Q. When you got home, that door was closed,
13 wasn't it?

14 A. I don't remember.

15 Q. When you got home, did you hear the shower
16 running in the master bedroom?

17 A. No.

18 Q. And did you hear any laughing coming from
19 the master bedroom?

20 A. No.

21 Q. Any talking?

22 A. No.

23 Q. Any crying?

24 A. No.

25 Q. Yelling?

1 A. (The witness shakes his head.) I only
2 heard talking from the TV.

3 MS. BOSKOVICH: Okay. And sorry, court
4 reporter, he was shaking his head?

5 Q. (By Ms. Boskovich) So the TV was on?

6 A. Yes.

7 Q. Was it on when you got home -- or did you
8 turn it on?

9 A. The TV in their room or the living room?

10 Q. Which TV did you hear talking coming from?

11 A. Their room.

12 Q. So there was a TV in the master bedroom?

13 A. Yeah.

14 Q. And you heard it running while you were --
15 when you got home?

16 A. Yeah.

17 Q. So after you got the dogs' accident cleaned
18 up, then you started playing video games?

19 A. Yes.

20 Q. And at some point your mom called you;
21 right?

22 A. I don't remember.

23 Q. Do you remember if she called you and asked
24 you to go wake Cole up?

25 A. I remember when I called her after I got

1 the accident, she said that. I don't remember her
2 calling me.

3 Q. At some point, though, you went into the
4 master bedroom; right?

5 A. Yeah.

6 Q. And you knocked on the door before you went
7 in?

8 A. Yeah.

9 Q. So you didn't wait for a response; you just
10 knocked and opened the door; right?

11 A. I don't know. I don't remember.

12 Q. Okay. That's okay. Long time ago. When
13 you walked into the master bedroom, you didn't hear
14 the shower running, did you?

15 A. No.

16 Q. And at that point was Cole still lying
17 down?

18 A. Yeah.

19 Q. Was he awake at the time?

20 A. I don't remember.

21 Q. And you saw Yessenia when you walked into
22 the master bedroom?

23 A. Yeah.

24 Q. Do you remember if she was closest to the
25 door, or was Cole closest to the door?

1 A. She was closest.

2 Q. Okay. And at that time you didn't notice
3 any bruises on her body?

4 A. No. It was dark in the room.

5 Q. It was dark in the room; okay. But you did
6 notice she wasn't wearing any clothes?

7 A. Yeah.

8 Q. She was covered -- she was under the covers
9 at that point?

10 A. Yeah, but I could see that she wasn't
11 wearing --

12 Q. A shirt?

13 A. -- a top, yeah.

14 Q. You said she had a diaper on?

15 A. Uh-huh.

16 Q. Could you see the diaper under the covers?

17 A. No, but after when my mom was trying to
18 save her, I saw that she took her diaper off.

19 Q. Okay. You saw your mom take the diaper
20 off?

21 A. Yeah. She took it off to check for
22 bruises.

23 Q. Okay. And when you walked into the master
24 bedroom, you said you kind of pushed on Yessenia to
25 try to wake her up?

1 A. Yeah.

2 Q. And that's when you noticed she was cold?

3 A. Yeah.

4 Q. You noticed her hair was wet?

5 A. Uh-huh, yes.

6 Q. Do you remember giving the phone to Cole at
7 that point to talk to your mom?

8 A. No.

9 Q. No, you don't remember?

10 A. No.

11 Q. And you thought Yessenia was still
12 sleeping?

13 A. Yes.

14 Q. And then you came back out to the living
15 room?

16 A. Yeah.

17 Q. Do you remember if you closed the door
18 behind you?

19 A. No.

20 Q. No, you didn't, or you don't remember?

21 A. I don't remember.

22 Q. When Mr. Arabia was asking you questions,
23 you said that Cole came out to get a drink of water
24 pretty soon after you got home?

25 A. Yeah.

1 Q. Do you remember roughly how many minutes
2 you got home that happened?

3 A. No.

4 (Defense Counsel confer.)

5 Q. (By Ms. Boskovich) What was Yessenia like?

6 A. Like her personality?

7 Q. Her personality, kind of characteristics.
8 Was she wild? Was she -- did she run around a lot?

9 A. Yeah. She was, I would say, crazy in a
10 way. Like she would just run around and have fun.
11 She was --

12 Q. I'm sorry. I know this is tough.

13 MR. ARABIA: Your Honor, can we take a very
14 short recess, please?

15 THE COURT: Ladies and gentlemen, we're
16 going to take a short recess. During this recess,
17 it's your duty not to converse among yourselves or
18 with anyone else on any subject connected with the
19 trial. Don't form or suppress an opinion until the
20 case is finally submitted to you.

21 We'll be back in about ten minutes.

22 THE BAILIFF: All rise.

23 (A short recess is taken.)

24 THE BAILIFF: All rise.

25 THE COURT: Thank you. Please be seated.

1 MR. VITTO: Thank you, Your Honor.

2 THE COURT: All right. The Defense may
3 continue with their cross-examination of the witness.

4 Oh, the jurors said that you either need to
5 take your mask down or speak into the mike and to make
6 sure the young man speaks out loud verbally.

7 MS. BOSKOVICH: Okay. Thank you.

8 THE COURT: I do have another solution -- I
9 don't know if you guys would go for it -- and that's
10 to put the jurors up here and you guys in the back.
11 Think about it.

12 Okay. Go ahead.

13 CROSS-EXAMINATION (RESUMES)

14 BY MS. BOSKOVICH:

15 Q. All right. Dwight, I know this is very
16 tough for you to talk about. I apologize if I ask
17 some hard questions but you can take all the time you
18 need to answers the questions; okay?

19 A. Okay.

20 Q. So you were saying that Yessenia was just
21 kind of a crazy little girl; right?

22 A. Yes.

23 Q. Kind of wild?

24 A. Yes.

25 Q. She would run around a lot?

1 A. Yes.

2 Q. Bump into things occasionally?

3 A. Uh-huh.

4 Q. Did she like to climb on things?

5 A. Yeah.

6 Q. What kind of things would she climb on?

7 A. Anything she could -- anything she could
8 get her hands on. She would climb up to get snacks in
9 the cupboard. She would climb on the couch. She
10 would climb on my mom. She would climb on me. She
11 would climb on anything.

12 Q. You said she's climbed up on counters
13 before?

14 A. Yeah.

15 Q. So you remember a game that her and
16 Big Cole used to play where she would climb up on
17 things and jump off into his arms?

18 A. Yeah, I do.

19 Q. You want to tell us a little bit about
20 that?

21 A. So she would normally get up on like a
22 counter that wasn't that high. And they both would
23 say 1, 2, 3, go, and she would just jump in his arms.

24 Q. Just fling herself into Cole's arms?

25 A. Uh-huh.

1 Q. Was there an incident in the apartment in
2 Las Vegas where they were playing that game and Cole
3 wasn't ready to catch her?

4 A. Yeah.

5 Q. What happened with that?

6 A. She busted her chin.

7 Q. Were you home when that happened?

8 A. I don't remember, but I think I was at
9 school.

10 Q. Did Yessenia go to the doctor for that?

11 A. Yes.

12 Q. And they put a butterfly Band-Aid over on
13 it?

14 A. Yeah.

15 MS. BOSKOVICH: I'll pass the witness,
16 Your Honor. Thank you, Dwight.

17 THE COURT: Thank you,
18 Counsel?

19 REDIRECT EXAMINATION

20 BY MR. ARABIA:

21 Q. Dwight, I just have a couple of follow-up
22 type questions. The incident that you just talked
23 about where Yessenia hurt her chin, you said you
24 weren't sure, but you think you were probably at
25 school when that happened. So who told you they were

1 playing the jump game when that happened?

2 A. My mom.

3 Q. And you had mentioned, both when I was
4 asking you questions and then when Ms. Boskovich was
5 asking you questions about Uncle Steve, when you went
6 with Uncle Steve to go-karts, Toys "R" Us, wherever
7 you would go, did Little Cole ever go with you guys?

8 A. He went a couple of times, but not that
9 particular time?

10 Q. Okay. How often? Most of the time? Just
11 once in a while?

12 A. Like, once in a while.

13 Q. And then this is a tough question here:
14 You testified that you never -- after your mom and
15 Nickole got home on the day of the -- on July 15th, a
16 Saturday, you testified that after your mom and
17 Nickole came home, you never went in the bedroom. But
18 you also testified that your mom removed Yessenia's
19 diaper. So I want to give you a chance to clarify.
20 Are you having trouble remembering? Are you confused?
21 Or is it just hard to think about what was -- how
22 would that be explained?

23 A. I was in the hallway. So there's a hallway
24 to the bedroom. And I was, like, at the doorway. I
25 wasn't fully into the room. I was like by the door.

1 Q. All right. Were you able to see into the
2 room?

3 A. Yes.

4 Q. Okay. Then actually, that was my fault. I
5 didn't ask you a clear question before. So I
6 apologize. Again, Dwight, thank you.

7 Nothing further, Your Honor?

8 THE COURT: Counsel?

9 MS. BOSKOVICH: I don't have any recross.
10 Thank you.

11 THE COURT: Dwight, I'm going to ask you
12 step down. Don't talk about the case with anybody but
13 the two attorneys. And if we need you again, we'll
14 give you a call you.

15 THE WITNESS: Okay.

16 THE COURT: Thank you.

17 THE WITNESS: Uh-huh.

18 MR. ARABIA: Your Honor, the State is now
19 going to call Nickole Robinson to the stand.

20 THE COURT: Thank you.

21 THE BAILIFF: Please face the clerk. Raise
22 your right hand for me, please.

23 / / /

24 / / /

25 / / /

1 Whereupon,

2 NICKOLE ROBINSON,

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

5 THE WITNESS: Yes, I do.

6 THE COURT: If you're nervous about Covid,
7 you can keep your mask on. But we'd like if everyone
8 could see your face and to hear your voice, so talk
9 into the microphone.

10 I was just thinking as that witness was
11 walking in, that over the last 27 years I've been
12 doing this, how nervous young people are, anybody is
13 when they come into court. And now we're all wearing
14 masks. That must be even worse.

15 Counsel?

16 MR. ARABIA: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. ARABIA:

19 Q. Good morning, Nickole?

20 A. Good morning.

21 Q. Can you please state your name, and in your
22 case, please spell your first and your last name for
23 the record.

24 A. Yes. My name is Nickole Robinson,
25 N-i-c-k-o-l-e, R-o-b-i-n-s-o-n.

1 Q. Okay. And how old are you?

2 A. Eighteen years old.

3 Q. All right. And back on July 15th of 2017,
4 how old were you?

5 A. I was 14.

6 Q. All right. Is it correct that Yessenia is
7 your sister?

8 A. Yes.

9 Q. I would like to go back to the evening of
10 Friday, July 14th, 2017, the day before, where were
11 you that evening?

12 A. I just got to the house here in Pahrump.

13 Q. Your mom's house?

14 A. Yes.

15 Q. What did you do at the house that evening?

16 A. I was doing what normal teenagers do. I
17 was on my phone and playing Play Station.

18 Q. All right. Where did -- did you eventually
19 turn in for the night?

20 A. Yes.

21 Q. Where did you sleep?

22 A. Upstairs in the same room as Yessenia.

23 Q. Okay. Same bed?

24 A. No. We had two separate beds.

25 Q. Were you guys -- you and Yessenia, were you

1 close?

2 A. Yes. She was my best friend.

3 Q. Did you have a nickname for her?

4 A. Yeah.

5 Q. What was it?

6 A. Tiny.

7 Q. Say it again?

8 A. Tiny, my Little Tiny.

9 Q. When you saw her that night, did she look
10 battered and bruised?

11 A. No.

12 Q. Was she an active kid?

13 A. Yes.

14 Q. Would she have her occasional bumps and
15 spills?

16 A. Yes.

17 Q. I would like to go forward to Saturday,
18 July 15, 2017. Who was in the house that morning?

19 A. It was me, Yessenia, my mom, the defendant,
20 and I believe that was it. Everybody else was gone
21 for the day.

22 Q. Was Cole Jr. there?

23 A. I think so. He might have left that
24 morning to go with his grandma.

25 Q. What did -- what did you all do after you

1 got -- after the family kind of got it going for the
2 day?

3 A. We went to breakfast at the cafe in the
4 casino here.

5 Q. Do you recall, was it early in the morning?
6 ten o'clock? nine o'clock?

7 A. It was like 8:00, nine o'clock in the
8 morning.

9 Q. Who went to breakfast?

10 A. It was me, Yessenia, my mom, and the
11 defendant.

12 Q. And do you recall whether or not Cole Jr.
13 was part that of group?

14 A. I don't think he was. I think it was just
15 the four of us. I don't really remember.

16 Q. If someone were to tell you that he was
17 there, would you say you were mistaken in saying he
18 wasn't there?

19 A. I just don't remember.

20 Q. Okay. Where was Dwight as far as you
21 recall when you guys went to breakfast?

22 A. He was with our Uncle Steve.

23 Q. Where -- if you know, where did Steve pick
24 up Dwight?

25 A. I'm pretty sure at the house that morning.

1 Q. When you were at breakfast at the casino,
2 did Yessenia eat?

3 A. Yes, she did.

4 Q. And what, if anything, happened with her
5 food? Did she have any trouble?

6 A. She was sick that day, and she tried eating
7 tomato off my mom's plate. And she ended up throwing
8 it up.

9 Q. What did you guys do after breakfast?

10 A. We went to Goodwill to go get some clothes.

11 Q. How was Yessenia at Goodwill?

12 A. Kind of normal, just like happy and
13 excited.

14 Q. After Goodwill, what did you guys do?

15 A. We went back home.

16 Q. What did you do at home?

17 A. I went back to sleep.

18 Q. Do you have any idea when it was that you
19 woke up?

20 A. Maybe around 2:00.

21 Q. All right. So now you've gotten off. It's
22 early afternoon, and what happens next?

23 A. My mom says that we're going out to have
24 like a girls' day.

25 Q. Okay. And who was part of this girls' day?

1 A. Just me and my mom.

2 Q. When you left to go on this girls' day,
3 where was Yessenia?

4 A. She was downstairs, I believe. She wanted
5 to come with us, but since she was sick, my mom told
6 her no.

7 Q. All right. When you left, or the last time
8 you saw her before you left, did you see anything that
9 made you think that she had any kind of serious
10 injuries, head injuries, anything that looked out of
11 place?

12 A. No.

13 Q. As far as you know, did Yessenia complain
14 of having eye problems?

15 A. No. I don't think so, or I don't remember.

16 Q. All right. I think you testified, but I
17 want to confirm. You say she looked normal?

18 A. Yeah.

19 Q. Where was the defendant, if you recall,
20 when you left?

21 A. Downstairs somewhere, maybe in their room,
22 maybe in the kitchen. I don't remember. I know he
23 was downstairs somewhere.

24 Q. All right. Now, you're out with your mom,
25 with Victoria, where did you go?

1 A. We went to Subway to get food, to get
2 sandwiches. Then we went to Sonic to get some
3 ice cream and some milk shakes. Went to Walmart to
4 see if we could get our nails done, didn't, and then
5 we went to a little nail shop.

6 Q. To where?

7 A. To a little nail shop. I don't remember
8 the name.

9 Q. Did they start working on your nails?

10 A. Yes.

11 Q. While you were getting your nails done, did
12 something unusual happen?

13 A. Yeah. My mom got a phone call from the
14 defendant and went outside.

15 Q. All right. Please tell me what did your
16 mom do next that you observed?

17 A. She ran back into the shop, and basically
18 said -- yelled, "We have to go. We have to go." And
19 she tossed the money down on the counter, didn't ask
20 for change, and we left.

21 Q. All right. Where did you go?

22 A. Straight to the house, basically speeding
23 down the road to try and get there as fast as we
24 could.

25 Q. As far as you remember, did your mom get a

1 phone call during this drive?

2 A. Yes. It was right before we pulled into
3 the driveway.

4 Q. Did she say anything?

5 A. It was. She said, "Don't say that. Don't
6 say that." And then we pulled up to the house.

7 Q. Sometime soon after that, did you arrive in
8 the driveway of that house?

9 A. Yes.

10 Q. I realize this was a long time ago, but do
11 you have any idea what the approximate time was that
12 you got there?

13 A. It was sundown, so maybe around 5:00 or
14 6:00, maybe 7:00. It was during summer; so I'm sure
15 it was probably closer to 7:00.

16 Q. Okay. You're in the driveway. Did you see
17 any anyone?

18 A. Yes. I saw the defendant on the porch
19 smoking.

20 Q. What did you do next?

21 A. Me and my mom ran inside.

22 Q. When you first entered the house, did you
23 see anyone?

24 A. Yes, my brother in the living room.

25 Q. What, if anything, did -- or where, if

1 anywhere, did you and your mom go? Or what did you
2 do? Either one.

3 A. We ran straight to the bedroom where the
4 defendant and my mom slept.

5 Q. Was it dark in the bedroom?

6 A. Yes.

7 Q. Why was that?

8 A. I have no idea.

9 Q. Fair enough. What kind of curtains were
10 there?

11 A. Blackout curtains.

12 Q. My bad, sorry. Did you see anyone in the
13 bedroom?

14 A. Yes.

15 Q. Who?

16 A. Yessenia.

17 Q. Can you describe her?

18 A. She was motionless, not breathing, in a
19 sprawled out position on the bed naked.

20 Q. In the time that you were in her presence
21 during this little period of time, did you see her
22 move in any way?

23 A. No.

24 Q. Did you hear make any kind of noise?

25 A. No.

1 Q. Did your mom say anything?

2 A. She screamed out something like, "Oh, God,"
3 or something of that nature and ran to my sister.

4 Q. I asked you earlier about the room, and I
5 think you said something to the effect that it was
6 dark. How were you able to observe bruises and
7 whatnot?

8 A. My mom moved my little sister's body to
9 where she could actually see right in front of --
10 like, not in front of the doorway, but somewhere in
11 the middle of the room where the door was opened, and
12 we were able to see all of the bruises and marks.

13 Q. Would it be fair to say based on where the
14 door is, sort of in the bottom left-hand corner -- I'm
15 sorry, based on where the door is and where the bed is
16 that the amount of the door that was open would affect
17 what you could see in the room?

18 A. Yes.

19 Q. Did Dwight show up around the entrance to
20 the room around this time?

21 A. Yes.

22 Q. What, if anything, did he do?

23 A. Just started freaking out like I did.
24 Didn't know what was going on.

25 Q. You had testified that you slept in the

1 same room with her. And so to the extent that you
2 were able to observe, did you see any of these
3 bruising or whatever, any of that the previous night?

4 A. No.

5 Q. You also testified that Yessenia was active
6 and had her fair share of bumps and spills. Did you
7 ever see anything -- prior to this time, did you ever
8 see anything like this before July 15th, 2017?

9 A. No.

10 Q. At this point, what did your mom do?

11 A. Started doing CPR on my little sister and
12 mouth to mouth.

13 Q. Did she say anything to you?

14 A. She said, "Call 911."

15 Q. How were you feeling at this time point?

16 A. Angry, freaked out, terrified, didn't know
17 what was going on.

18 Q. To the best that you can recall, how long
19 had your mom been living in that house?

20 A. About three months.

21 Q. And how often were you there?

22 A. Every other weekend.

23 Q. As you stood there in the bedroom at that
24 point, did you know the address?

25 A. No. I didn't know the address.

1 Q. Was a connection to 911 eventually made?

2 A. Yes. I called them freaking out, and then
3 my mom told me to give her the phone because I didn't
4 know the address at that time.

5 Q. Who did most of the talking in that 911
6 call?

7 A. My mom.

8 Q. Did you leave the bedroom?

9 A. Yes.

10 Q. Where did you go?

11 A. Into the kitchen with my brother.

12 Q. Was anyone in the kitchen with you at that
13 point?

14 A. No. It was just me and my brother.

15 Q. All right. Was the defendant in the house?

16 A. No. My mom had closed the door, the front
17 door on him and locked it.

18 Q. When did she do that? Sorry to interrupt
19 you.

20 A. It was in between her seeing my sister on
21 the bed and then moving my sister off the bed. But
22 the back door wasn't locked; so he was able to get in
23 through the back door.

24 Q. Now that you're in the house and Yessenia
25 and your mom are in the bedroom, you're with your

1 brother, and the defendant is also there, what was
2 going through your mind? How were you feeling?

3 A. I was angry.

4 Q. Did you have anger towards any person at
5 that point?

6 A. Yes, anger towards the defendant because I
7 didn't know what had happened.

8 Q. All right. What, if anything else, were
9 you concerned about at that point?

10 A. My brother. He was just clinging to me,
11 and I held him.

12 Q. Did you confront the defendant at this
13 time?

14 A. No.

15 Q. Would it be fair to say that caring for
16 your brother was more important than that?

17 A. Yes. At the time I would have rather cared
18 for my brother than do a selfish act, because in that
19 moment I wanted to kill him.

20 Q. Thank you, Nickole.

21 MR. ARABIA: I don't have anything further,
22 Your Honor.

23 MR. MARTINEZ: Thank you.

24 / / /

25 / / /

CROSS-EXAMINATION

BY MR. MARTINEZ:

Q. Good morning, Nickole?

A. Good morning.

Q. Nickole, you said when you first saw Yessenia, she was sprawled out?

A. Yes.

Q. Can you describe that for me a little bit more? What do you mean by that?

A. Arms like this (indicating), and kind of in an awkward position and her legs spread apart.

Q. Okay. And now you said arms like this (indicating)?

A. Basically, like in an awkward position.

Q. So kind of in the shape of a "T"?

A. Yeah.

Q. And I'm sorry. I'm describing it, because we have a court reporter who's writing everything down. So we have to be able to transcribe what we're talking about; okay?

A. Okay.

Q. You referred to Yessenia as your best friend; right?

A. Yes.

Q. What type of things would you and Yessenia

1 do together?

2 A. Watch TV together. I would play with her.
3 I basically took care of her most of her life.

4 Q. Okay. What type of games did she like to
5 play?

6 A. Mainly just puzzle games. You know, her
7 little box that she had full of cubes.

8 Q. What was her personality like?

9 A. Always happy. She was always smiling.
10 Everyone who could ever describe her, including me,
11 always saw her as a little ray of light. If you were
12 unhappy, she would instantly make you smile just
13 because of how excited she was about life.

14 Q. Did she have a lot of energy?

15 A. Yes.

16 Q. Did she run around a lot?

17 A. Yeah.

18 Q. I think you testified on direct, she would
19 bump into things?

20 A. Yeah. Every once in a while, she would
21 get, you know, the goose egg on her head, get a
22 scratch, bumps?

23 Q. Sure. Normal three-year-old stuff; right?

24 A. Yeah.

25 MR. MARTINEZ: No further questions, Judge.

1 MR. ARABIA: Court's indulgence,
2 Your Honor.

3 Nothing further, Your Honor. Thank you.

4 THE COURT: Nickole, don't talk about the
5 case with anybody but the attorneys on both sides. We
6 may call you back in, in the future to come back in.
7 You may step down.

8 THE WITNESS: Okay.

9 MR. ARABIA: Your Honor, the State's going
10 to call Justin Snow.

11 THE COURT: Before you sit down, raise your
12 right hand and be sworn by the clerk.
13 Whereupon,

14 WILLIAM JUSTIN SNOW,
15 called as a witness on behalf of the State, was sworn
16 and testified as follows:

17 THE WITNESS: I do.

18 THE COURT: If you have a fear of Covid and
19 want to keep your mask on, you can. But we like
20 everybody to be able to see your face and hear you.

21 THE WITNESS: Yes, sir.

22 THE COURT: Thank you.

23 DIRECT EXAMINATION

24 BY MR. ARABIA:

25 Q. Good morning.

1 A. Good morning, sir.

2 Q. Would you please be so kind as to state
3 your name and spell your last name for the record.

4 A. William Justin Snow, S-n-o-w.

5 Q. How are you employed?

6 A. I work as a firefighter and AEMT for
7 Pahrump Valley Fire Rescue.

8 Q. How long have you been with Pahrump Valley?

9 A. Full-time since 2004; two years as a
10 volunteer before that.

11 Q. Can you please just tell us in general
12 terms what your duties are, what you do?

13 A. Fire suppression, everything on the fire
14 side, and then also I act as part of a crew on an
15 advanced life support medical unit and do everything
16 that's assigned with that. Pretty much we do
17 everything but law enforcement.

18 Q. So you're part of a team on an ambulance;
19 is that --

20 A. Yes, sir.

21 Q. Are those pretty much what your duties were
22 back on July 15th of 2017?

23 A. Yes, sir.

24 Q. All right. On that day, a little after
25 7:00 p.m., what were you doing?

1 A. My partner and I were returning from what
2 we call an interfacility transport call for Las Vegas;
3 so we were coming back from Las Vegas after taking a
4 patient into a hospital there. We didn't have a
5 patient with us at that time.

6 In that time we saw -- we have what we call
7 a Spillman, which is our computer system -- we saw the
8 call come up on that, and a second later Dispatch came
9 out for a call of CPR in progress. And since we were
10 just basically at Manse and 160, we were the closest
11 unit to it. So to use our vernacular, we have a term
12 we call "jump the call." We took the call because we
13 were the closest unit, even though it wasn't our
14 assigned unit.

15 Q. That was to 5320 Manse?

16 A. Yes, sir.

17 Q. Were you notified before you arrived on the
18 scene that it was -- what was -- was there any more
19 specific input you had before you got there?

20 A. Just Dispatch came back and said CPR was in
21 progress, and they gave an age -- I believe they
22 actually gave us two different ages, but we didn't
23 have a whole lot of information before we got there.

24 Q. Okay. That location that you went to, is
25 that in Pahrump?

1 A. Yes, sir.

2 Q. Is that in Nye County?

3 A. Yes, sir.

4 Q. All right. At some point did you turn onto
5 Manse?

6 A. Yeah, immediately off of 160, we would have
7 gone straight down Manse and then across CAAS. The
8 address wasn't too far down there. Then we just
9 proceeded until we got close to the address.

10 Q. As you closed in on the address, what
11 happened next, or what did you see?

12 A. We were looking for the numbers, but
13 unfortunately, it wasn't very well sign-posted. And
14 then we saw the defendant kind of leaning up against
15 the post out there like very nonchalantly like he was
16 waiting for a friend or the pizza delivery that missed
17 his house or something like that.

18 Q. Was that man a large man?

19 A. Yes, sir.

20 Q. Did you eventually get the ambulance into
21 that driveway?

22 A. Yes, sir. We proceeded down the driveway
23 and then on with the call.

24 Q. All right. Who, if anyone, did you see in
25 the driveway?

1 A. In the driveway proper, there was nobody
2 there, but close to the house between the driveway and
3 the front door, there were two younger children
4 standing there.

5 Q. Is it correct to assume that you rolled up
6 to the house?

7 A. Yes, sir. We pulled in forward towards the
8 house, put the truck in park, and then proceeded on
9 the call.

10 Q. So now tell me what happens once you come
11 to a stop?

12 A. So we came to a stop, and I told my partner
13 Billy Kehoe -- he was a paramedic at the time -- to go
14 ahead and jump up in the back and grab his equipment,
15 and so like his monitor and his airway equipment, the
16 advanced equipment, and I would head into the house
17 and see what was going on. We would go from there.

18 So he jumped out and got on the side of the
19 truck, and I went around. The two younger children
20 were kind of pointing me into the house; so I went in.
21 It was sort of dark in the house and a little bit
22 chaotic in there. I went in, and laying on the floor
23 was the victim, and then kneeling next to the floor
24 was, I assume, the victim's mother. And she had a
25 phone on, and she was quite animated and talking

1 loudly. And I asked something along the lines of,
2 "Tell me what's going on. Can you tell me what's
3 going on?" All she managed to get out was something
4 along the lines of, "Where is he? Where is that
5 effing guy?" And then she got up and left.

6 So I proceeded to check the --

7 Q. Pardon me, let me -- if I may interrupt,
8 and if you already said this, then it's on me, but
9 just what kind of a child are we talking about in
10 terms of age and size, that sort of thing?

11 A. Young, small female about three years old
12 or so.

13 Q. Okay. What was your first impression of
14 her when you first saw her?

15 A. She was just laying on the floor completely
16 naked. As I got closer. I could see that, like, her
17 hair was maybe a little bit damp. It was pretty dark
18 in the house; so it wasn't until I kneeled down that I
19 got my first half-good look at her. But even then in
20 the house, I didn't really get a very good look at
21 her.

22 When I was kneeling down, of course I
23 checked for her pulse and her breathing. I
24 immediately saw that wasn't happening; so I scooped
25 her up in my arms. A few things: The house wasn't in

1 the greatest shape. There was people running around
2 yelling. It made me think that the safest thing for
3 us and the patient was not to be in that area.

4 Q. When you picked her up, did you notice
5 anything about her?

6 A. Yes. She was a little cool to the touch,
7 not like cold, cold, but kind of like, say, a kid
8 playing in a pool or maybe got out of the shower or
9 something like that, and she got -- I got damp from
10 her hair where I had picked her up at. That's the
11 first time I started noticing that she had some
12 discoloration around her face and stuff too, but I
13 hadn't really put all that together yet.

14 So I started doing CPR on her holding her
15 in my arms like this and carrying her out to the
16 truck.

17 Q. All right. And as part of that, while
18 you're bringing her out to the truck, had you seen any
19 indication or sign of life in her?

20 A. No, sir.

21 Q. You had mentioned it was a bit chaotic, and
22 so I just wanted to ask you: Did you ask anybody
23 about what had happened or if they could give you
24 information?

25 A. There was nobody there to give me

1 information, sir. Like I said, the female that was
2 there got up and left, and when I came out, the young
3 children weren't there anymore.

4 Q. All right. So you have Yessenia in your
5 arms and you're doing compressions and you head out.
6 And so where do you go?

7 A. Go straight to the door of the truck. As
8 I'm getting close to it, my partner started to come
9 out. I told him, "Forget it. We're just going to
10 stay in the truck." I hand her up to him, and as I'm
11 getting into the truck, I key up my radio and I told
12 Dispatch, "The scene isn't safe. We need to get
13 deputies here as soon as possible, And we're going to
14 start backing out."

15 Q. What's the lingo or what's the --

16 A. We're not Code 4.

17 Q. Not Code 4 means not --

18 A. Code 4 would be everything is fine,
19 everything is safe. Not Code 4 would be opposite.

20 Q. Would it be fair to say that the light in
21 the ambulance, or truck rather, was better than the
22 light in the bedroom?

23 A. Oh, yes, sir. We have -- it's amazing
24 light back there. I mean, just right down is all
25 supermarket-type lighting; you can see everything.

1 Q. Did you notice anything about the child
2 once the child was on that gurney?

3 A. Yes, sir. As soon as we sat her on the
4 gurney, even looking at the front of her, it was
5 apparent she was just covered in bruises from head to
6 toe. And then when we rolled her to put the patches
7 on the back -- with a child of her size, instead of
8 putting a patch one here and one here (indicating the
9 chest area) like you do on an adult, one goes on the
10 back, we could see her back was covered in bruises
11 too.

12 Q. Did you have a chance to observe her eyes
13 at all?

14 A. Yeah. They were both black. Like black
15 around, like she had been hit or something; and then
16 she was also -- her pupils were fixed and dilated at
17 that point.

18 Q. Does that have any significance just for
19 the benefit of those of us who don't have your
20 expertise?

21 A. Yeah. Fixed and dilated means that she
22 doesn't have a heartbeat. She's not getting any
23 oxygen to the brain is what happens when you pass
24 away, unfortunately.

25 Q. Was there a bruise on her thigh that stuck

1 out in your mind?

2 A. Yes. There was a -- kind of a round
3 bruise, I guess about, I don't know, the size of a
4 bottle -- or the size of the bottom of a bottle midway
5 through her thigh. Which is when we saw that, it
6 immediately stuck out to me as not the sort of normal
7 bruise you would see on somebody and not a normal kind
8 of place either. Like, that's the kind of bruise you
9 get when somebody hits you with something.

10 Q. You testified earlier that you've been at
11 your job for quite a while --

12 A. Yes, sir.

13 Q. -- so I just want to ask you, based on all
14 of your experience and training, what was your
15 thinking about the general nature of the injuries,
16 what might have been responsible for it?

17 A. It was pretty obvious once we got her and
18 got a look at her that it was traumatic injuries that
19 she --

20 MS. BOSKOVICH: Object to speculation,
21 Your Honor.

22 THE COURT: I believe the question was what
23 did he directly observe?

24 MR. ARABIA: Well, Your Honor, I think
25 based on the gentleman's training and experience, that

1 I'm just asking him what his impression was of how
2 this would have happened.

3 MS. BOSKOVICH: And, Your Honor, the
4 question really is his opinion as to how this could
5 have happened, and it's speculation.

6 MR. ARABIA: And, Your Honor, I don't think
7 it takes an expert opinion for a highly trained
8 firefighter with all of that experience to have a
9 pretty good idea when he sees a child in that
10 condition that he might have some idea. But you know
11 what? Actually, I will just withdraw the question.
12 We can move on.

13 THE COURT: I was about to overrule it, but
14 okay. If you want to withdraw it, that's fine.

15 Q. (By Mr. Arabia) Well, in that case, please
16 answer.

17 A. It was pretty apparent --

18 THE COURT: The objection is overruled.
19 You can answer the question.

20 THE WITNESS: Yes, sir. It was pretty
21 apparent to me that there was some traumatic injuries
22 that more than likely caused her passing away.

23 Q. (By Mr. Arabia) As far as you can recall
24 based on your work on the case, during the time that
25 you and the first responders worked on Yessenia, did

1 you do anything that could have caused the extensive
2 bruising to which you have --

3 A. No, sir.

4 Q. Okay. Did you eventually go to
5 Desert View Hospital?

6 A. Yes, sir.

7 Q. When you were at the hospital, what did you
8 do?

9 A. So we assisted the RNs and the doctors
10 there with working the code for a while. I cleaned up
11 our truck. And then while I was there, Chief Lewis
12 contacted me and asked me to take a couple of
13 photographs for his report, which I did, and then sent
14 them to him with the help of -- I believe he was a
15 sergeant at the time -- Boruchowitz in the Sheriff's
16 Office.

17 MR. ARABIA: All right. Your Honor, I'm
18 going to show Defense Counsel what's been marked as
19 State's Proposed Exhibit 55.

20 (Showing the exhibit to Defense Counsel.)

21 MR. ARABIA: Your Honor, we were just
22 working out some kind of logistical stuff. Actually,
23 I'm going to have this marked as 55A, because they
24 were two things, and so I understand the Defense's
25 issue. May I approach the clerk?

1 THE COURT: Thank you.

2 MR. ARABIA: And, Your Honor, actually I
3 would ask to make it 55A, B, C, and D.

4 THE COURT: Thank you.

5 (Whereupon State's Proposed Exhibit
6 Nos. 55A, B, C, and D are marked for
7 identification.)

8 Q. (By Mr. Arabia) I would ask that you look
9 through those photographs.

10 A. Yes, sir.

11 Q. Do you recognize those photographs?

12 A. Yes, sir. Those are the series of
13 photographs that Chief Lewis had me take at the
14 hospital.

15 Q. Are those photographs accurate depictions
16 of what you were photographing?

17 A. Yes, sir.

18 MR. ARABIA: All right. Your Honor, I
19 would move to admit and ask that the bailiff publish
20 those to the jury.

21 MS. BOSKOVICH: Just quick clarification.
22 Did we have -- was Crystal's supplement part of that
23 or just the photographs?

24 MR. ARABIA: Hers is now -- actually, I see
25 what you're saying. I gave you a piece of paper to --

1 I was just using that to cover the photos.

2 MS. BOSKOVICH: Then if it's just the
3 photographs, I have no objection.

4 THE COURT: And that's 55A, B, C, and D?

5 MR. ARABIA: Yes, that's correct,
6 Your Honor.

7 THE COURT: They're admitted.

8 (Whereupon State's Exhibit Nos. 55A
9 through D are admitted into evidence.)

10 THE BAILIFF: Do you have them on video, or
11 you want me to hand them --

12 MR. VITTO: We would ask that they be
13 published to the jury, Your Honor. They can all be
14 given to one juror, and when he's ready, he can pass
15 them through the jurors.

16 THE COURT: Thank you, sir.

17 MR. VITTO: They can go one by one. They
18 don't have to go as a group; so as he's ready...

19 MR. ARABIA: Thank you. I don't have
20 anything further, Your Honor.

21 THE COURT: Thank you.

22 Counsel?

23 MS. BOSKOVICH: Thank you, Your Honor.

24 / / /

25 / / /

CROSS-EXAMINATION

BY MS. BOSKOVICH:

Q. Mr. Snow, what's your job title? I just want to make sure I address you correctly.

A. Firefighter AEMT.

Q. Okay. And did you have that same title in July of 2017?

A. Yes, ma'am.

Q. And at the time how long had you -- actually, I believe on direct you said you had been a firefighter since 2004?

A. Full time since 2004, yes, ma'am.

Q. And is that paramedic as well since 2004?

A. AEMT since 2004, yes.

Q. Okay. And what kind of training do you go through to be an EMT?

A. Well, you start with EMT basic, and then go to the EMT advanced, plus there's PALS and PHBLS, basically a bunch of supplemental classes that you take up to that to be over a thousand hours just for classroom. And then you have a minimum of I think 60 hours a year; so you have to do continuing education every year after that.

Q. Okay. So there is some type of yearly certification that you have to do?

1 A. Yes, ma'am.

2 Q. And just speaking generally, walk me
3 through what happens when you get a call for service?

4 A. Well, there's not really a general, but I
5 guess -- so Dispatch will dispatch you to something;
6 it could be anything. And you find out what the
7 address is, you go there, and then you -- that's kind
8 of part of the main part of the job is kind of
9 figuring out what's going on.

10 Q. And is that Nye County Sheriff's Office
11 Dispatch?

12 A. Yes, that's typically Dispatch.

13 Q. And does the call come in over a radio
14 system or a computer; how does that work?

15 A. So Nye County will actually what they call
16 set the tone; so we have radio systems and tones will
17 alert you. But at the same time, we also have a
18 computer system known as Spillman where the addresses
19 and stuff will pop up. And quite often the address
20 will pop up on that before they actually get a chance
21 to hit the radio.

22 Q. Like it did in this case?

23 A. Like it did in this case, yeah.

24 Q. What kind of policies or procedures are
25 there for documenting an incident or a scene that you

1 arrive to?

2 A. So normally, we would just write our
3 Patient Care Report, but anything that is outside of
4 the ordinary, you would document in like a Special
5 Circumstances Report. Or quite often, like in this
6 case where Chief Lewis is involved or a superior
7 officer is involved, they will take care of that kind
8 of report.

9 Q. Okay.

10 A. And then we just go -- whatever we're asked
11 to write in afterwards.

12 Q. Are you taking notes as you go, or is it
13 just kind of based on memory, you will write your
14 report afterwards?

15 A. So the report that we write on scene is
16 written not only during the call, but immediately
17 afterwards. Anything else is usually written down as
18 soon as the call is over.

19 Q. And those reports, do they generally
20 include some type of narrative of the events?

21 A. Yes, ma'am.

22 Q. And at some point, you have to sign the
23 report acknowledging that, I assume, everything in it
24 is accurate?

25 A. Whoever wrote the report, signs it, yes,

1 ma'am.

2 Q. Okay. So on -- specifically on July 15th,
3 2017, you and Mr. Kehoe --

4 A. Yes, ma'am.

5 Q. -- correct? You were on your way back to
6 Pahrump from Las Vegas?

7 A. Yes, ma'am.

8 Q. And that was around 7:00 p.m.?

9 A. Or thereabouts, yes.

10 Q. What was your typical shift -- or I'm
11 sorry, let me ask a better question. How long had you
12 been working that day?

13 A. If I remember right, I had probably only
14 been on for about an hour that day.

15 Q. Is that a pretty standard shift?

16 A. Our normal shifts are 24 hours, but we can
17 work up to 72 hours long.

18 Q. So you had almost just started your shift
19 essentially?

20 A. Yeah, not more than halfway through yet.

21 Q. Okay. And you saw the call come in on
22 Spillman for an unresponsive -- were you immediately
23 aware that it was an unresponsive three-year-old or
24 did it just say --

25 A. It would have come up and said, like,

1 "Unresponsive," wouldn't give me an age, wouldn't give
2 me an address. It wouldn't have mattered the age
3 limit anyway because of what the call was, we were the
4 closest unit and we would have taken the call.

5 Q. And is that typical too, whoever is the
6 closest?

7 A. Once you get to that level of call, yes. I
8 mean, if we're getting a call for, quite frankly, like
9 a lift assist or something like that, then the unit
10 that's in that area takes it. If it's something like
11 a CPR call or fire or something where seconds matter,
12 the closest unit takes it.

13 Q. Okay. Do you remember which medic unit you
14 were assigned to that day?

15 A. Medic 5.

16 Q. Is that your standard --

17 A. That's my normal station, yes?

18 Q. And eventually you guys got to
19 5320 Manse Road?

20 A. Yes, ma'am.

21 Q. And when you arrived, you saw a man
22 pointing you down a dirt driveway?

23 A. He wasn't pointing us down the driveway,
24 ma'am. He was leaning up against, like, the post out
25 there. That's one of the reasons we almost overdrove

1 it, because typically, somebody who's waiving us down
2 is pretty animated and trying to get us to the right
3 place, not just hanging out.

4 Q. And you and Mr. Kehoe in Medic 5, you were
5 the first Pahrump Valley Fire & Rescue personnel on
6 scene?

7 A. Yes, ma'am.

8 Q. Did Chief Lewis arrive on the scene?

9 A. At some point after we were already there,
10 yes.

11 Q. And you arrived before Nye County
12 Sheriff's Office even?

13 A. Yes, ma'am.

14 Q. And only you were the -- excuse me, you
15 were the only one that entered the residence.
16 Mr. Kehoe stayed in the car; correct?

17 A. In the truck, yes.

18 Q. In the truck; right. You entered the
19 bedroom that was located on the first floor?

20 A. I went through the front door into another
21 room. I honestly wasn't sure what was in there,
22 because she was on the floor right inside the door.

23 Q. And at that time you found a woman
24 performing CPR on the patient?

25 A. Yes. She was kneeling next to the patient

1 talking on the phone, yes.

2 Q. And you stated that the patient at the
3 time, she had no clothes on?

4 A. No. She was completely naked.

5 Q. And you said it was pretty dark in the
6 house; correct?

7 A. Yes, ma'am.

8 Q. And that's what prompted you to pick the
9 patient up and take her outside?

10 A. No, ma'am. Once I kneeled down and did my
11 initial assessment on her and decided that obviously
12 CPR was warranted, that combined with the fact the
13 scene was obviously turning into a domestic and the
14 house itself was sort of dark and not really conducive
15 to a lot of people being in there, made me decide that
16 the best course of action would be to get the patient
17 off to a scene that we could control. It would be
18 safe for us and we could give the best care possible
19 to the patient.

20 Q. And so you picked her up and continued
21 chest compressions --

22 A. Yes, ma'am.

23 Q. -- as you took her outside?

24 A. Yes, ma'am.

25 Q. And I believe on direct, you stated that

1 you had asked the woman what happened, but she didn't
2 really give you an answer?

3 A. Yeah. Something like, "Can you tell me
4 what's going on, what's happening here?" The typical,
5 like try to prompt them to tell me how long they were
6 doing CPR, that sort of stuff.

7 Q. And instead of answering, she ran outside
8 to find the male; correct?

9 A. Yeah. She said something along the lines
10 of, "Where is he?" or "Where the 'f' is he?" and then
11 got up and left.

12 Q. And when you got the patient to the
13 ambulance, you placed her on a gurney?

14 A. I handed her up to my partner because
15 there's quite a step up, and he placed her on the
16 gurney, yes, ma'am.

17 Q. And did you continue chest compressions or
18 did he?

19 A. I immediately jumped back and continued
20 chest compressions while he got out some of the other
21 equipment.

22 Q. And you stated on direct that you had
23 noticed multiple bruises all over her body?

24 A. Yes, ma'am.

25 Q. Could you tell if the bruises appeared to

1 be in different stages of healing?

2 A. Some of them might have been. They were
3 quite extensive, and I guess later would be the right
4 word to say so. But to be honest with you, ma'am, I
5 wasn't really paying a huge amount of attention to
6 what might have been old and what might have been new.

7 Q. Right. Did you stay on scene after you
8 loaded the patient in the ambulance?

9 A. For as long as it took us to get -- there
10 was a unit that came in behind us and blocked us in
11 when we were trying to get out. So as long as it took
12 them to back out, and then we backed out and started
13 off to Desert View.

14 Q. Do you remember which unit that was?

15 A. That was Medic 3.

16 Q. Do you remember who was in Medic 3 that
17 day?

18 A. That would have been Firefighters Smith and
19 Hernandez.

20 Q. Did they assist with patient care at all?

21 A. Yes. Both of them jumped in the back
22 immediately to help out. Firefighter Smith stayed in
23 the back, because he was a paramedic as well, and then
24 Hernandez drove the unit out.

25 Q. So they left Medic 3 on scene?

1 A. No. Medic 3 had to back out in order to
2 free us to back out. So Hernandez drove Medic 3 out
3 of the way, and Smith stayed in the back of our truck
4 as well.

5 Q. Okay. Who drove Medic 5 to Desert View
6 Hospital?

7 A. I did.

8 Q. Do you know roughly how long you were on
9 scene?

10 A. No. I would have to check the report,
11 ma'am.

12 Q. Did you speak to -- let me back up. Did
13 Chief Lewis arrive before you left the scene?

14 A. Yeah. He had pulled up outside of the
15 scene after we had called it wasn't Code 4, and as we
16 were pulling out, he was there out of his car already.

17 Q. So he was parked along the street kind of?

18 A. Yes, ma'am.

19 Q. And did you talk to him at all before you
20 left the scene?

21 A. Yeah, just briefly.

22 Q. What did you tell him?

23 A. I told him we were getting ready to go, and
24 I asked him which direction -- Engine 1 was also
25 coming down; they had additional personnel for us. So

1 I asked him which direction Engine 1 was coming from
2 so I could meet up with them. He told me, and I took
3 off that direction.

4 Q. Okay. Is it typical to meet an engine
5 along your route to Desert View Hospital?

6 A. That far out it might be, yeah.

7 Q. How come?

8 A. Well, you need extra -- CPR is a very labor
9 intensive thing. The more people you have, the
10 better. And because Station 1 was so far away from
11 that address and we were there so quickly, it wouldn't
12 have done any sense for us to wait on scene to wait
13 for them. So since they were en route, we just went
14 and met them there to get some people.

15 Q. And then a couple of guys jumped on Medic 5
16 with you?

17 A. Yes, ma'am.

18 Q. And you stated that you were driving;
19 correct?

20 A. Yes, ma'am.

21 Q. When you arrived at Desert View Hospital,
22 did you -- were you met by a nurse and the doctor
23 outside?

24 A. I don't remember if they met us completely
25 outside. It would have been in their -- Desert View

1 has, like, two sets of double doors you go through.
2 And it's what they call the ambulance bays, and they
3 usually meet us there.

4 Q. Okay. And at that point you transferred
5 the patient to?

6 A. We would have to wheel her in to what they
7 call the pit which is where they do all of their
8 serious work, and we would have transferred over to
9 their bed there. And there's kind of a transition
10 period where we're handing over care to the hospital,
11 giving reports to the doctors and nurses. Our guys
12 are still continuing patient care while they're moving
13 their equipment over to take over from our equipment,
14 so to speak.

15 Q. And I assume that your guys tell them what
16 kind of treatment has already been done and that type
17 of thing?

18 A. Yes, ma'am.

19 Q. I believe on direct, you stated that you
20 waited on scene at Desert View Hospital for a while?

21 A. Yeah. That would have been normal
22 afterwards. It takes quite a while to clean up after
23 a call like that. And then like I said, we were
24 helping with the CPR and some of the other stuff that
25 needed to be resolved.

1 Q. And at some point in that period,
2 Chief Lewis contacted you to take a few photos?

3 A. Yes, ma'am.

4 Q. At any point did Dr. Moussa inform you of
5 the patient's status?

6 A. I don't think he informed us directly, but
7 when he called it, everybody would have known.

8 Q. And at that point would you have contacted
9 Chief Lewis to give him a report?

10 A. Yeah. I would have called him back to say
11 that she's been called.

12 Q. Do you remember if you did that in this
13 case?

14 A. Yes. I'm sure I did.

15 Q. And after you got the ambulance cleaned up,
16 you returned back to the station?

17 A. Yes, ma'am, back to duty.

18 Q. And is that the point at which you would
19 have written the report or --

20 A. So I didn't write this report, ma'am.
21 Billy Kehoe was writing it, and he would have been
22 writing it literally from the moment they got on the
23 truck. For instance, all the medications and stuff
24 are timestamped; so you're hitting buttons on a
25 monitor, and it's reporting what you're doing. The

1 second we got into the ER, all of the actual physical
2 skills, he's not doing them anymore. So he would have
3 started writing his report before she was even called.

4 Q. And that's something -- that's the report
5 that he does with the help of a computer programmer?

6 A. Yes, ma'am.

7 MS. BOSKOVICH: I'll pass the witness,
8 Your Honor. Thank you.

9 THE COURT: Counsel?

10 MR. ARABIA: We have nothing else,
11 Your Honor. Thank you.

12 THE COURT: Subject to recall?

13 MR. ARABIA: Yes, please.

14 THE COURT: Don't talk about the case with
15 anyone but the two attorneys. I don't know if we'll
16 need you again in the next couple of weeks, but if we
17 do, we'll give you a call.

18 THE WITNESS: Yes, sir.

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

20 MR. ARABIA: Your Honor, the State calls
21 William Kehoe.

22 THE COURT: Please raise your right hand
23 and be sworn.

24 / / /

25 / / /

1 Whereupon,

2 WILLIAM KEHOE, JR.,

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 like the jury to be able to
7 see your face and hear your voice, but if you're
8 nervous about Covid, you can keep your mask on.

9 THE WITNESS: I will take my mask off, sir.

10 THE COURT: Thank you. Have a seat. We're
11 going to be talking to the lady in the far back;
12 that's who you're talking to. The attorneys will take
13 turns asking you questions.

14 THE WITNESS: Yes, sir.

15 THE COURT: Thank you.

16 DIRECT EXAMINATION

17 BY MR. ARABIA:

18 Q. Good morning.

19 A. Good morning.

20 Q. Would you please kindly --

21 THE COURT: I don't think the lady in the
22 far back heard that good morning.

23 THE WITNESS: Good morning.

24 THE COURT: There you go.

25 Q. (By Mr. Arabia) Would you kindly state

1 your name and spell your last name for the record,
2 please?

3 A. William Kehoe, K-e-h-o-e.

4 Q. What kind of work do you do?

5 A. Firefighter/paramedic for Pahrump Valley
6 Fire Rescue.

7 Q. How long have you been there?

8 A. Six years.

9 Q. Can you briefly go through kind of your
10 background and your training and experience just in a
11 general kind of way?

12 A. Sure. I've been a paramedic for 11 years.
13 I worked at AMR in Las Vegas for a private company as
14 a paramedic, and then I got hired with Pahrump Valley
15 Fire Rescue as a firefighter/paramedic working on the
16 ambulance side and the firefighter's side as well.

17 Q. All right. To do the kind of work that you
18 do on a, say, a call where you have a person in
19 distress and you're in the ambulance, what kind of
20 background do you have for that? What do you have to
21 know, what training?

22 A. Usually start out as an EMT basic. That's
23 six months of classroom work. Work as an EMT basic
24 for a little bit, and I go to paramedic school.
25 Paramedic school is usually about a year of training.

1 Then you can get your paramedic certificate and work
2 as a paramedic. So all in all, about a
3 year-and-a-half of training on the medical side.

4 Q. Is training -- for someone in your field,
5 is training kind of an ongoing thing that you will do
6 for your career?

7 A. Each year, we go through continuing
8 education classes, medical continuing education
9 classes.

10 Q. The job that you have right now, is that
11 the same job that you had in July of 2017?

12 A. Yes, sir.

13 Q. All right. I would like to turn your
14 attention to July 15th, 2017, a Saturday, a little
15 past 7:00 p.m., were you working?

16 A. I was.

17 Q. Would this have been in an ambulance?

18 A. Yes, sir.

19 Q. Were you with anyone else?

20 A. My partner Justin Snow.

21 Q. Who was driving?

22 A. Justin Snow.

23 Q. And who was the person in charge so to
24 speak?

25 A. I was, sir. Usually, the paramedic is in

1 charge of the ambulance.

2 Q. All right. What exactly were you doing at
3 around that time, say, you know, ten, 15 minutes after
4 7:00.

5 A. We were coming back from an interfacility
6 transport. So the Department takes patients from
7 Desert View Hospital here in Pahrump to hospitals in
8 Las Vegas, and we were coming back from one of those
9 transports.

10 Q. Did you get a call for medical service?

11 A. A call went out for medical service, yes,
12 sir.

13 Q. Can you describe the nature of that call?

14 A. It was a three-year-old not breathing.

15 Q. Was this at 5320 Manse?

16 A. It was.

17 Q. Was that in Pahrump?

18 A. Yes.

19 Q. And is that Nye County?

20 A. It is.

21 Q. At some point did you arrive at 20 -- or
22 excuse me, 5320 Manse?

23 A. Yes, we did.

24 Q. What happened after you arrived?

25 A. We pulled into the driveway. Just to give

1 a brief history, on going to critical calls, my
2 partner and I come up with a plan on what to do. Our
3 plan was Firefighter Snow was going to grab the
4 three-year-old that was not breathing; go into the
5 house, get the three-year-old, bring her out to the
6 ambulance. While he's doing that, I step into the
7 back of the ambulance and prepare the ambulance to
8 receive the patient and start treatment on the
9 patient.

10 Q. All right. So that's your plan. Now, you
11 arrive at the house. Did that plan get executed?

12 A. It did get executed. Firefighter Snow went
13 into the house, got the patient, came back out to the
14 ambulance, and I had the gurney set up and the cardiac
15 monitor set up to treat the patient.

16 Q. All right. Well, along those lines, when
17 he came out of the house, was he by himself?

18 A. He had the -- so I saw him as he was
19 walking up to the ambulance, probably five feet from
20 the ambulance, and he had the female patient in his
21 arms.

22 Q. What did Snow do next?

23 A. Snow handed the patient to me. I took the
24 patient and placed her onto the gurney.

25 Q. All right. Once she's on the gurney,

1 what's the first couple of things that you do?

2 A. First thing we do is start CPR chest
3 compressions. We also attach the patient to the
4 cardiac monitor. The cardiac monitor will show if we
5 have electrical activity of the heart. And we also
6 placed a Broselow Tape. To explain a Broselow Tape,
7 it is a weight-based tape to show proper treatment for
8 a pediatric patient. That's placed next to the
9 patient.

10 Q. With the patient on a gurney, you obviously
11 have a chance to observe the patient, did you notice
12 anything out of the ordinary?

13 A. The patient was cool to the touch. Her
14 hair appeared to be wet, and I observed multiple
15 bruises on the patient's body.

16 Q. At this time where she's placed on the
17 gurney, was there any sign of breathing?

18 A. There was no breathing.

19 Q. Was she conscious?

20 A. She was not conscious.

21 Q. Was there a pulse?

22 A. There was no pulse.

23 Q. You testified that she was cool to the
24 touch. Was there anything else about her skin that
25 you found noteworthy or unusual?

1 A. Pale and a little bit mottled, a little
2 grayish. Mottling is like kind of a mix between pale
3 and gray a little bit.

4 Q. Mottling in this context is spelled
5 m-o-t-t-l-i-n-g; is that right?

6 A. I'm not sure how to spell it.

7 Q. But mottling, it has nothing to do with
8 models or anything like that?

9 A. No way. It doesn't have to do with
10 m-o-d-e-l-s; correct.

11 Q. Was the way that she was presented to you
12 consistent with someone who was dead?

13 A. Yes.

14 Q. Did you continue to attempt to save her?

15 A. Yes, sir.

16 Q. Were you able to get any information on the
17 specifics of what might have happened to her?

18 A. Firefighter Snow related to me that he was
19 not able to get any information while he was in the
20 house.

21 Q. At some point, you have her on the gurney.
22 Did you have a destination?

23 A. Desert View Hospital is our destination.

24 Q. All right. Now, can you estimate how far
25 that is from that house, 5320 Manse? It doesn't have

1 to be exact, just...

2 A. I would estimate maybe seven miles, six
3 miles.

4 Q. What generally -- no forget about
5 generally. What did you do during the ride? What was
6 the situation as far as what care you were providing
7 and who might have been helping you and what efforts
8 were being made to save this patient?

9 A. Sure. So we continued chest compressions,
10 placed her on the cardiac monitor. We do two -- we do
11 two minutes of chest compressions, followed by a pulse
12 check and a rhythm check. And we do that throughout
13 the transport. So each pulse check, rhythm check
14 showed no pulse and asystole as to rhythm, the cardiac
15 rhythm. Asystole means flatline or no electrical
16 activity. We also -- we -- go ahead.

17 Q. When you said about asystole, are you
18 saying that that was her condition?

19 A. Yes. During my care, she was in asystole
20 or no cardiac rhythm.

21 Q. And please, I interrupted you. Please
22 repeat what that is.

23 A. Asystole is no electrical activity in the
24 heart.

25 Q. All right. Was there any attempt made to

1 intubate the patient?

2 A. There was an attempt made to intubate the
3 patient. It was not by me.

4 Q. Can you explain what an IO is?

5 A. Can you repeat that, please?

6 Q. Let me put it in a different way. Was an
7 object inserted in the patient's leg?

8 A. Yes. That's an intraosseous needle.
9 That's so we can get medications into the patient.
10 The medication that we used for a heart that's not
11 beating is called epinephrine --

12 Q. Uh-huh.

13 A. -- and that, in theory, should hopefully
14 restart the --

15 MR. ARABIA: Your Honor, Court's indulgence
16 for a moment, please.

17 (Counsel for the State confer.)

18 MR. ARABIA: Your Honor, with your
19 permission, I would like to resume.

20 THE COURT: Thank you, sir.

21 Q. (By Mr. Arabia) You were testifying. I
22 asked you about putting the object into the leg and
23 you named it. I would ask you to repeat the name and
24 explain just what you were saying.

25 A. IO, or intraosseous needle. That gives us

1 the port to give medication to the patient.

2 Q. Shortly after you left the residence, did
3 you meet anyone on the road on Manse?

4 A. Yes. So Medic 3 arrived as we were pulling
5 out of the driveway, and a Firefighter/Paramedic
6 Matt Smith got into the ambulance. And we also
7 rendezvoused with Engine 1 on Manse; rendezvous
8 meaning Engine 1 was coming from Station 1, and by the
9 time we were pulling out of the driveway, we just so
10 happened to meet up with them on Manse.

11 Firefighter/Paramedic Hanson and
12 Firefighter Rosen also got into the ambulance with me.

13 (Counsel for the State confer.)

14 MR. ARABIA: I'm sorry, Your Honor. I
15 should have asked for a Court's indulgence.

16 Q. (By Mr. Arabia) All right. So you have
17 four of you with the patient, and then
18 Firefighter Snow is driving?

19 A. Correct.

20 Q. And you had made reference to epinephrine.
21 Can you explain what that is?

22 A. Epinephrine --

23 Q. And then -- I'm sorry. Explain what it is
24 first.

25 A. In theory, it would hopefully restart the

1 electrical activity in a heart that's not beating.

2 Q. All right. And was administering that, was
3 that part of the efforts, the ongoing efforts to
4 resuscitate?

5 A. Yes, sir.

6 Q. All right. During this whole time that
7 you're traveling to the hospital, you had mentioned
8 there was a two-minute period -- two-minute blocks
9 where there would be two minutes and then ten seconds
10 to do assessments?

11 A. Yes.

12 Q. Okay. And then can you explain how
13 epinephrine was worked into that? How often was it
14 given during that ride?

15 A. Once we establish IV access or our
16 intraosseous needle, we give epinephrine. And then
17 you can give epinephrine every three to five minutes
18 after that.

19 Q. During all of this time, was the patient's
20 heart being monitored?

21 A. Yes, by a cardiac monitor.

22 Q. Were there ever any signs of heart
23 activity?

24 A. During our pulse check, rhythms checks,
25 there was no sign of electrical activity in the heart.