

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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**COLE DUANE ENGELSON**

Appellant,

vs.

**THE STATE OF NEVADA**

Respondent.

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**Docket No. 82691**

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

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**APPELLANT'S APPENDIX VOLUME 15 OF 22**

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1 interviewed him.

2 Q. Your interview with Cole took place at the  
3 Sheriff's Office here?

4 A. Yes.

5 Q. Pulled Cole out of the Detention Center?

6 A. Fancher did.

7 Q. Okay. And brought him up into an interview  
8 room?

9 A. Yes.

10 Q. When he was doing that, he was wearing a  
11 green smock; right?

12 A. I believe so.

13 Q. That's not the standard clothing for  
14 inmates at the Detention Center here; right?

15 A. It's a suicide smock.

16 Q. Why do they call it a suicide smock?

17 A. So he can't harm himself with other  
18 clothing. Make a rope, et cetera.

19 Q. Is that given to inmates who the  
20 Detention Center believes may be suicidal?

21 A. Yes.

22 Q. Did you ask Cole any questions about that,  
23 about why he was in the smock?

24 A. I believe I asked him if he was suicidal.

25 Q. What was his response?

1 A. I think it was no.

2 Q. Your interview with him took place the next  
3 day on July 16th; right?

4 A. Yeah. We are way into the next day.

5 Q. Starting at about 5:30 a.m.?

6 A. That sounds about right.

7 Q. I believe you testified that  
8 Detectives Gibbs and Fancher also assisted in that  
9 interview?

10 A. Yes.

11 Q. Prior to that interview, do you know the  
12 last time Cole ate?

13 A. No. And I don't think I asked him.

14 Q. How about the last time that he slept?

15 A. Don't know.

16 Q. Do you know if he was given any medication  
17 while he was in the Detention Center?

18 A. I have no idea.

19 Q. Prior to starting the interview, you read  
20 him his Miranda rights; right?

21 A. I did.

22 Q. And he waived them?

23 A. Yes.

24 Q. And he agreed to talk to you?

25 A. Yes.

1 Q. You said it was a lengthy interview; right?

2 A. It was.

3 Q. About four hours in total?

4 A. About, yeah. Maybe a little longer.

5 Q. How many times in that interview did Cole  
6 tell you "I don't know"?

7 A. Probably a lot.

8 Q. Dozens?

9 A. Sure.

10 Q. Hundreds?

11 A. I don't know the exact number. I'm sure  
12 it's -- I'm sure it's more than once.

13 Q. How many times did he tell you he couldn't  
14 remember?

15 A. Several.

16 Q. Dozens?

17 A. Probably.

18 Q. During that interview, is it fair to say  
19 you're still trying to figure out exactly what  
20 happened?

21 A. Yeah. That's fair to say.

22 Q. And you're looking for answers from Cole?

23 A. Absolutely.

24 Q. You start that by building a rapport with  
25 him?

1 A. Yes.

2 Q. Introduce yourself; right?

3 A. Yes.

4 Q. You guys both talked about how you grew up  
5 in Las Vegas together?

6 A. Yep.

7 Q. About how you both had kids?

8 A. Yep.

9 Q. You asked Cole what kind of work that he  
10 did?

11 A. Yep.

12 Q. You told Cole you don't think he's a bad  
13 person?

14 A. Yep.

15 Q. You told him you were there to exonerate  
16 him?

17 A. Yep.

18 Q. You also talked about that when someone  
19 goes through a traumatic event, their mind will try  
20 and block it out so they don't remember details;  
21 right?

22 A. That's true, yes.

23 Q. Is that something that you learned in your  
24 training and experience?

25 A. Yes.

1 Q. Or is that more of an interrogation tactic?

2 A. Same class, but sure. You can take it  
3 however you want. But it's a tactic, yes.

4 Q. Okay. Do you know if that's something that  
5 happened to Cole in this case?

6 A. It's possible.

7 Q. Any idea if the combination of alcohol  
8 would have any effect on that?

9 A. It's possible.

10 Q. Cole gave you a rundown of his day; right?

11 A. Yes.

12 Q. What he could remember?

13 A. Yes.

14 Q. Came home from work in the morning?

15 A. Yeah, I believe so.

16 Q. The family went to the Nugget for  
17 breakfast?

18 A. Yes. I remember that.

19 Q. Then to the thrift store on the way home?

20 A. I believe so.

21 Q. Cole told you he wanted to stop for a beer  
22 on the way home?

23 A. I don't recall that part.

24 Q. When they got home, Cole started sneaking  
25 drinks?

1 A. That, I remember.

2 Q. You said he was drinking vodka and water;  
3 right?

4 A. Yes.

5 Q. In a pint glass?

6 A. I believe so.

7 Q. And he was filling up with about half vodka  
8 and half water?

9 A. I believe so.

10 Q. He told you he wanted to have a nightcap to  
11 help him sleep; right?

12 A. Yes.

13 Q. Victoria and Nickole left?

14 A. Yes, to get their nails done.

15 Q. And when they did, he told you Yessenia  
16 threw a tantrum?

17 A. Yes.

18 Q. Then he and Yessenia were outside for a  
19 bit?

20 A. Yep.

21 Q. He smoked a cigarette?

22 A. Yep.

23 Q. She climbed on a chair?

24 A. Yep.

25 Q. And tumbled off. And Cole let her play in

1 the dirt for a little bit; right?

2 A. Yes.

3 Q. This was a camping chair he said; right?

4 A. I believe so.

5 Q. He said it was kind of right on the edge of  
6 the patio to the house?

7 A. I don't remember exactly where it was.

8 Q. When they went back inside, Cole gave her a  
9 shower?

10 A. Yes.

11 Q. Because she had been dirty?

12 A. Yes.

13 Q. The plan was to take a shower and then take  
14 a nap; right?

15 A. Yes.

16 Q. Cole told you he had to work at 7:00 p.m.?

17 A. I don't recall that part.

18 Q. He went over with you how Yessenia didn't  
19 like to get her face wet; right?

20 A. I believe so.

21 Q. She fights in the shower?

22 A. That was discussed, yes.

23 Q. Okay. She tries to run out?

24 A. That was discussed, yes.

25 Q. That's what she did in this case. That's

1 what he told you; right?

2 A. Could be. I believe so.

3 Q. Cole told you he struggled to keep her in  
4 the shower?

5 A. Yes.

6 Q. Used his arms?

7 A. I believe so.

8 Q. Used his foot at one point?

9 A. I don't remember that. The arms I  
10 definitely remember.

11 Q. He told you that she slipped and fell in  
12 the shower?

13 A. I don't remember that part. Possibly.

14 Q. Did he tell you that she hit the sides of  
15 the shower a couple of times?

16 A. Possibly.

17 Q. But not hard. Cole told you during the  
18 shower, that's about the time that he blacked out?

19 A. I believe so.

20 Q. That's when he didn't remember anything?

21 A. I believe so.

22 Q. Next thing he remembered was waking up and  
23 Yessenia was motionless next to him?

24 A. Yes, when he laid down.

25 Q. He remembered one eye being partially

1 opened?

2 A. Yes.

3 Q. Told you he didn't remember if she was  
4 wearing clothes at that point?

5 A. Yes.

6 Q. You showed him some pictures of Yessenia  
7 during the interview?

8 A. I did.

9 Q. Was that to help jog his memory?

10 A. Yes. It's an interview tactic commonly  
11 used.

12 Q. He told you he didn't remember seeing any  
13 bruises when the paramedics arrived; right?

14 A. I don't remember that. I don't recall that  
15 part. Possibly.

16 Q. Did he tell he didn't remember seeing any  
17 bruises at any point during the day?

18 A. It's possible.

19 Q. You and Cole went through a lot of  
20 hypotheticals; right?

21 A. We did.

22 Q. With what could have happened?

23 A. Yes.

24 Q. What may have happened?

25 A. Yes.

1 Q. What object he may have used?

2 A. Yes.

3 Q. But ultimately, the answer was, "I don't  
4 know," or "I don't remember"?

5 A. For most of the times, yes.

6 Q. But you kept going with the same sort of  
7 line of questioning; right?

8 A. Basically.

9 Q. Trying to find out what happened?

10 A. Yes.

11 Q. Cole told you he took responsibility?

12 A. Yes.

13 Q. Told you it was his fault?

14 A. Yes.

15 Q. That's because he was the only one home;  
16 right?

17 A. I believe so, yeah.

18 Q. You asked Cole if he got upset with  
19 Yessenia?

20 A. I believe so.

21 Q. He told you he must have based on the  
22 pictures; right?

23 A. Yes.

24 Q. He told you he didn't even remember  
25 striking her?

1 A. Well, one time he did. And then the other  
2 time, I believe he said he put a whoopin that must  
3 have welted. I believe that was the statement.

4 Q. Well, would you agree that he told you that  
5 after looking at the pictures?

6 A. I believe so, yes.

7 Q. So he said it appeared, based on the  
8 pictures, that he must have put a whoopin on her, but  
9 that he didn't remember ever striking her?

10 A. Yes, that's correct.

11 Q. At some point, you left the interview;  
12 right?

13 A. Yes.

14 Q. And Detective Fancher took over?

15 A. Yes.

16 Q. When you left the interview, did you  
17 observe it from anywhere?

18 A. I observed some of it from the detective  
19 office, yes, the General Assignment Detective Office.

20 Q. But not all of it?

21 A. I don't think I watched all of it. I was  
22 pretty tired at that point.

23 Q. So what did you do once the interview  
24 concluded?

25 A. I don't remember. I called my boss. I

1 think I called my wife. I went in and talked to Gibbs  
2 about the case. I think that's what I did. I don't  
3 know. I watched -- I don't know how much I watched of  
4 it. I don't remember.

5 Q. Do you remember performing any follow-up  
6 investigation on the case after the interview?

7 A. I did an interview with an inmate. I don't  
8 believe so. I mean obviously processing, typing, and  
9 all that good stuff.

10 Q. Okay. Hold that thought.

11 MR. MARTINEZ: Court's indulgence for one  
12 moment, Your Honor.

13 THE COURT: Yes.

14 MR. MARTINEZ: Thank you, Your Honor.

15 Q. (By Mr. Martinez) Detective, you mentioned  
16 interviewing an inmate?

17 A. Yes.

18 Q. That inmate was Christopher Pullen?

19 A. It was.

20 Q. He was at the Nye County Detention Center  
21 as well; right?

22 A. He was.

23 Q. He contacted you, told you he had  
24 information about Mr. Engelson?

25 A. He contacted probably the jail or

1 Boruchowitz, and it got relayed to me or Gibbs or  
2 Harry Williams, and we went and interviewed him with  
3 the DA.

4 Q. Okay. He reached out to you somehow,  
5 though?

6 A. I believe so.

7 Q. You didn't put a little bug down in the  
8 jail saying if anyone has information, let me know?

9 A. We don't really do that.

10 Q. Now, after you were informed that he wanted  
11 to speak with you or with someone, how long did it  
12 take for you to meet with him?

13 A. I don't remember. We get so many people  
14 want to give information. I couldn't tell you. It  
15 just depends. It's prioritized, or if my boss  
16 instructed me to go to the interview, I can't recall  
17 how I did that interview. I don't remember. I  
18 remember I did it.

19 Q. And you did it at the Sheriff's Office?

20 A. No. I did it here.

21 Q. You did it at the DA's Office?

22 A. At the DA's Office, yes.

23 Q. You pulled him out of the Detention Center?

24 A. I don't think I did. I believe someone  
25 else did.

1 Q. Was it just you two in the interview?

2 A. No. It was me and Mike Vieta-Kabell who  
3 used to work here, I believe.

4 Q. Okay. Did you know that Mr. Pullen  
5 received a benefit from speaking with you?

6 A. I did not know, but...

7 Q. Do you assume?

8 A. Probably, yeah.

9 Q. Did you offer him any benefit for speaking  
10 with you?

11 A. I can't. We don't make promises. I'm not  
12 a DA. I am a lonely -- was a lonely detective.

13 Q. He gave you some information; right?

14 A. He did.

15 Q. After he gave you that information, did you  
16 take any steps to corroborate it?

17 A. I did not re-interview anybody else, no.

18 Q. Did you take any steps at all to even  
19 confirm that Mr. Pullen would have had contact with  
20 Mr. Engelson at the Detention Center?

21 A. I did not.

22 MR. MARTINEZ: I'll pass the witness,  
23 Judge.

24 THE COURT: Thank you.

25 Mr. Vitto?

1 MR. VITTO: Thank you.

2 REDIRECT EXAMINATION

3 BY MR. VITTO:

4 Q. So. Mr. Pullen told you what the defendant  
5 told him about the murder; right?

6 A. Yes.

7 Q. Did he tell you things that only the  
8 defendant could have known?

9 A. I believe, yes.

10 Q. You said that -- I think you said that all  
11 of the search warrant stuff, all of the authorization,  
12 you got the authorization close to 11:00 in the  
13 evening?

14 A. Yes.

15 Q. It took -- so if you were on scene  
16 somewhere between 7:30 and 8:00, it took you some  
17 three, three-and-a-half hours to get all of the stuff  
18 to the Judge to get authorization; right?

19 A. Yes.

20 Q. And I think you started to search the house  
21 at about 12:30?

22 A. Sounds about right.

23 Q. And the blood draw was shortly after  
24 midnight; does that all sound right?

25 A. I believe so. I couldn't tell you what

1 Sehnert did.

2 Q. Would that be unusual for it to take  
3 roughly an hour?

4 A. It depends on the phlebotomist. I mean  
5 we've had them -- sometimes we can't get anybody, and  
6 it takes forever. I mean, it could take 20 minutes,  
7 take and hour-and-a-half. It just depends on whose  
8 working, who quit, all of that stuff.

9 Q. Understand. Now, in regard to items of  
10 evidence being sent to the lab, that kind of stuff,  
11 there's a limit in regard to how many items the lab  
12 will take; right?

13 A. That's -- like I said, once again, our  
14 policy from my boss and the Sheriff is you collect the  
15 items of evidence, you find the facts, you book those  
16 items into evidence, and if the DA wants to send those  
17 items, that's on the DA or they instruct us.

18 Q. You're not familiar with that?

19 A. I am not, no.

20 Q. Got you. Now -- and this won't take long,  
21 Judge -- directing your attention to your interview  
22 with the defendant, and I believe Counsel asked you if  
23 you had a conversation about, "Hey, are you going to  
24 kill yourself?"

25 A. Yes.

1 Q. He didn't say he was thinking of killing  
2 himself?

3 A. He said no, I believe.

4 Q. And how many times during this interview  
5 did he say, "Man, I'm just too drunk to talk right  
6 now"?

7 A. I don't recall any.

8 Q. You don't recall him saying that once, do  
9 you?

10 A. I don't think so.

11 Q. And how many times did he say, "Wow, you  
12 know, I'm really, I'm too hungry to talk right now"?  
13 Did he say that?

14 A. I don't think so.

15 Q. Did he say, "I'm way too hung over to talk  
16 right now"?

17 A. I don't believe so.

18 Q. Did he say, "Oh, I'm just too sleepy to  
19 talk right now"?

20 A. I don't think so.

21 Q. Okay. Now -- oh, I know there's another  
22 one. How many times in this interview did he say,  
23 "Hey, man, I don't want to talk to you anymore"?

24 A. Zero.

25 Q. He was arrested sometime after 7:00,

1 7:30ish?

2 A. I believe so. Fernandes arrested him.

3 Q. And there's been some testimony that during  
4 the booking process, he was falling asleep. Did you  
5 know that?

6 A. No. I don't know anything.

7 Q. There's been some testimony in that regard.  
8 So he's arrested around 7:30. Your interview isn't  
9 until 5:36 the next morning. Do you have any  
10 information that he didn't sleep the whole night  
11 through before your interview?

12 A. No. I didn't ask.

13 Q. He might have?

14 A. Maybe. Could have.

15 Q. He was falling asleep during booking. But  
16 you didn't know that, but there's been testimony to  
17 that fact.

18 A. I don't know.

19 Q. All right. Let me show you State's  
20 Exhibits 27A through C. And this is my last area.

21 MR. VITTO: Is it 21A through G?

22 Q. (By Mr. Vitto) Let me show you State's  
23 Exhibits 10A, 21B, 21D, 21E, and 21F.

24 (Showing exhibits to Defense Counsel.)

25 Q. (By Mr. Vitto) Go ahead and take a look at

1 those. Let me know when you're done. I will ask you  
2 some questions.

3 A. (The witness complies.) Ready.

4 Q. Those look familiar?

5 A. They do.

6 Q. That's the shower and bathroom area that  
7 you retrieved some items of evidence from. You said  
8 that you got the little girl's clothing from the  
9 shower or the bathroom area?

10 A. I believe on the floor.

11 Q. In the bathroom?

12 A. I think so.

13 Q. Is there a photograph there that perhaps  
14 best depicts, from your recollection, where you  
15 collected those items of clothing from?

16 A. Yeah, on the floor. Right there. Those  
17 are the shoes. Well, the shoes are on the floor.

18 Q. You see her shoes on the floor in the  
19 bathroom in photograph what?

20 A. You can see them in, partially in 21E.

21 Q. And those are the shoes that you collected  
22 in evidence?

23 A. Yes. And 21B.

24 Q. 21B is the shoes?

25 A. Yes.

1 Q. And you don't see the clothes in those  
2 photographs?

3 A. I don't think so. There's a pink thing  
4 in D, but I can't tell you if it's a piece of the  
5 clothing or not.

6 Q. But it's your best recollection that the  
7 clothing was recovered from that bathroom?

8 A. Yeah. I can't tell what else is over  
9 there.

10 Q. It's simply not in the photographs that you  
11 have before you?

12 A. No. The shoes are.

13 Q. Got you.

14 MR. VITTO: I have no more questions of  
15 this witness at this time.

16 THE COURT: Counsel?

17 MR. MARTINEZ: Nothing further, Judge.

18 THE COURT: You'll be subject to recall.  
19 Don't talk with anybody about the case but the two  
20 attorneys. We'll call you back if we need to.

21 THE WITNESS: Yes, Judge. Thank you, sir.

22 THE COURT: Ladies and gentlemen, we're  
23 going to take a lunch recess. During this recess,  
24 it's your duty not to converse among yourselves or  
25 with anyone else on any subject connected with the

1 trial; or read, watch, or listen to any report of or  
2 commentary on the trial, including television,  
3 newspapers, Internet, and radio.

4 Don't form or express an opinion on any  
5 subject until it is submitted to you. A we'll back  
6 here at 1:30.

7 MR. VITTO: Thanks, Judge.

8 THE COURT: Kirk, you'll be ready at 1:30?

9 MR. VITTO: Oh, yeah.

10 THE COURT: Anything outside the presence?

11 MR. MARTINEZ: I don't believe so, Judge.

12 THE COURT: We'll take a short recess.

13 THE BAILIFF: All rise.

14 (A lunch recess is taken.)

15 (Whereupon State's Proposed Exhibit  
16 Nos. 14B, 20B, and 46A-B are marked for  
17 identification.)

18 (Proceedings resume outside the  
19 presence of the jurors.)

20 MR. VITTO: Just so you know, Judge, we've  
21 got five witnesses, all experts, all from the  
22 Metro Crime Lab, and I would be surprised if we were  
23 here for -- I don't think we'll make it until 4:00,  
24 but that's all we got today.

25 THE COURT: Wonderful. Good news.

1 MR. MARTINEZ: Most -- yeah, I agree. Most  
2 of the witnesses they have this afternoon, we do not  
3 have much cross for.

4 THE COURT: And then tomorrow is a sleep-in  
5 day.

6 MR. MARTINEZ: Well for you.

7 MR. VITTO: For you.

8 THE COURT: I hope you all do, get to sleep  
9 in.

10 THE BAILIFF: I'm going to get the jurors.

11 THE COURT: All right. 99A through X are  
12 admitted. I don't show 27A through C admitted.

13 MR. VITTO: 27A through C?

14 MS. BOSKOVICH: We didn't get to those.  
15 Kirk mentioned that. I think he missed those, since  
16 we ended up talking about Exhibits 21.

17 MS. WARD: We didn't get the shower stall.

18 MR. VITTO: We didn't get the shower stall?  
19 Are those the ones that -- oh, that's the shower  
20 stall. Those are the ones I wanted to show Cox.

21 THE COURT: You got 21A through G admitted  
22 earlier through other witnesses, but you haven't  
23 admitted 27A through C.

24 MR. VITTO: 27A through C are they marked?

25 THE CLERK: I have not seen those.

1 MR. VITTO: Yeah. That's the one's I was  
2 looking for.

3 MS. WARD: I'm sorry.

4 MR. VITTO: That's all right. It's not  
5 your fault.

6 MR. ARABIA: What are we doing here?

7 MR. VITTO: Just wanted to admit the shower  
8 stall.

9 MR. ARABIA: Didn't Fancher take pictures  
10 of the shower?

11 MR. VITTO: I'm pretty sure those are  
12 Fancher's.

13 (Back in the presence of the jurors.)

14 THE COURT: All right. We're back in the  
15 presence of our 15 jurors. Mr. Vitto is going to  
16 continue his case in chief. Anything else we need to  
17 do?

18 MR. VITTO: I think we're good, Judge.

19 I think actually our first witness is going  
20 to be Marlissa Collins, and Mr. Arabia will be doing  
21 the direct examination of Marlissa.

22 (Whereupon State's Proposed Exhibit  
23 Nos. 27A through C are marked for  
24 identification.)

25 THE COURT: Good afternoon.

1 THE WITNESS: Good afternoon.

2 THE COURT: Raise your right hand, be sworn  
3 by the clerk.

4 Whereupon,

5 MARLISSA COLLINS,  
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: We're hoping the jury can see  
10 your face and hear your voice, but if you're nervous  
11 about Covid, you don't have to take it off.

12 THE WITNESS: I can take it off.

13 THE COURT: Very good. Have a seat and  
14 talk into the microphone. And I believe we have you  
15 on the big screen.

16 Mr. Arabia will ask you some questions.

17 MR. ARABIA: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. ARABIA:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. Please state your name, and spell your last  
23 name for the record.

24 A. Marlissa Collins, C-o-l-l-i-n-s.

25 Q. Are you a forensic scientist?

1 A. Yes, I am.

2 Q. Where are you employed?

3 A. The Las Vegas Metropolitan Police  
4 Department Forensic Laboratory.

5 Q. Are you a chemist as defined by  
6 Nevada Revised Statute 50.320?

7 A. Yes, I am.

8 Q. Can you tell us, please, what your -- some  
9 of your duties, specifically pertaining to the  
10 analysis of blood to determine the quantification of  
11 alcohol?

12 A. I analyze blood for it's ethanol  
13 concentration.

14 Q. And by doing that, it tells you what  
15 someone's blood alcohol content is?

16 A. Yes.

17 Q. Is it true that you were first qualified to  
18 do that on February 23rd of 2016?

19 A. Yes.

20 Q. Regarding the case in question involving  
21 Cole Engelson, did you receive sealed evidence in this  
22 case?

23 A. Yes, I did.

24 Q. And where did you -- where did that come  
25 from? Where did you get it from?

1           A.     I received the evidence from our  
2 refrigerator in the toxicology lab.

3           Q.     All right. And was this a sample of blood?

4           A.     Yes, it was.

5           Q.     All right. What did you do with that  
6 sample?

7           A.     I analyzed one of the blood tubes for its  
8 ethanol concentration.

9           Q.     Were you able to determine a concentration?

10          A.     Yes, I was.

11          Q.     Would you please share that with us?

12          A.     It was 0.101 grams per 100 milliliters of  
13 blood.

14          Q.     What did you do, if anything, with the  
15 sample after you made that determination?

16          A.     I sealed the blood kit, and I returned it  
17 to our laboratory refrigerator, and I transferred it  
18 out of my custody.

19          Q.     During the entire time that it was in your  
20 custody, did anyone else have it or possess it or take  
21 it or borrow it?

22          A.     They did not.

23                 MR. ARABIA: Your Honor, may I approach the  
24 witness?

25                 THE COURT: Yes, sir.

1 Q. (By Mr. Arabia) I have to get that back  
2 from you briefly.

3 (Showing exhibit to Defense Counsel.)

4 Q. (By Mr. Arabia) All right. Ms. Collins, I  
5 just handed you what's been marked State's Proposed  
6 Exhibit 14B. Are you familiar with that document?

7 A. Yes, I am.

8 Q. Could you please tell us about it?

9 A. This is my laboratory report which states  
10 my results, and it has my signature as well.

11 Q. Does it also contain the information that  
12 we've been discussing these last couple of minutes?

13 A. Yes, it does.

14 Q. Okay. Is that an accurate document?

15 A. Yes, it is.

16 MR. ARABIA: All right. Your Honor, I  
17 would move to admit.

18 MS. BOSKOVICH: No objection.

19 THE COURT: It's admitted.

20 (Whereupon State's Exhibit No. 14B is  
21 admitted into evidence.)

22 MR. ARABIA: Your Honor, should I approach  
23 to hand it to the clerk or the bailiff, whichever?

24 THE BAILIFF: We will just leave it here  
25 for now.

1 MR. ARABIA: I will get it. Thank you.  
2 Thank you, Ms. Collins. No further  
3 questions.

4 THE COURT: All right. Counsel?

5 MS. BOSKOVICH: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. BOSKOVICH:

8 Q. Good afternoon, Ms. Collins. How are you?

9 A. I'm fine.

10 Q. So you -- on direct, you stated you worked  
11 for the Las Vegas Metropolitan Police Department?

12 A. Yes, I do.

13 Q. As a forensic scientist?

14 A. Yes.

15 Q. You've been there since June of 2014, I  
16 believe?

17 A. Yes, I have.

18 Q. Is your current title a Forensic  
19 Scientist II?

20 A. Yes, it is.

21 Q. At some point were you a Forensic  
22 Scientist I?

23 A. Yes, I was.

24 Q. What's the difference between the two?

25 A. Just years experience.

1 Q. How many years of experience do you have to  
2 have before you can become a II?

3 A. I was two years as a Forensic Scientist I  
4 before I could become a II.

5 Q. Are there any additional qualifications or  
6 certifications before you're classified as a Forensic  
7 Scientist II?

8 A. No, just the --

9 Q. -- years of experience?

10 A. Yes.

11 Q. Okay. And what are the qualifications for  
12 Forensic Scientist I?

13 A. I was originally hired as a forensic  
14 scientist trainee. So to get that position, I had to  
15 apply for the job, and it included 28 -- 24, I'm  
16 sorry, semester hours of chemistry, and I had to pass  
17 a series of written exams. And I had to do supervised  
18 casework before I was signed off as a forensic  
19 scientist trainee.

20 Q. Do you have to possess a certain license or  
21 a certificate or anything?

22 A. No, I do not.

23 Q. Where were you employed prior to working at  
24 Las Vegas Metro?

25 A. This is my first job as a forensic

1 scientist. Before that I worked for a private  
2 laboratory in California.

3 Q. What were you doing for them?

4 A. It was more of a research doing DNA testing  
5 on plants.

6 Q. I believe you have a biology degree; is  
7 that correct?

8 A. Yes, I do.

9 Q. Do you have a masters degree as well?

10 A. Yes, in forensic science.

11 Q. And do you have to do any yearly  
12 certifications or trainings?

13 A. No. I have to take a yearly proficiency  
14 test, which is a test that comes from an outside  
15 organization, and I have to analyze the samples to  
16 make sure it meets their standards.

17 Q. Okay. Have you testified in court before?

18 A. Yes, I have.

19 MS. BOSKOVICH: Court's indulgence,  
20 Your Honor?

21 THE COURT: Yes.

22 Q. (By Ms. Boskovich) Are you familiar with  
23 retrograde extrapolation?

24 A. Yes, I am.

25 MR. ARABIA: Your Honor, I'm going to

1 object as beyond the scope of direct. If they want to  
2 call this witness as a Defense witness, they can  
3 certainly do so in their case in chief.

4 MS. BOSKOVICH: And, Your Honor, she was  
5 listed on the Notice of Expert Witness list that she  
6 was going to be testifying in regards to retrograde  
7 extrapolation. And at this point, I am still just  
8 specifically asking about her training and background  
9 experience.

10 MR. ARABIA: Your Honor?

11 THE COURT: Go ahead.

12 MR. ARABIA: She hasn't testified about it  
13 on direct, though. And like I said, if they want her  
14 as a Defense witness, we don't have a problem with  
15 that, but she should be part of the Defense case in  
16 chief.

17 THE COURT: I hate to have to bring her  
18 back. You can continue to lay the foundation under  
19 education and training, and we won't go into the  
20 actual extrapolation at this time.

21 MS. BOSKOVICH: Okay.

22 Q. (By Ms. Boskovich) So, Ms. Collins, are  
23 you familiar with retrograde extrapolation?

24 A. Yes, I am.

25 Q. And how are you familiar with that?

1           A.     Retrograde extrapolation is the process of  
2     estimating a person's blood or breath alcohol  
3     concentration at a time of a later date or a later  
4     time period in a night.

5           Q.     So how do you go about doing that?

6           A.     I would need certain facts about the time  
7     of question, so different times that I would need.  
8     And I would need facts about the individual, and I  
9     would make that estimation as a calculation.

10          Q.     Is that something you perform normally  
11     throughout the course of your duties?

12          A.     I have been trained to do so. I have not  
13     had the opportunity to do that yet.

14          Q.     At all?

15          A.     No.

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

18                 THE COURT: Counsel?

19                         REDIRECT EXAMINATION

20     BY MR. ARABIA:

21          Q.     Ms. Collins, since it came up, were you  
22     able to do an extrapolation in this case.

23          A.     Yes, I was.

24          Q.     And what happened?

25          A.     Based off of the facts, I'm unable to make

1 certain estimations because I have to be sure that the  
2 individual was not still absorbing alcohol.

3 Q. Okay. So what does that mean in this case?

4 A. That I was not able to perform it based off  
5 the facts at the time of the incident.

6 Q. If I understand you correctly then, you  
7 attempted and were unable to?

8 A. Yes.

9 MR. ARABIA: Okay. Thank you. Nothing  
10 further.

11 THE COURT: Anything else?

12 MS. BOSKOVICH: Just a little bit,  
13 Your Honor.

14 RECROSS-EXAMINATION

15 BY MS. BOSKOVICH:

16 Q. Is there a standard rate of expulsion of  
17 alcohol that the average person gets rid of X amount  
18 of alcohol per hour?

19 A. There are estimations, but it depends on  
20 the individual. The person's gender makes a  
21 difference. Drinking history makes a difference.  
22 There are many different factors, along with food in  
23 the stomach. There are many different factors to make  
24 a determination, but I cannot tell you exactly what a  
25 person's is on one particular night.

1 Q. What about if it's just an average range of  
2 expulsion?

3 A. An average, I could give an average, but it  
4 will just be an estimation.

5 Q. That's fine.

6 A. It would be -- when I normally make this  
7 estimation, it would be .015 to .018.

8 Q. Per hour?

9 A. Yes.

10 Q. What kind of things can affect that range,  
11 make it go either higher or lower? What kind of  
12 factors do you look for?

13 A. A person's drinking history, if they have  
14 food in their stomach. Those are the two main  
15 factors.

16 Q. So if a person is a heavy drinker, what  
17 does that do to the rate?

18 A. It would raise the elimination rate.

19 Q. What was -- do you have an average range  
20 for a heavy drinker?

21 A. It depends. The research shows 0.025 to  
22 0.035.

23 Q. And you mentioned that gender plays -- is a  
24 factor as well?

25 A. Yes.

1 Q. How does that play into your analysis?

2 A. In general terms, women eliminate faster  
3 than men do; so they would have a higher elimination.

4 MS. BOSKOVICH: I'll pass the witness,  
5 Your Honor. Thank you.

6 THE COURT: Anything else, sir?

7 MR. ARABIA: Court's indulgence,  
8 Your Honor?

9 THE COURT: Yes.

10 MR. ARABIA: Nothing else, Your Honor.  
11 Thank you.

12 THE COURT: I'm sure for the State, you're  
13 not subject to recall, and you can be permanently  
14 excused. But apparently, the Defense has you on their  
15 witness list also.

16 THE WITNESS: Okay.

17 THE COURT: Is that correct?

18 MS. BOSKOVICH: No, Your Honor.

19 THE COURT: All right. So she can be  
20 permanently excused?

21 MS. BOSKOVICH: That's fine.

22 THE COURT: All right. Thank you for  
23 coming in.

24 THE WITNESS: Thank you.

25 MR. VITTO: Tracy Bish.

1 THE COURT: Who did you say was next?

2 MR. VITTO: Tracy Bish, like dish with a  
3 "D."

4 THE CLERK: What exhibit number is she?

5 MR. VITTO: 20B, as in "Bish."

6 THE CLERK: Thank you.

7 MR. VITTO: Your Honor, the State calls  
8 Tracy Bish to the stand. Please step up to the  
9 witness chair and be sworn.

10 THE BAILIFF: Please face madam clerk and  
11 raise your right hand,  
12 Whereupon,

13 TRACY BISH,  
14 called as a witness on behalf of the State, was sworn  
15 and testified as follows:

16 THE WITNESS: I do.

17 THE COURT: Tracy, if you're scared of  
18 Covid, you can leave it on. But I would like the jury  
19 to be able to see your face and hear your words, but  
20 if you can remove the mask, that would be great.

21 THE WITNESS: Okay.

22 THE COURT: But if you want to leave it on,  
23 that's fine.

24 THE WITNESS: Okay.

25 / / /

DIRECT EXAMINATION

BY MR. VITTO:

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

A. Tracy Bish, B-i-s-h.

Q. And what is your current occupation?

A. I'm a Forensic Scientist II at the Las Vegas Metropolitan Police Department Forensic Laboratory.

Q. And that's where you're currently employed?

A. I'm sorry?

Q. You're currently employed at the crime lab?

A. Yes.

Q. And that's as a Forensic Scientist II?

A. Yes.

Q. In the Biology DNA Detail?

A. Correct.

Q. How long have you been so employed?

A. Since August 2016.

Q. What are your job duties there?

A. I examine items of evidence for the absence or presence of biological materials, and identify areas of interest for DNA testing. And then I perform that DNA testing, either make comparisons, report my findings, and testify if need be.

1 Q. Thank you. Tell us about your journey,  
2 Tracy. How did you get to be where you are today in  
3 that witness chair?

4 A. Well, I attended Emory & Henry College in  
5 Emory, Virginia, where I obtained a bachelors of  
6 science degree in chemistry with a minor in biology.  
7 And then I attended Cedar Crest College in Allentown,  
8 Pennsylvania, where I took graduate level classes for  
9 forensic science, including classes such as molecular  
10 biology, biochemistry, genetics and statistics.

11 And in December 2010, I was employed at the  
12 Armed Forces DNA Identification Laboratory that is  
13 currently in Dover, Delaware. And there I held three  
14 positions. I was a casework administrator in the  
15 Laboratory Automation and Biometric Section and  
16 Special Projects. And then I was promoted to a  
17 Forensic Scientist I in the same section. And then I  
18 transferred to the Quality Control Quality Assurance  
19 Section there. And then I applied for my job in  
20 Las Vegas where I started in August 2016.

21 Q. Great. DNA is your specialty?

22 A. Yes.

23 Q. Perfect. So what can you tell us about DNA  
24 as a specialty? Let's start with what does DNA mean?  
25 What do those three letters mean?

1           A.     DNA stands for deoxyribonucleic acid. It  
2 is the genetic information that makes us who we are.  
3 This is information that's passed down from your  
4 parents, your biological parents, so you get half from  
5 your mom and half from your dad. DNA is important in  
6 forensics because it's considered unique to you.

7                     And the DNA that is in your body is the  
8 same from the head to the toe. And it generally  
9 doesn't change throughout life. So the DNA that you  
10 have when you're born is the same that you have when  
11 you die. So if you come in contact with an item and  
12 you potentially leave any DNA behind, that's important  
13 in forensics because then we can potentially identify  
14 if a person handled that item.

15           Q.     So with that training and experience in  
16 mind, let me show you State's Exhibit 20C?

17                     (State shows exhibit to Defense Counsel.)

18           Q.     (By Mr. Vitto) I'd like you to look at  
19 that on the outside and tell me if on the outside you  
20 recognize that object?

21           A.     Put gloves on.

22           Q.     All right.

23           A.     Yes, I do.

24           Q.     Okay. How do you recognize that?

25           A.     My name is on the chain of custody on the

1 front here and the date I sealed it up. And then on  
2 the back, I marked it with the laboratory case number  
3 and the lab item numbers that were examined and then  
4 my key number and initials and the date that it was  
5 examined.

6 Q. All right. So generally speaking as a  
7 general proposition, what is that? What's inside that  
8 envelope?

9 A. This is a Sexual Assault Kit that was  
10 collected from Yessenia Camp which consists of  
11 multiple swabs from different areas of the body of  
12 Yessenia Camp.

13 MR. VITTO: Has 22C (sic) been admitted  
14 into evidence -- or excuse me 20C, the Sexual Assault  
15 Kit?

16 MS. BOSKOVICH: Yes.

17 MR. VITTO: Yeah. Okay.

18 Q. (By Mr. Vitto) Now, the Sexual Assault Kit  
19 contained within the envelope, you received that kit  
20 in a sealed condition?

21 A. Yes, I did.

22 Q. What happens after that?

23 A. When I receive a kit, I will open it up and  
24 then inventory what's inside and examine each one of  
25 the items that's inside and then report my findings.

1 Q. Okay. Now, in regard to reporting your  
2 findings, let me show you what has been preliminarily  
3 marked as State's Proposed Exhibit 20B.

4 (State shows exhibit to Defense Counsel.)

5 Q. (By Mr. Vitto) Showing you State's  
6 Proposed Exhibit 20B, do you recognize that?

7 A. Yes, I do.

8 Q. How do you recognize that?

9 A. This is the Laboratory Report that I  
10 submitted or published of my findings from the  
11 examination of the Sexual Assault Kit, two references.  
12 There are swabs from hands of Cole Engelson and the  
13 swabs from penis of Cole Engelson.

14 Q. Okay. And the Sexual Assault Kit as it  
15 pertained to Yessenia Camp, what were those swabbings  
16 or samples from?

17 A. For the Sexual Assault Kit, it consisted of  
18 oral swabs, vaginal swabs, cervical swabs, rectal  
19 swabs, fingernail swabs from the left and right hand,  
20 and bite mark swabs, as well as her reference  
21 standard.

22 Q. Okay. So you examined each of the items  
23 and took them for DNA testing; is that correct?

24 A. Correct.

25 Q. And part of your job in this regard is to

1 develop profiles?

2 A. Yes.

3 Q. Can you explain for us what that means?

4 A. So when evidence is collected, we will take  
5 it forward for a DNA testing. And therefore, we do a  
6 series of laboratory analysis that results in what is  
7 known as a DNA profile, which is a graphical  
8 representation of that genetic information that I was  
9 talking about earlier that you get half from your dad,  
10 half from your mom. And then we'll compare it to  
11 reference standards.

12 Q. Okay. And I think through television and  
13 movies and things like that, I think we all have an  
14 understanding that fingerprints are pretty individual.  
15 Are we talking about the same level of individuality  
16 that everybody's DNA profile is going to be specific  
17 to that person?

18 A. I can say that DNA is unique to each  
19 individual with the exception of identical siblings.

20 Q. Okay. And these profiles can be used for  
21 subsequent analysis by different people to match or  
22 not different items or other developed profiles?

23 A. The reference, those profiles that are  
24 developed from the reference standard, which a  
25 reference standard is basically a known profile. So

1 it comes from a person of a known reference. So if I  
2 took a swab and swabbed my own cheek, I would know  
3 that came from me. So we cannot compare evidence to  
4 evidence profiles, but we do compare evidence to  
5 reference profiles.

6 Q. So you know who Amanda Shum is; right?

7 A. Yes.

8 Q. And you know Christine Whittle?

9 A. Yes.

10 Q. So they could use your profile to match it  
11 against something discovered in another item?

12 A. They could use the reference profiles that  
13 I developed in the first part of analysis of this case  
14 and compare it to evidence that was analyzed later.

15 Q. All right. Now, directing your attention  
16 to Lab Item 1.4.2. What exactly is that?

17 A. Lab item 1.4.2 is the left hand swab from  
18 the fingernail swabs of Yessenia Camp.

19 Q. And I think you observed there to be one  
20 foreign allele?

21 A. The results obtained was consistent with at  
22 least one female contributor, assuming that  
23 Yessenia Camp was a contributor to the profile. An  
24 additional foreign allele above threshold was detected  
25 in the sample; however, due to the limited data

1 available, no comparisons could be made regarding the  
2 source of this allele.

3 Q. And I'm sorry, the sample was recovered  
4 from where?

5 A. The left hand swab of the fingernail swab.

6 Q. Okay. From the fingernail swab?

7 A. Yes.

8 Q. So there was something under -- someone  
9 under her fingernail that you couldn't identify, other  
10 than her?

11 A. There was one additional allele detected.

12 Q. All right. And it was insufficient to  
13 match to anything because it was an insufficient  
14 sample?

15 A. There was enough sample to develop a  
16 profile; however, in this particular case, it's just  
17 like one piece of the puzzle so there wasn't enough to  
18 compare to make any definitive conclusions to say that  
19 that allele came from a certain person. We have  
20 protocols in place that would need additional  
21 information to make that kind of comparison.

22 Q. All right. Now, directing your attention  
23 to --

24 MR. VITTO: May I have the Court's  
25 indulgence for a moment.

1 THE COURT: Yes.

2 Q. (By Mr. Vitto) Ms. Bish, when collecting  
3 evidence using a Sexual Assault Kit -- well, let me  
4 ask you this: Is that something that you specifically  
5 analyze with any frequency?

6 A. Yes. We analyze Sex Assault Kits quite  
7 regularly.

8 Q. Daily?

9 A. Yes.

10 Q. How many in a day, any given day?

11 A. Kind of tough to estimate.

12 Q. Not trying to pin you down.

13 A. We work in groups. So generally, now our  
14 FLT's will screen evidence and then pass it off to  
15 analysts, and I can look at data from Sex Assault Kits  
16 probably like five or six kits in a day.

17 Q. Okay. Is it important to know when  
18 collecting a Sexual Assault Kit whether the person  
19 collected from had showered?

20 A. This is information that is typically given  
21 to us when we process Sex Assault Kits for alive  
22 victims. Generally, we do not receive that  
23 information when it is a deceased person's kit.

24 Q. All right. So with this Sexual Assault  
25 Kit, you received and subsequently analyzed swabs

1 specifically for bite marks; is that correct?

2 A. Yes.

3 Q. That's Lab Item 15 -- 1.5?

4 A. Yes.

5 Q. Now, when swabbing a potential bite mark,  
6 what would one hope to find in order to verify whether  
7 it was a bite mark?

8 A. I do not actually do the collection of the  
9 kit; so that would be the nurse or the coroner that  
10 would be actually swabbing the body for evidence. So  
11 when I receive the actual kits, I just get the swabs.  
12 And so the nurse would have designated it as a  
13 possible bite mark. Therefore, when I would do  
14 analysis on it, I would think that a bite mark would  
15 have potential contact with a mouth. Therefore, I  
16 would expect possible saliva or skin cells from the  
17 person biting.

18 Q. Okay. So that's what would you be looking  
19 for?

20 A. Yes.

21 Q. In order to develop a profile?

22 A. Yes.

23 Q. What will a shower do to evidence left  
24 behind by a bite mark?

25 A. Potentially, a shower could wash away any

1 evidence that would be on the outside of a body.  
2 There would be many factors involved -- how long they  
3 showered, what degree they showered, was there any  
4 scrubbing involved -- as to any potential results that  
5 we might get for swabs collected from the outside of  
6 the body.

7 Q. If you're looking for saliva on a bite mark  
8 on the outside of a body that is then showered,  
9 there's a reasonable probability that the saliva is  
10 going to be washed away by the shower?

11 A. It is possible.

12 Q. It's possible?

13 A. Probable.

14 Q. Probable.

15 MR. VITTO: Court's indulgence a moment,  
16 please?

17 Q. (By Mr. Vitto) So in this case the bite  
18 mark swabs were collected and tested for possible  
19 saliva resulting in a negative presumptive saliva  
20 test; correct?

21 A. Yes; that is correct.

22 Q. Was a profile developed from the bite swab,  
23 the bite mark swab?

24 A. We did get a profile consistent with a  
25 single female contributor, and it was consistent with

1 Yessenia Camp.

2 Q. All right.

3 A. Which is to be expected. It's what we  
4 consider an intimate item. So it's collected directly  
5 off of her body; therefore, it would be reasonable to  
6 assume that she would be present on her body swab.

7 Q. So the fact that no saliva was found on the  
8 bite mark swab means you found no evidence of saliva.  
9 It doesn't mean that it isn't a bite mark; it means  
10 you found no evidence to confirm that it was a bite  
11 mark?

12 A. Like I previously stated, I can't confirm  
13 whether or not it was a bite mark. I never actually  
14 see the body before the -- I only receive the swabs at  
15 the lab. So the nurse had marked the envelope as a  
16 possible bite mark; so that's what it was labeled as  
17 for testing. So -- and because like I said, I  
18 received an envelope that said possible bite mark; so  
19 therefore, I tested it for possible saliva, and the  
20 result was negative.

21 Q. Got you.

22 MR. VITTO: Your Honor, I would ask that  
23 State's Exhibit 20B be admitted into evidence.

24 MR. MARTINEZ: No objection, Judge.

25 THE COURT: It's admitted.

1 (Whereupon State's Exhibit No. 20B  
2 is admitted into evidence.)

3 MR. VITTO: I have no more questions of  
4 this witness.

5 THE COURT: Counsel?

6 MR. MARTINEZ: Thank you, Judge.

7 CROSS-EXAMINATION

8 BY MR. MARTINEZ:

9 Q. Good afternoon, Ms. Bish.

10 A. Good afternoon.

11 Q. On this report, you developed profiles of  
12 two different people; right?

13 A. Correct.

14 Q. One was Yessenia Camp?

15 A. Yes.

16 Q. And the other was Cole Engelson?

17 A. Correct.

18 Q. Now, if in one of these swabs -- we'll take  
19 for example the bite mark. You said you expected to  
20 find Yessenia Camp's DNA on that swab; right?

21 A. Yes.

22 Q. And you did find it?

23 A. Yes.

24 Q. But there was no foreign DNA on there;  
25 right?

1 A. Correct.

2 Q. If you did find foreign DNA, would you then  
3 compare it to Cole Engelson's DNA?

4 A. If the -- if the amount of foreign DNA was  
5 consistent or -- what's a better word? -- within our  
6 SOP, because I said before we have to have a certain  
7 amount of information in order to make that  
8 comparison. Therefore, if there was enough  
9 information or foreign DNA to make that comparison, it  
10 would have been made.

11 Q. Okay. And if that comparison had been  
12 made, would you specifically articulate in your report  
13 that it was not a match?

14 A. Yes.

15 Q. So there wasn't enough in all of these  
16 swabs and none of these swabs, there wasn't enough  
17 information to compare any of them to Cole Engelson?

18 A. For the Sexual Assault Kit, everything was  
19 consistent with Yessenia Camp with the exception of  
20 the left hand swab having one additional allele that I  
21 could make no comparisons of.

22 Q. Okay.

23 A. And then the hand swabs and the penis swabs  
24 were -- or the hand swab of Cole Engelson were  
25 compared to him, and it was consistent with him being

1 that it was essentially the same thing, an intimate  
2 item taken from his body, his DNA was found.

3 Q. Understood.

4 A. And then no DNA profile was found from the  
5 penis swab.

6 MR. MARTINEZ: Nothing further, Judge.

7 THE COURT: Counsel?

8 REDIRECT EXAMINATION

9 BY MR. VITTO:

10 Q. The defendant's penis was swabbed?

11 A. Yes.

12 Q. But you couldn't tell it was his penis?

13 A. No DNA profile was obtained from the  
14 analysis of that swab.

15 Q. Well, how does that work?

16 A. Generally, it could be many factors,  
17 collection could of not had enough contact between the  
18 penis and the swabs that were collecting the DNA.  
19 Someone could have reasonably showered; therefore,  
20 skin cells would have sloughed off. Therefore, they  
21 wouldn't be collected on the swab.

22 Depending how the swabs are collected, like  
23 I said, I'm not there during collection; so I don't  
24 know how these swabs were collected. But the results  
25 were consistent throughout our analysis with no

1 profile being obtained.

2 Q. You mean, so the shower thing works both  
3 ways. I mean, let me ask you this: A living victim  
4 is asked whether they showered. Why?

5 A. To just give more information about what  
6 kind of DNA profiles we might expect during analysis.

7 Q. Because a shower is going to wash evidence  
8 away?

9 A. It could, yes.

10 Q. And so if a penis is washed and you swab  
11 the penis, you might not find something?

12 A. It all -- there's multiple factors at play.  
13 So depending on a person's skin type, like they could  
14 be what we call a good shedder or a bad shedder. And  
15 if someone has, like, severely dry skin or they  
16 moisturize regularly, they wouldn't slough off as many  
17 skin cells as a person that necessarily would have  
18 drier skin. So therefore, if they recently showered  
19 and all of the skin cells sloughed off, if they went  
20 and collected anything, there wouldn't be much there  
21 to have contact with the swabs, therefore be  
22 collected.

23 MR. VITTO: Makes sense to me. No more  
24 questions.

25 MR. MARTINEZ: No questions.

1 THE COURT: You can be permanently excused.  
2 Thank you for coming in to testify.

3 THE WITNESS: Thank you.

4 MR. VITTO: Amanda.

5 THE COURT: Good afternoon. Thank you for  
6 coming. If you can raise your right hand and be sworn  
7 by the clerk.

8 Whereupon,

9 AMANDA SHUM,  
10 called as a witness on behalf of the State, was sworn  
11 and testified as follows:

12 THE WITNESS: Yes.

13 THE COURT: If you're nervous about Covid,  
14 you can keep your mask on. But we like the jury to be  
15 able to see your face and hear your words. So if you  
16 get close to the mike and take it off, we'd appreciate  
17 it.

18 THE WITNESS: Okay.

19 THE COURT: But you don't have to.

20 THE WITNESS: I think I will keep it on.

21 THE COURT: Okay.

22 DIRECT EXAMINATION

23 BY MR. VITTO:

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

1 A. Amanda Shum, A-m-a-n-a-d-a, S-h-u-m, as in  
2 "Mary."

3 Q. Where do you currently work?

4 A. With the Las Vegas Metropolitan Police  
5 Department or LVMPD.

6 Q. And what is your job title?

7 A. I'm a forensic laboratory technologist.

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

9 A. Two years and five months.

10 Q. What are your duties and primarily  
11 responsibilities?

12 A. My primary duties and responsibilities  
13 include receiving and examining items of evidence for  
14 possible biological fluid, and taking any -- checking  
15 for any samples through the DNA analysis process, and  
16 I occasionally write medical reports and testify in  
17 court as necessary.

18 Q. What qualifies you for that position?

19 A. I have a bachelors of science in molecular,  
20 cellular, and developmental biology at the University  
21 of California at Santa Cruz, and a bachelors of  
22 science in criminalistics from the California State  
23 University at Los Angeles.

24 In addition to my formal education, I went  
25 through a six-month training program with LVMPD, as

1 well as the National Forensic Science Training Center  
2 or NFSTC. And the training program included hands-on  
3 mock casework in forensic evidence screening, forensic  
4 serology, and DNA analysis. It also included written  
5 examinations on my modules, as well as the review of  
6 relative scientific literature.

7 Can you hear me?

8 Q. Yes. Got a little shrug from all the way  
9 back so.

10 A. I will try to speak louder.

11 Q. All right. We're going to talk about  
12 forensic serology, and specifically as it pertains to  
13 some items in particular that you were able to  
14 examine. So let's start with defining "forensic  
15 serology." Can you do that for me?

16 A. Yes. So forensic serology is the  
17 identification and classification of bodily fluids in  
18 relation to a crime scene.

19 Q. And you were able to, at the request of  
20 Nye County, develop some profiles from some items; is  
21 that correct?

22 A. That's correct.

23 Q. Now, you and I have had a few conversations  
24 regarding certain items and your work with each. With  
25 regard to the analysis you conducted for Nye County,

1 how many times have you performed similar analyses?

2 A. I don't know the exact number, but at least  
3 a thousand, several.

4 Q. It's something you do a daily basis?

5 A. Yes.

6 Q. Let me show you State's Proposed Exhibits  
7 90A and B. 90A is four pages here. 90A and 96B --

8 (State shows exhibits to Defense Counsel.)

9 MR. VITTO: No, 46A and 46B; right?

10 MS. BOSKOVICH: Yes.

11 MR. VITTO: And both of them are four  
12 pages, yeah?

13 MS. BOSKOVICH: Yes.

14 Q. (By Mr. Vitto) All right. So let's start  
15 with -- and I misspoke. It's 46A and 46B. So here's  
16 46A. Why don't you take a look at that, and we'll  
17 talk about it. Do you recognize that?

18 A. Yes, I do.

19 Q. And that's your work for Nye County in  
20 regard to some specific items?

21 A. Yes.

22 Q. And what is the distribution date on 46A?

23 A. That would be January 10th, 2020.

24 Q. And then I'm going to try to shortcut this  
25 a little bit. Then in August of this year, August 27,

1 2020, 46B was produced; right?

2 A. Correct.

3 Q. As some kind of superseding lab report?

4 A. The report that was distributed on

5 August 27th is an Amended Report.

6 Q. Right. There's an Amended Report, but  
7 we're not going to be in any way dramatic. It's no  
8 big deal; right?

9 A. I'm not sure I actually did not write the  
10 report.

11 Q. Who did the Amendment; do you know?

12 A. The Forensic Scientist Christine Whittle.

13 Q. All right. So she will be able to better  
14 explain the difference between the two lab reports?

15 A. That's right.

16 Q. Does anything between the two lab reports  
17 affect your reporting at all?

18 A. Could you be more specific?

19 Q. Did 46B change the conclusions you reached  
20 with 46A?

21 A. The only thing that changed was for the  
22 gray Hanes underwear, it changed from no current semen  
23 stains to no current bloodstains observed.

24 Q. Okay. So let's talk about the white  
25 Thomaston pillowcase, your Item 7.2, 7.2.1, 7.2.2, and

1 7.2.3. Are you with me?

2 A. Yes.

3 Q. All right. Let me show you this  
4 pillowcase; see if I got the number right. It might  
5 be State's Exhibit 38.

6 All right. So here's -- this has been  
7 admitted into evidence. I'd like you to retrieve the  
8 white Thomaston pillowcase from that paper bag,  
9 referencing your items 7.2. -- 7.2.1, 7.2.2, 7.2.3.  
10 Tell us what you did, and tell us what you found?

11 A. For the pillowcase, I found three areas of  
12 stains that were positive for the possible presence of  
13 blood. That would be item 7.2.1, 7.2.2, 7.2.3.

14 Q. Okay. So the pillowcase itself is 7.2?

15 A. Yes.

16 Q. And then 7.2.1, .2, and .3, those are  
17 simply separate points on the pillowcase where you  
18 found something that was presumptively blood?

19 A. Yes.

20 Q. Okay. And all the writing on that  
21 pillowcase, is that you?

22 A. Yes. That is me.

23 Q. That's your artwork?

24 A. Yes; that's correct.

25 Q. And all you're going to do with your

1 analysis is make an initial presumptive finding; is  
2 that correct?

3 A. Yes.

4 Q. And then somebody else is going to say yay  
5 or nay?

6 A. Could --

7 Q. They're going to say yes or no, whether  
8 that's blood and whose blood it is?

9 A. We actually cannot determine or confirm  
10 that it is human blood. We don't have a test that  
11 will indicate the possible presence of blood.

12 Q. Okay. So you examined those items, and you  
13 got a presumptive positive for blood?

14 A. Yes.

15 Q. And you reseal it after your analysis?

16 A. Yes.

17 Q. Can I see one of your -- let me see both of  
18 these?

19 You can go ahead and put that back in the  
20 bag. Thank you, ma'am.

21 All right. Now -- oh, you're probably  
22 going to need one of these, huh? Do you have a copy  
23 of your lab report with you?

24 A. (The witness nods.)

25 Q. You do? All right. You got it handy?

1 A. Yes.

2 Q. You're looking at it; all right. So let me  
3 direct your attention to Item 8 and 8.2. And that is  
4 going to be Exhibit 25.

5 MR. VITTO: Do you have 25 up there,  
6 Rachel?

7 THE CLERK: Uh-huh.

8 Q. (By Mr. Vitto) What can you tell me about  
9 that?

10 A. And so I actually took two separate  
11 swabbings of this wine bottle. I did one swabbing of  
12 the neck of the bottle and another swabbing of the  
13 body and the bottom of the bottle. The swabbing of  
14 the wine bottle neck was negative for the possible  
15 presence of blood, and the swabbing of the body and of  
16 the bottom of the bottle was positive for the possible  
17 presence of blood?

18 Q. All right. And directing your attention to  
19 Items 10 and 10.1, 10.2, and 10.3 of State's  
20 Exhibit 17, the white Mainstays towel. I'm going to  
21 ask you some similar questions.

22 (Bailiff gets passed a note from Juror  
23 No. 15.)

24 MR. VITTO: Thank you, sir.

25 I will just ask the question.

1 THE COURT: Kirk, this witness is  
2 soft-spoken; so one of the jurors wanted to know what  
3 she said regarding the test on the bottle and the  
4 body. So if you could ask it again and just give an  
5 affirmative or negative answer.

6 MR. VITTO: Thank you very much, Judge.

7 And for the Court's edification, admitted  
8 into evidence will be these exhibits that will be  
9 available for review.

10 Q. (By Mr. Vitto) But just to reiterate, the  
11 bottom of the wine bottle was presumptively positive  
12 for --

13 A. -- blood.

14 Q. Blood. Okay. You have in front of you,  
15 the white Mainstays towel. What did you do -- please  
16 take the towel from the bag.

17 A. I actually don't have the towel.

18 Q. It's in front of me. Okay. Here we go.  
19 I'm catching on. What did you find in regard to that  
20 towel?

21 A. For the towel, I found numerous stains that  
22 were presumptively positive for blood. 10.1 and 10.2  
23 were the two stains, two areas of staining that I took  
24 forward for DNA analysis that were also positive for  
25 the possible presence of blood. There were also

1 numerous stains that tested positive for the presence  
2 of possible blood but were not taken forward for DNA  
3 analysis.

4 Q. So how many locations tested positive for  
5 blood, three?

6 A. Could I check my notes?

7 Q. Please.

8 A. In addition to 10.1 and 10.2, there were  
9 ten other areas of staining that tested positive for  
10 the presence -- possible presence of blood.

11 Q. I understand. So your entry that says,  
12 "Item 10.3 is for numerous other stains," in this case  
13 eight; do I have that correct? Is my math right?  
14 10.1 is a red-brown stain; right, that tested  
15 positive?

16 A. There were ten in addition to 10.1 and  
17 10.2; so 12.

18 Q. A total of 12. Got you.

19 A. Yes.

20 Q. Now, are those indicated on that towel  
21 with -- obviously, there's markings on the pillowcase  
22 and the towel. What do you use to mark those?

23 A. I just used a black Sharpie.

24 Q. Okay. So there's black Sharpie on the  
25 white Mainstays towel. Are you circling it? Is there

1 a number that corresponds to it? How does that work?

2 A. Yeah. So I'm actually physically circling  
3 it on the towel and making notes on the towel, and  
4 it's also recorded in my worksheet, my notes.

5 Q. So is there anything on that towel -- if  
6 the jury wants to look at it and match it to the lab  
7 report, is there something that says 10.1, 10.2?

8 A. No. That would be in my notes.

9 Q. All right. So it's just circled?

10 A. Yes. And a positive sign to indicate  
11 presumptively positive for blood.

12 Q. Perfect. Thank you. And I believe that  
13 you also -- let's look at one more. Ms. Shum, you  
14 didn't do anything with the hair; right?

15 A. No. That was examined by a forensic  
16 scientist, Brianne Huseby.

17 Q. Got it. And you did the shower swabs?

18 A. Yeah. That's right.

19 Q. I believe that that is State's Exhibit 45,  
20 maybe A and B; I'm not sure.

21 THE COURT: 45A and B are the shower buccal  
22 swabs and --

23 MR. VITTO: Thank you.

24 Q. (By Mr. Vitto) 45A and B, did you examine  
25 those?

1 A. Yes, I did.

2 Q. And what were you able to conclude?

3 A. The swabs from the outer shower were  
4 negative for the possible presence of blood, and the  
5 swabs from the shower drain were negative for the  
6 possible presence of blood as well.

7 Q. What does a shower do to blood in a shower?  
8 What does running water do to blood in a shower?

9 A. It normal flushes it away.

10 MR. VITTO: No more questions.

11 THE COURT: Counsel?

12 MR. MARTINEZ: Thank you, Judge.

13 CROSS-EXAMINATION

14 BY MR. MARTINEZ:

15 Q. Good afternoon, Ms. Shum.

16 A. Good afternoon.

17 Q. So in this case is it fair to say your role  
18 was just to test these various items for the  
19 presumptive presence of blood?

20 A. Yes. So my job was to examine the items  
21 for possible presence of blood and semen, as well as  
22 take these through the DNA process to develop a DNA  
23 profile.

24 Q. You didn't compare anything that you found  
25 to DNA profiles of people to see if it was a match

1     though; right?

2           A.     No. I did not do any interpretation.

3           Q.     Okay. When you are swabbing something for  
4     it being presumptively positive for blood, does that  
5     give you any indication of the age of the stain?

6           A.     No, it does not.

7           Q.     Is there a way to find out the age of a  
8     stain?

9           A.     Currently, I do not know of methods. DNA,  
10    we can only say that DNA is present on an item, but we  
11    cannot say when or how it was deposited.

12          Q.     Okay. When you talked about swabbing the  
13    wine bottle, you said you used one swab for the neck;  
14    right?

15          A.     Yes; right.

16          Q.     And then you used one swab for the body and  
17    the bottom?

18          A.     Yes; that's correct.

19          Q.     How come you didn't use two separate swabs  
20    for the body and the bottom?

21          A.     I believe that was in the request.

22          Q.     So it was in a request just to swab the  
23    body and the bottom with one swab?

24          A.     Yes.

25                 MR. MARTINEZ: No further questions, Judge.

1 THE COURT: Counsel?

2 MR. VITTO: No redirect.

3 THE COURT: Thank you for coming in to  
4 testify today. You can be permanently excused.

5 THE WITNESS: Thank you.

6 MR. VITTO: I believe 46A and B were  
7 admitted, Judge; is that correct?

8 THE COURT: No.

9 MR. VITTO: The State would move 46A and B  
10 into evidence.

11 MR. MARTINEZ: Judge, I'd object at this  
12 point. Looking at the reports, and after the  
13 testimony of the witness, she's not the one who wrote  
14 the report. And there's additional information on the  
15 report that I assume we're going to hear from. So I  
16 think we're a little premature on those.

17 THE COURT: We'll wait for the next one.

18 MR. VITTO: Okay. Brianne.

19 THE COURT: Raise your right hand and be  
20 sworn.

21 Whereupon,

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

25 THE WITNESS: Yes, I do.

1 THE COURT: We'd like the jury to be able  
2 to see your face and hear your voice, but if you're  
3 nervous about Covid, you don't have to take it off.

4 THE WITNESS: I can take it off. I'm fine.

5 DIRECT EXAMINATION

6 BY MR. VITTO:

7 Q. Please state your name for the record  
8 spelling -- well, maybe in this case both names.  
9 Brianne Huseby.

10 A. Brianne Huseby, B-r-i-a-n-n-e, H-u-s-e-b-y.

11 Q. What is your occupation, ma'am?

12 A. I'm a forensic scientist at the Las Vegas  
13 Metropolitan Police Department.

14 Q. And in what capacity?

15 A. In the Biology DNA Detail.

16 Q. How long have you been so employed?

17 A. A little over -- or almost seven years now.

18 Q. Tell us about your journey. How did you  
19 get to be where you are today?

20 A. I started back at the Washington State  
21 Patrol Crime Laboratory in Seattle as a forensic  
22 scientist in 2001. I worked there for 11 years, and  
23 my job there was much like my job here which is  
24 examining crime scene evidence that's submitted by  
25 police agencies for body fluids and DNA, and then

1 interpreting those DNA results and issuing reports.

2 Q. Now, in regard to why you're here today,  
3 you took a look at a hair, right?

4 A. Correct.

5 Q. Let's see if we can find that nasty little  
6 hair. I forget which number it is?

7 THE CLERK: 36.

8 MR. VITTO: 36. Thank you, ma'am.

9 Q. (By Mr. Vitto) Showing you State's  
10 Proposed Exhibit -- excuse me State's Exhibit 36, do  
11 you recognize that?

12 A. I actually never looked at the outer  
13 packaging. This was in the possession of Amanda who  
14 testified before me.

15 Q. I understand.

16 A. But the description on the item looks like  
17 what I would have looked at.

18 Q. Feel free to retrieve the contents of that  
19 envelope and tell us when you get to something that  
20 you recognize.

21 A. Yes.

22 Q. All right. What did you do with that?

23 A. I looked at the hair that's inside this  
24 container under a microscope to try to see if there  
25 was a root end on it, which is what we need for our

1 DNA analysis.

2 Q. Okay. Were you able to find a root?

3 A. I could not see a root on the hair.

4 Q. So that means that it is a fragment; right?

5 A. Correct. A hair without a root is called a  
6 hair fragment. So it's either a hair fragment or  
7 possible a fiber.

8 Q. Now, showing you State's Proposed Exhibits  
9 46A and 46B. One -- you'll see that they have  
10 different distribution dates, one in January and one  
11 in August. Where is your work on that report?

12 A. So it's on the second page, and it's under  
13 Lab Item No. 12, and it was described as a possible  
14 hair from wine bottle.

15 Q. And is it the same on both reports, your  
16 work?

17 A. Yes, it is.

18 Q. Nothing about the amendment or whatever  
19 took place with that lab report had anything to do  
20 with your work?

21 A. That's correct.

22 Q. So what were you able to tell us -- what  
23 are you able to tell us about that hair based upon  
24 your analysis?

25 A. The only thing I can really tell you about

1 it is that it was unsuitable for DNA analysis.

2 Q. And that's because?

3 A. Because there's no root end, and that's  
4 what we need to have for testing in our laboratory.

5 Q. Because your lab only does?

6 A. It's called "autosomal DNA testing"; so  
7 it's the cells that are throughout your entire body.  
8 So the roots on the hair have cells from your scalp,  
9 and that's the kind of DNA that we test in our  
10 laboratory. Hair shafts have a different kind of DNA  
11 in them called "mitochondrial," and that's something  
12 that other laboratories do, but not Metro.

13 Q. And if mitochondrial testing had been done,  
14 were there limits to what mitochondrial testing would  
15 have been able to establish?

16 A. If it was in fact a hair fragment and not a  
17 fiber and they were able to get a mitochondrial DNA  
18 profile, that type of DNA is inherited through the  
19 mother's line. So anyone in the maternal line would  
20 have theoretically the same DNA profile barring any  
21 mutations.

22 Q. Okay. So if there was a mother and two  
23 daughters in a household, it would as likely have been  
24 one as the other?

25 A. The DNA analysis would not be able to

1 differentiate between those female contributors if  
2 they're all related maternally.

3 Q. And are you unable to tell whether that's a  
4 hair or a fiber?

5 A. Yes. I looked at it with what's called a  
6 stereomicroscope, so it's not as up close as some  
7 other microscopes that we have. But for our purposes  
8 in DNA, we're just looking for a hair root; so I  
9 couldn't see one and that's where analysis ends.

10 Q. So you don't know if it's a hair or a  
11 fiber?

12 A. Correct.

13 Q. Generally speaking, would it be uncommon to  
14 find a hair fragment attached to an object that had  
15 impacted a human head?

16 A. In my experience in cases where a hard item  
17 is impacting a human head, sometimes hairs can be  
18 broken or severed into fragments. So I've had cases  
19 with crowbars or baseball bats or tire irons, and you  
20 can sometimes find hair fragments stuck onto those  
21 kinds of items. It's basically like a -- it crushes  
22 the hair and breaks it. So it is possible to find it  
23 in those kinds of items.

24 Q. Have you seen cases like that recently?

25 A. In my experience, I don't -- recently, I

1 don't know if I really have. But, I mean, in my whole  
2 career maybe five or ten cases where I've been able to  
3 see that.

4 Q. But in this case, we don't even know if  
5 that's a hair?

6 A. Correct.

7 MR. VITTO: I have no more questions of  
8 this witness at this time.

9 MR. MARTINEZ: Thank you.

10 CROSS-EXAMINATION

11 BY MR. MARTINEZ:

12 Q. Ms. Huseby, even without having a root, you  
13 can tell if it's a human hair; right?

14 A. We actually don't do that kind of analysis.  
15 It would take using a compound microscope and looking  
16 at the microscopic features of the internal hair to  
17 determine. So that testing can be done, but that's  
18 not something that we're trained to do.

19 Q. So as we sit here today, you can't say for  
20 certain that the hair you looked at in the microscope  
21 is a human hair?

22 A. Correct. It's either a hair or a fiber or  
23 essentially a non-human hair.

24 Q. Can you tell if it's synthetic, so if it's  
25 a hair from a doll for example? So not real hair?

1           A.       It's not an analysis that I did. But I  
2 couldn't tell that. It may be that.

3           Q.       Okay.

4           MR. MARTINEZ: No further questions, Judge.

5           THE COURT: Anything else?

6           MR. VITTO: Nope.

7           THE COURT: You can be permanently excused.  
8 Thank you for testifying.

9           THE WITNESS: Thank you very much.

10          MR. VITTO: Christine Whittle.

11          THE COURT: Kirk, there's no way to bring  
12 in all the lab people at once; right? Just get them  
13 all done at once.

14          MR. VITTO: Kind of what we're doing, only  
15 one at a time.

16          THE COURT: Good afternoon. If you can  
17 raise your right hand and be sworn, please.  
18 Whereupon,

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

22          THE WITNESS: I do.

23          THE COURT: Christine, if you're nervous  
24 about Covid, you can keep the mask on. But if you  
25 take it off, the jurors can see you better and hear

1 you. It's up to you.

2 THE WITNESS: Okay. We'll try it without  
3 it.

4 THE COURT: Thank you.

5 DIRECT EXAMINATION

6 BY MR. VITTO:

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

9 A. My name is Christine Whittle, and it's  
10 spelled W-h-i-t-t-l-e.

11 Q. What is your occupation, ma'am?

12 A. I'm currently employed as a forensic  
13 scientist for the Las Vegas Metropolitan Police  
14 Department.

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

16 A. At Metro, for five years.

17 Q. And what are your job duties?

18 A. In general, I'm tasked with looking at  
19 items of evidence for possible sources of DNA, and  
20 then generating DNA profiles to compare in cases to  
21 known samples.

22 Q. And what qualifies you to be in the  
23 position that you currently enjoy?

24 A. I have a bachelors of science degree in  
25 microbiology. Additionally, I have research

1 experience in genetics, and I also have extensive  
2 training programs provided by the Florida Department  
3 of Law Enforcement when I was first hired by them as a  
4 forensic technologist in 2005, and then promoted to be  
5 a DNA analyst for them in Orlando in 2007. And again  
6 when I was hired by Metro, each phase of those  
7 trainings and each employer had extensive training  
8 processes for the technical background testing that we  
9 do, practical testing, and we had oral and competency  
10 testing on each part of the testing that we do.

11 Q. I would like to draw your attention to a  
12 couple of exhibits. They might still be up there?

13 THE BAILIFF: They're over there.

14 MR. VITTO: Thanks, man.

15 Q. (By Mr. Vitto) State's Proposed Exhibits  
16 46A and 46B. I'd like you to review those. Let me  
17 know when you've had that opportunity, and I will ask  
18 you some questions about them; okay?

19 A. (The witness complies.) Okay.

20 Q. 46A has a distribution date of  
21 January 10th --

22 A. Yes.

23 Q. -- of 2020. And what about 46B?

24 A. August 27th of 2020.

25 Q. And if I'm not mistaken -- you correct me

1 with my vernacular -- I believe that B would be  
2 considered an amendment to A?

3 A. Yes.

4 Q. Okay. What's the difference between the  
5 two?

6 A. There are two difference in this amendment.  
7 The statistics that were originally reported in this  
8 report dated January 10th, they were the use of  
9 verbiage of at least for some of the statistics. And  
10 in evaluating how we were representing the statistics,  
11 it was determined that it would be better to represent  
12 the statistics with the words "approximately." So all  
13 the "at leasts" in reference to the statistics were  
14 changed to approximately.

15 Additionally, Amanda, who you heard testify  
16 in reviewing her report, noticed that for Item 6.3,  
17 she had originally looked at the item for blood not  
18 semen, and it was misrepresented in her report.

19 Q. Okay. Now, looking at this report -- and I  
20 guess let's just stick with B. We've got a bunch of  
21 negative presumptive tests, but we also have some  
22 positive presumptive results; is that correct?

23 A. Yes.

24 Q. And we know that Amanda Shum did all of the  
25 presumptive testing; correct?

1 A. Yes.

2 Q. So then if I understand what's taking place  
3 here, you would then follow up with a DNA  
4 interpretation of her findings; is that correct?

5 A. That's correct.

6 Q. All right. So let's look at Items 7.2, and  
7 then more specifically 7.21, 7.22, and 7.23. What did  
8 your DNA analysis conclude?

9 A. Would you like to go through each one  
10 individually?

11 Q. Sure.

12 A. Okay. Reading from the report for Lab  
13 Item 7.2.1, which was a red-brown stain on edge BC of  
14 the white Thomaston pillowcase, I determined there  
15 were two contributors, one of which was male, the  
16 approximate mixture proportions were 98 to 2.  
17 Included was Yessenia Camp; inconclusive was  
18 Cole Engelson.

19 Would you like me to read the statistical  
20 statements?

21 Q. Sure.

22 A. The probability of observing this mixture  
23 of DNA profile is approximately 40 point -- 49.9  
24 sextillion times more likely if it originated from  
25 Yessenia Camp and one unknown random contributor than

1 if it originated from two unknown random contributors.  
2 And a sextillion, just for your reference, is the  
3 number followed by 21 zeros. Additionally, it is  
4 inconclusive whether Cole Engelson is a contributor to  
5 the DNA results obtained because the likelihood ratio  
6 does not provide sufficient support for inclusion or  
7 exclusion.

8 Q. So in regard to 7.2.1, Yessenia's blood was  
9 on the pillowcase?

10 A. I would say she's individually included on  
11 the profile generated, and that it tested  
12 presumptively positive for blood.

13 Q. How about 7.2.2?

14 A. 7.2.2 reading -- again, would you like me  
15 again to read from the report?

16 Q. Yes.

17 A. 7.2.2 was red-brown stains on the side EFGH  
18 of the white Thomaston pillowcase. The number of  
19 contributors was one female. Individually included  
20 was Yessenia Camp; excluded was Cole Engelson. And  
21 the probability of observing this DNA profile is  
22 approximately 672 septillion, which is a number  
23 followed by 21 (sic) zeros, more likely if it  
24 originated from Yessenia Camp than if it originated  
25 from an unknown random contributor.

1 Q. Okay. So let me wrap my mind. That's  
2 pretty big figures?

3 A. Very large.

4 Q. So I remember when Mike Tyson fought  
5 Buster Douglas. Mike Tyson was a 50 to one favorite;  
6 okay. So in this case with 7.2.2, it's how many  
7 septillions?

8 A. 672 septillions.

9 Q. 672 septillions to one that it's  
10 Yessenia Camp and nobody else?

11 A. The explanation of the DNA profile, the  
12 likelihood of that observation seeing the DNA  
13 evidence, is 672 septillion times more likely if it  
14 originated from her than if it originated from an  
15 unknown random contributor. They are different kind  
16 of statistics.

17 Q. Okay. So it's just not scientifically  
18 possible to say, yeah, that's Yessenia's blood?

19 A. To us in science, no.

20 Q. How about to a layperson?

21 A. To a layperson, I think it is reasonable to  
22 weigh those statistics and say that the explanation of  
23 the observed DNA profile is much more likely to be  
24 explained by her DNA than from an unknown random  
25 person.

1 Q. How about 7.2.3?

2 A. 7.2.3, reading from my report, is the  
3 red-brown stains on side EFGH of the white Thomaston  
4 pillowcase. The number of contributors was determined  
5 to be one female. Individually included was Yessenia  
6 Camp; excluded was Cole Engelson. The probability of  
7 observing this DNA profile is approximately 38.9  
8 septillion -- septillion being 24 zeros -- times more  
9 likely if it originated from Yessenia Camp than if it  
10 originated from an unknown random contributor.

11 Q. Okay. So the profile that was used to  
12 match -- maybe that's not the appropriate word because  
13 this is science. So the profile used to compare that  
14 was developed for Yessenia, is that the profile that  
15 was developed by Tracy Bish?

16 A. The profile for Yessenia and the profile  
17 for Cole Engelson were developed by Tracy.

18 Q. Okay. So Tracy took known samples of  
19 Yessenia Camp and developed a profile; is that  
20 correct?

21 A. Yes.

22 Q. And then you took that profile and you  
23 matched it to this blood, and you said what you've  
24 just told us?

25 A. I did the comparison and said what I just

1 told you.

2 Q. All right. What would have happened if you  
3 would had taken my profile and matched it to that  
4 blood?

5 A. Until I had your profile and compared it, I  
6 couldn't tell you for sure.

7 Q. So it could be my blood on that towel?

8 A. I would say until we had your profile to  
9 compare, I couldn't say anything like that. I would  
10 say since it's one female, I thin that's probably  
11 unlikely.

12 Q. Thank you very much. I appreciate that.  
13 Now, let me direct your attention to  
14 Item 8.2.

15 A. Yeah.

16 Q. What is that?

17 A. Item 8.2 was the swabbing of the bottom and  
18 the body of the Stella Rosa wine bottle.

19 Q. And what did your DNA analysis conclude?

20 A. From my report, the DNA profile obtained is  
21 consistent with a mixture of at least five  
22 contributors with at least one being male. Due to the  
23 complexity of the data, no additional conclusions  
24 could be made regarding this DNA mixture profile.

25 Q. Okay. A whole bunch of different people's

1 blood on the bottom of that bottle?

2 A. Yeah.

3 Q. Okay.

4 A. Not necessarily blood. You could be  
5 picking up DNA from people handling the bottle, mixed  
6 with blood, mixed with any other contacts that had  
7 happened with the bottle. So it's not necessarily  
8 five people's blood or five people presumptively  
9 testing positive for blood and leaving their profile.  
10 It could be people who handled it in the store, people  
11 who handled it in the home, anywhere along the way  
12 those profiles could still be deposited there.

13 Q. Perfect. Thank you very much. Directing  
14 your attention to Items 10.0, 10.1, 10.2, and 10.3.  
15 What did your DNA analysis conclude?

16 A. For Lab Item 10.1, which was a red-brown  
17 stain on the AB corner of the white Mainstays towel.  
18 I determined it to be one female. Individually  
19 included was Yessenia Camp; excluded was  
20 Cole Engelson. And the probability of observing this  
21 DNA profile is approximately 672 septillion, a number  
22 followed by 24 zeros, times more likely if it  
23 originated from Yessenia Camp than if it originated  
24 from an unknown random contributor.

25 Q. And I'm sorry, was that the pillowcase or

1 the towel?

2 A. That would be Lab Item 10.1, the stain on  
3 the towel.

4 Q. Okay. That's the towel. So Yessenia's  
5 blood's on the towel?

6 A. I would say that Yessenia is individually  
7 included in the profile generated from that stain.

8 Q. How many different locations?

9 A. So Item 10.1, it says red-brown stains; so  
10 I believe that's one location.

11 Q. 10.2?

12 A. 10.2, reading from the report, Lab  
13 Item 10.2, red-brown stains near the middle of white  
14 Mainstays towel on the tag side, was determined to be  
15 one female contributor. Individually included was  
16 Yessenia Camp; excluded was Cole Engelson. The  
17 probability of observing this DNA profile is  
18 approximately 14.4 septillion times more likely if it  
19 originated from Yessenia Camp than if it originated  
20 from an unknown random contributor. Additionally, an  
21 additional male below the interpretation threshold was  
22 detected, indicating a male. But due to the limited  
23 nature of the data, I couldn't make any conclusions  
24 about it.

25 Q. Okay. And that was for which one?

1 A. That was for 10.2.

2 Q. Okay. And how about 10.3?

3 A. 10.3, it was a positive presumptive blood  
4 test, but it was not taken on for DNA testing; so  
5 there were not any DNA results.

6 Q. Okay. So the ones that were positive and  
7 the ones that were developed in regard to the  
8 pillowcase and the towel, it's like a billion to one  
9 that it's probably Yessenia, but we just can't say  
10 that's Yessenia's blood?

11 A. It's not our policy in Metro to call  
12 identity. So what our policy is, is to give you the  
13 specifics of how common or how rare that observation  
14 of the DNA profile is.

15 Q. And it was 600, what, septillion something?

16 A. Which one?

17 Q. Let's do the biggest one?

18 A. Okay. The biggest one would be for Lab  
19 Item 7.2.2, and 10.1 as well; they had the same  
20 statistic, which was 672 septillion, which is a number  
21 followed by 24 zeros. That was the statistic for that  
22 one. Would you like me to read the whole statement?

23 Q. That's 624?

24 A. 672.

25 Q. 672 with 24 zeros?

1 A. Correct.

2 Q. So if you got that many people and put them  
3 in a room, it's still going to be Yessenia?

4 A. So it's not -- the way that the calculation  
5 works is it's not comparing it against people. It's  
6 basically looking at the DNA profile as a piece of  
7 evidence and describing how -- like determining how  
8 it's best described. So it's a fraction where on top  
9 would be Yessenia being described as a donor of this  
10 profile, and on the bottom would be any unknown random  
11 person. And that's what a likelihood ratio is; it's  
12 the comparison of those two things in a fraction.

13 Q. Now, Ms. Whittle, do you have any  
14 opinion -- well, let me ask you this first: These are  
15 your reports; right?

16 A. This is my report, yes. These two reports  
17 are my reports.

18 Q. And it includes the work done by Amanda and  
19 the work done by Brianna (sic) and of course the work  
20 done by you; correct?

21 A. Correct.

22 Q. In regard to Brianna's work with the hair,  
23 is there anything that you can tell us, or would any  
24 question in regard to the hair or the fiber or  
25 whatever it was that was observed, are those questions

1 best directed exclusively to Brianna, or do you have  
2 any input in regard to her findings?

3 A. Without ever seeing the hair itself, I  
4 couldn't give you any extra information. So the  
5 person that would be the best person to answer those  
6 questions is definitely Bri (phonetic).

7 Q. I understand. Thank you very much. Is  
8 there any reason for anybody to think that the blood  
9 on the pillowcase and the towel is not Yessenia's?  
10 Come on.

11 A. I'm not sure how to answer that with a good  
12 scientific answer for you, because I think the  
13 statistic is given to let you draw the conclusion for  
14 yourself.

15 Q. So we should use our common sense?

16 A. Yeah.

17 Q. If it's a billion to one, it's Yessenia; or  
18 a septillion or 600 grillion grillion (phonetic), it's  
19 Yessenia?

20 A. That would be for your common sense.

21 Q. Thank you very much.

22 MR. VITTO: I have no more questions except  
23 that I ask that the reports authored by this  
24 witness -- I forget what numbers they are.

25 THE WITNESS: 46 --

1 THE COURT: 46A and B.

2 MR. VITTO: 46A and B be admitted into  
3 evidence.

4 MR. MARTINEZ: No objection judge.

5 THE COURT: Admitted.

6 (Whereupon State's Exhibit Nos. 46A and B  
7 are admitted into evidence.)

8 MR. MARTINEZ: And I do not have any  
9 questions for this witness, Judge.

10 THE COURT: No questions?

11 MR. MARTINEZ: None, Judge.

12 THE COURT: All right. Thank you for  
13 testifying. You can be permanently excused.

14 MR. VITTO: Judge, that's all of the  
15 witnesses the Prosecution has for this evening.

16 THE COURT: You just put on five lab  
17 witnesses in a row. And I noticed on your sheet, you  
18 have about five more to go. Can you bring them in  
19 real quick, and we'll get through those.

20 MR. VITTO: I'll see what we can do. Real  
21 quick; nobody else is here.

22 THE COURT: Ladies and gentlemen, we're  
23 going to take a short recess until Thursday morning.  
24 During this recess it's your duty not to converse  
25 among yourselves or with anyone else on any subject

1 connected with the trial, including without  
2 limitation, newspapers, television, radio, and  
3 Internet. Don't read, listen to any report of or  
4 commentary on the trial. Don't even talk to the  
5 lawyers. Don't talk to anybody, and not to each  
6 other.

7 Don't form or express an opinion on this  
8 case until it is finally submitted to you. We will  
9 see you on Thursday, November 12th, 0900. I have two  
10 other matters at 8:15 and 8:30; so we'll see you at  
11 nine o'clock.

12 Don't forget everything that was said  
13 today. When you come in, we're going to ask you how  
14 many septillion.

15 (The jurors are excused for the day.)

16 THE COURT: We're outside the presence of  
17 the 15 jurors. On Thursday, we're going to restart,  
18 commence the State's case in chief. Anything we need  
19 to make motions on or make a record about?

20 MR. MARTINEZ: Not right this second,  
21 Judge.

22 THE COURT: Okay. Then we'll call it a  
23 day, and we'll see you Thursday morning.

24 MR. VITTO: Thanks, Judge.

25 THE COURT: And you guys will come in with

1 some kind of new legal issue and problem.

2 THE CLERK: All rise.

3 MR. MARTINEZ: I'm going to do my best.

4 THE COURT: That's the joke at the Judicial  
5 College is that you guys bring that stuff in the  
6 middle of a trial, and the district judge is like, "I  
7 don't know. This one?" And we always get reversed.

8 Thank you so much.

9 (The proceedings concluded at  
10 3:20 p.m.)

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## 1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA )  
3 ) ss  
4 COUNTY OF NYE )

5 I, Cecilia D. Thomas, official reporter of  
6 the Fifth Judicial District Court of the State of  
7 Nevada, in and for the County of Nye, do hereby  
8 certify:

9 That I reported the taking of the  
10 proceedings at the time and place aforesaid;

11 That I thereafter transcribed my said  
12 shorthand notes into typewriting, and that the  
13 typewritten transcript of said proceedings is a  
14 complete, true, and accurate record of statements  
15 provided by the parties at said time, to the best of  
16 my ability.

17 I further certify that I am not a relative,  
18 employee, or independent contractor of counsel of any  
19 of the parties involved in said action; nor a person  
20 financially interested in the action; nor do I have  
21 any other relationship with any of the parties or with  
22 counsel of any of the parties involved in the action  
23 that may reasonably cause my impartiality to be  
24 questioned.

25 IN WITNESS WHEREOF, I have hereunto set my  
hand in the County of Nye, State of Nevada, this 5th  
day of February 2021.

*Cecilia D. Thomas*

Cecilia D. Thomas,  
RPR, CCR No. 712