

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 17 OF 22

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1 forensic pathology.

2 Q. And to get those certifications, you had to
3 pass a test; right?

4 A. Correct.

5 Q. A written test?

6 A. Written and slide. It's a practical;
7 there's no oral exam. Some of the -- I'm sorry, some
8 of the medicine field have oral exams. In pathology
9 there's a recent slide -- a recent exam and a
10 practical exam. Practical includes the slides or a
11 histology examination.

12 Q. So part of that exam is actually doing the
13 work to show that you know what you're doing?

14 A. Correct.

15 Q. And did those written tests, they require
16 the memorization of entire textbooks?

17 A. I don't know what you meant by entire
18 textbooks, if it's from cover to cover, and the first
19 page is usually be the publication and the last page
20 usually be... So I don't know what you mean by the
21 entire book. But most of it, the important stuff that
22 we need to study in terms of what we need to
23 accomplish in -- or what I need to accomplish in the
24 profession of pathology. If I may say, the substance
25 or the -- not really the core, but the substance of

1 that book.

2 Q. Okay. But you don't need to know who
3 published the book?

4 A. It helps. Because this, if I may, so these
5 books are -- sometimes the authors we see them in
6 conferences, in virtual conferences; so it's also nice
7 to recognize them or to be aware of their work. And
8 it definitely helps us, or help me.

9 Q. Okay. Once you got those certifications,
10 you worked as the Assistant Medical Examiner in
11 Detroit; right?

12 A. Correct.

13 Q. And then from there, you came to the
14 Clark County Coroner's Office; right?

15 A. Correct.

16 Q. Where you were the Medical Examiner?

17 A. Correct.

18 Q. So does that mean that you were the lead
19 Medical Examiner as opposed to an assistant?

20 A. There's no association as far as assistant
21 or associate in the Clark County. Some offices may
22 have that kind of term that they use. Associate
23 Medical Examiner in Detroit, that's how the
24 Michigan -- University of Michigan, slash, Detroit
25 Medical Examiner's Office is all but one. In Vegas or

1 in Clark County, it's different. So every office has
2 a different way of addressing or naming a Medical
3 Examiner.

4 Q. Okay. And you're doing the same thing as a
5 Medical Examiner now in Oklahoma City; right?

6 A. Correct.

7 Q. When you move to different states, do you
8 have to be licensed to practice medicine in those
9 states?

10 A. Yes.

11 Q. Now, would you agree that about 15 percent
12 of deaths go to the medical examiner?

13 A. I don't know, or I'm not familiar with the
14 statistics.

15 Q. Okay. Would you agree that it's -- would
16 you agree that a majority of deaths do not go to the
17 medical examiner?

18 A. Again, I'm not familiar with the statistics
19 as far as numbers.

20 Q. Is the coroner for people who die under
21 circumstances that meet a statute?

22 A. I'm sorry. Could you please repeat the
23 question?

24 Q. Does the law dictate which deaths go to the
25 medical examiner or the coroner?

1 A. As far as the law is -- if I may elaborate
2 it a little bit before I answer a question?

3 Q. Sure.

4 A. As far as the state law or the federal law,
5 the federal law mandates that all deaths must be
6 reported to a medical examiner or coroner's office.
7 And the state has its own or the office has its own
8 criteria when or what -- there are certain criteria,
9 yeah, criteria to accept the case as a coroner's case
10 or a medical examiner's case. But as far as the
11 federal law, all deaths must be reported to the
12 medical examiner or a coroner's office. And as far as
13 the medical -- individual medical examiner or
14 coroner's office, each offices has its own criteria
15 set to accept a death as a jurisdiction. It's by
16 jurisdiction.

17 And by far, based on my experience in
18 Detroit, Vegas, and Oklahoma, there's really no
19 difference in terms of the criteria to take
20 jurisdiction of a body, if you will.

21 Q. You mentioned in there that there was
22 different criteria to take a death as the medical
23 examiner or a coroner?

24 A. No. There is no -- in terms of there is
25 criteria set by individuals. But from experience,

1 they are similar in terms of criteria for taking
2 jurisdiction of a case.

3 Q. Is there a difference between a medical
4 examiner and a coroner?

5 A. Actually, there is.

6 Q. Okay. What is it, please?

7 A. Sure. Medical -- so both, both entities or
8 both institutions operates in the same way as
9 determination to the cause and manner of death. Okay.
10 Medical examiner, though, is different in terms of the
11 leadership. A medical examiner, the chief is a
12 medical doctor trained in forensic pathology,
13 specifically.

14 So in an Office of a Chief Medical Examiner
15 is -- the chief is -- or the manager of his office is
16 a forensic pathologist. Not just any doctor, not even
17 an anatomical or clinical pathologist. It has to be
18 different; that's how this has been set up.

19 Both offices are independent body of
20 investigation, and that means each offices operates
21 independently as far as determining the cause of
22 manner and death. Okay. So it is not influenced by
23 any other outside factors.

24 As far as the coroner is, the coroner's
25 office, like in Vegas, Coroner, slash, Medical

1 Examiner's Office, and that is how Vegas is named, the
2 office in Vegas is managed or under the leadership of
3 a coroner. It means that the coroner is any person
4 that is appointed or elected by individual counties.
5 It can be a nonmedical, but it was never been a
6 forensic pathology. It can be an officer, a law
7 enforcement officer, it can be a non-forensic
8 pathology doctor. So it can be a doctor practicing
9 family med appointed by the state, or elected by the
10 state, or by the county itself, or whatever, however
11 the county operates.

12 But as far as the end point or the end goal
13 of two different institutions, the goal is still to
14 provide service to the community as far as cause and
15 manner of death.

16 Q. Okay. And now, during your time at the
17 Clark County Coroner's Office, were there certain
18 cases that you got? So you got cases that they came
19 to you because someone died suddenly and unexpectedly
20 under suspicious circumstances?

21 A. That is one of the criteria.

22 Q. What are the other criteria that you would
23 get cases while at the Clark County Coroner's Office?

24 A. So criteria such as died of food,
25 decompose, died suspicious death -- any trauma related

1 death, such as hanging, gunshot wounds, suicide,
2 homicide, motor vehicle accident. So any trauma
3 related cases, any suspicious cases, cases of
4 drowning -- which is also a injury-related death --
5 any unnatural or unexpected death of an infant --
6 infant died at home, or children died at home --
7 again, adults or any other people/individual
8 decomposing at home, burn cases -- which is also
9 trauma related. So those are the criteria to take
10 jurisdiction of a case.

11 Q. Okay. And you have certain duties as the
12 medical examiner when the death comes across your
13 desk; right?

14 A. Correct.

15 Q. One of those is to determine the cause and
16 manner of death; right?

17 A. Correct.

18 Q. Now, are you determining the cause and
19 manner of death to an absolute certainty?

20 A. Yes.

21 Q. So you're not just showing what is most
22 likely to have happened?

23 A. Correct.

24 Q. Is there a specific standard spelled out
25 for you in -- that you need to meet in order to get to

1 a certain cause or manner of death?

2 A. Sure. Primarily, the autopsy. So first,
3 so autopsy of the body, examination of the body, and
4 correlate that autopsy findings to also what's going
5 on as far as the manner of death, correlate the
6 findings as far as the circumstances surrounding the
7 death.

8 Q. And now, why does the cause and manner of
9 death need to be determined?

10 A. It is the responsibility, it's the training
11 of forensic pathology. I am trained -- my training
12 is -- the core of my training is determination of the
13 cause of death and as well as the manner of death, and
14 how that occurred and that is the manner of death.

15 Q. Can it be important for certain statistics?

16 A. It was actually -- originally, the manner
17 of death was conceived, if you will, for statistical
18 purposes. But then in terms of that, it revolves, you
19 know, circumstances of death, incorporation, the way
20 understanding is what happened to the child. Because
21 it's just one piece of the investigation and one piece
22 of information, and the way the cause and manner of
23 death is conceived from a report is the totality of
24 the whole case itself, not just the autopsy, but what
25 happened to an individual.

1 Q. Now, when a case is referred to you from
2 law enforcement, what sort of documentation do you get
3 with it?

4 A. They provided us with information. So law
5 enforcement, as far as that, each medical examiner's
6 office or coroner's office has it's own -- again, it
7 is an independent body of investigation or -- yeah, of
8 investigation. It's an independent body, meaning it
9 has it's own investigators.

10 So medical examiner has its own
11 investigator independent from law enforcement
12 agencies; likewise, coroner's office. So primarily
13 the information that I get -- I got or any other
14 medical examiner got is primarily coming from the
15 investigator, the medical-legal investigator assigned
16 to that case. And if I need more, either I will reach
17 out to my investigator, medical-legal investigator for
18 this case or refer directly to the detective of the
19 case.

20 Q. Okay. Do you review police reports prior
21 to doing an autopsy?

22 A. If available, yes.

23 Q. Does that include witness statements if
24 they're available?

25 A. If they're available, yes.

1 Q. What about photographs?

2 A. If there are, yes.

3 Q. And that could be photographs of a crime
4 scene?

5 A. Correct.

6 Q. What about medical records, if they're
7 available?

8 A. If they're available, correct, yes.

9 Q. And as you said, your job is to come to an
10 independent conclusion; right?

11 A. Correct.

12 Q. Did you, when you did the autopsy on
13 Yessenia Camp, did you have any of those supporting
14 documents ahead of time to review prior to the
15 autopsy?

16 A. So what I have is information from my
17 medical-legal investigators. And from that, there was
18 also a detective. So in every case, in Vegas every
19 case -- any suspicious death in Vegas is being
20 attended by a detective or law enforcement agent for
21 that case. So I don't remember who was that at the
22 time, but she or he was the one who provides me
23 additional information in addition to what I got from
24 my investigator.

25 Q. Okay. So she kind of gave you a rundown, a

1 little bit about what they knew about the case?

2 A. Correct.

3 Q. All right. You performed the autopsy on
4 Yessenia Camp on July 16th, 2017; right?

5 A. Yes.

6 Q. And that was the same day your office
7 received her body?

8 A. No. The -- if I may refer to my -- the
9 first page of the Exhibit 49A?

10 Q. Please.

11 A. Thank you.

12 THE BAILIFF: He's got it right here.

13 MR. VITTO: Oh, he does?

14 THE WITNESS: So what I'm doing is just
15 checking the information to answer the question on
16 Report of Investigation. This is the one-page report
17 on 49A.

18 So there's not here, there's not in the
19 one-page Report of Investigation, but the office logs
20 any body as per date and time when it's received. And
21 it's usually placed on the tag with the bag. I
22 reviewed the photo. It was there, but I can't, off
23 the top of my head, remember the date and time when
24 the body was received to the office.

25 Q. (By Mr. Martinez) But you performed the

1 autopsy either the same day it was received or very
2 shortly thereafter; right?

3 A. I performed the autopsy in the morning on
4 the 16th.

5 Q. Okay. And now when you first observed the
6 body, you observed many injuries; right?

7 A. Correct.

8 Q. At least one lethal injury; right?

9 A. Again, these are injuries at this point,
10 lethal or not lethal. I do not conclude it right away
11 because the body is dead. So any injuries for this
12 matter, anything is as concluded as lethal, because
13 the examination of -- it's my examination, and what I
14 have is rather a dead body.

15 Q. So you're not reaching a conclusion of one
16 specific injury being the one that ultimately caused
17 the death?

18 A. Correct.

19 Q. And you wrote a report after your autopsy;
20 right?

21 A. Yes.

22 Q. Now, you didn't sign the report until
23 February 1st of 2018; correct?

24 A. Correct.

25 Q. Is that because you were waiting for the

1 other analysis to be done?

2 A. That is correct.

3 Q. The brain that you sent to Dr. Haddix;
4 right?

5 A. Correct.

6 Q. And the eyes that you sent to Dr. Plowey?

7 A. That is correct.

8 Q. So you waited for their reports to come
9 back?

10 A. Yes.

11 Q. You reviewed their reports?

12 A. Yes, I did.

13 Q. And you included their findings in your
14 report; right?

15 A. Correct.

16 Q. On direct, you said a couple of times that
17 you agreed with their findings?

18 A. Correct.

19 Q. Have you ever had a situation where you
20 referred a sample out to someone, but you disagreed
21 with their findings?

22 A. None.

23 Q. Well, in a hypothetical, what would you do
24 if you disagreed with someone else's findings?

25 A. First and foremost, I will talk to the

1 pathologist, or rather to a referring physician. And
2 from that conversation, she may or he may have --
3 again, it's a diagnosis. It's her statement or rather
4 it's her reading. So what I usually do, if that is a
5 hypothetical situation that may arise, I will
6 absolutely talk to the referring physician, because
7 there's more in conversation than just reading a paper
8 of all diagnoses. And from that onward, I will make
9 my decision.

10 Q. But you didn't have to worry about that in
11 this case?

12 A. Correct.

13 Q. You list her cause of death as multiple
14 blunt force injuries; right?

15 A. Correct.

16 Q. Now, what is a "blunt force injury"?

17 A. A "blunt force injury" is a type of injury
18 which is caused by an impact or any blunt object or
19 surfaces.

20 Q. Is blunt the opposite of sharp?

21 A. Correct.

22 Q. And that's what I was trying to get at. So
23 a blunt force injury means that they weren't stabbed
24 with a knife; right?

25 A. That is correct.

1 Q. But a baseball bat is a blunt object?

2 A. That is correct.

3 Q. Could the ground be a blunt object?

4 A. I'm sorry, what?

5 Q. Is the ground a blunt object?

6 A. Correct.

7 Q. A car could be a blunt object?

8 A. Correct.

9 Q. And now, blunt force injury does not always
10 result in death; right?

11 A. I don't know that, because my cases are
12 dead. So they all die. It's a bias. I'm sorry, but
13 I will be biased in my answer, because again, I cannot
14 answer that question because my cases are all dead
15 individuals.

16 Q. Okay. Let me try and ask it a different
17 way. In your training and experience, you've learned
18 about blunt force injuries; right? What are some
19 symptoms of blunt force injuries?

20 A. I don't think I understand your question as
21 far as symptoms. If I may define, if I may. Symptoms
22 is a clinical terminology. I don't practice clinical
23 practice or medicine because my patients are dead.

24 Symptoms is actually defined as what the
25 patient or a living patient is complaining. I

1 complain of headache. I complain of stomach pain so
2 that's symptoms. So I don't understand in terms of
3 the symptoms.

4 Q. Okay. A blunt force injury can cause
5 death; right?

6 A. Correct.

7 Q. A blunt force injury can cause a bruise?

8 A. Yes.

9 Q. A blunt force injury can cause fracture?

10 A. Correct.

11 Q. What else can a blunt force injury do?

12 A. Sure. So there are findings that are seen
13 in blunt force injuries. And these are what are --
14 these are the injuries under blunt force; okay. This
15 includes four. That includes contusion, that includes
16 fracture, it also includes abrasion, as well as
17 laceration. So these are the four findings or
18 injuries under blunt force injuries.

19 Q. What is the difference between a laceration
20 and an abrasion?

21 A. Sure. Again, "abrasion" is defined earlier
22 this morning as a damage to the surface of the skin.
23 So it is not deep; it's just on the surface of the
24 skin like a scrape. A "laceration" is tearing of the
25 soft tissue. Literally, if you separate one arm or if

1 you separate, for example, an arm, or just the bark of
2 a tree, for example, a branch of a tree. If you
3 separate it so it's not really regular, the point of
4 separation is not really regular, so that's how a
5 laceration is like. So it's defined as the tearing of
6 the tissue.

7 Q. So is it fair to say -- you said an
8 abrasion is on the surface of the skin; right?

9 A. Correct.

10 Q. So is it fair to say that a laceration is
11 below the surface of the skin?

12 A. Correct. It's a tearing. It's a tear.

13 Q. Now, on Yessenia Camp, you noticed a litany
14 of injuries; right?

15 A. Correct.

16 Q. She had bruising all over?

17 A. Yes.

18 Q. On her face?

19 A. Yes.

20 Q. On her scalp?

21 A. Yes.

22 Q. On her buttocks?

23 A. Yes.

24 Q. On her legs?

25 A. Yes.

1 Q. On her arms?

2 A. Correct.

3 Q. She had abrasions in multiple locations?

4 A. Yes; correct.

5 Q. She had a fracture to her skull; right?

6 A. Correct.

7 Q. She had hemorrhaging?

8 A. I'm sorry?

9 Q. She had hemorrhaging in multiple locations?

10 A. Yes, sorry.

11 Q. What biological samples were preserved in
12 this case?

13 A. Biological samples include blood, as well
14 as liver tissue. That was sent for tox. There was
15 also rape kit that was done. Rape kit includes the
16 vaginal swab, anal swab, and I think fingernail, as
17 well the hair samples or scraping of the hair.

18 Q. Did you include any of that in your report?

19 A. No. What I included is the third rape kit.

20 Q. Okay. So you basically notify in your
21 report that that was taken, and there will be a
22 separate report?

23 A. That is correct.

24 Q. And now, I believe you testified that a
25 bruise and a contusion are the same thing; right?

1 A. Correct.

2 Q. And it is when blood vessels break under
3 the skin?

4 A. Correct.

5 Q. And that is due to trauma?

6 A. Correct.

7 Q. Can bruises be different depths?

8 A. Yes.

9 Q. How can you tell the difference between how
10 deep a bruise is?

11 A. So if it goes through the underlying soft
12 tissue. So surface of the body or surface of the
13 skin, our body is are wrapped in a very protective
14 manner. It's a very complex structure, wrapping of
15 several layers. So first, it's the skin from the
16 outside, and go through the subcu tissue which is just
17 the soft tissue underneath the skin, and it goes
18 through the deep muscles, and that's the deeper. So
19 the deeper you go at the level of the muscle area is
20 where we, or I recognized as a deep bruising.

21 Q. If you don't recognize it as a deep bruise,
22 what would it be considered?

23 A. If there's a hemorrhage in the soft -- are
24 you referring to the soft tissue hemorrhage like the
25 muscles?

1 Q. Let's use the bruising on the extremity for
2 example.

3 A. I'm sorry, what was the question again?

4 Q. If you don't refer to it as a deep bruise,
5 what would you call it?

6 A. I don't refer them in my report as a deep
7 bruise. I was just answering the question a while ago
8 as far as the deeper the bruise. But as far as the
9 report is concerned, it's just the -- it is bruising.
10 And as far as the layers, then I go through the layer,
11 and the deeper you go as far as affecting the muscles,
12 then as far as the statement deeper you go then it
13 becomes deep.

14 Q. And now, that bleeding under the skin,
15 that's not supposed to be there, obviously; right?

16 A. Correct.

17 Q. So when that does take place, the body will
18 start to heal it; right?

19 A. I'm sorry. Could you please repeat the
20 question?

21 Q. The body will start to heal it?

22 A. Heal? Again, could you please repeat the
23 question? I don't think I follow you.

24 Q. Sure. When a bruise occurs, it's bleeding
25 under the skin; right?

1 A. Correct.

2 Q. Red blood cells to be specific; right?

3 A. Correct.

4 Q. But that's not supposed to be in the
5 tissues like that; right?

6 A. Correct.

7 Q. So the body doesn't want it there; right?

8 A. Right.

9 Q. Will the body take steps to take the red
10 blood cells away or get rid of them?

11 A. Yes.

12 Q. Okay. You mentioned about some mononuclear
13 cells and neutrophils on direct examination. Is that
14 the way that the body uses to get rid of those red
15 blood cells?

16 A. No.

17 Q. Tell me what the body does to get rid of
18 those red blood cells?

19 A. Sure. So when a body is injured, the body
20 goes into an inflammatory state. Blood vessels -- the
21 blood is not just red blood cells. It is being run by
22 the neutrophils as well and other cells in there, as
23 well as the mononuclear cells. It's not just
24 exclusively red blood cells, so it has a lot of other
25 cells such as the neutrophils, as well as the

1 mononuclear cells.

2 So if blood is -- the body doesn't like
3 blood by itself. That's why the blood is contained in
4 a blood vessel. And if this blood vessel breaks, we
5 see contusion. In time, the body -- in time again,
6 the body reacts to it by the so-called process of
7 healing. As far as taking out these red blood cells,
8 this is a different cells we call histiocytes which
9 takes out the red blood cells.

10 The neutrophils are different. They are
11 still part of the inflammatory phase of the --
12 following an injury. So they're there to provide
13 support for the healing process on the first part.
14 But as far as taking out the red blood cells, they're
15 not -- or the neutrophils is not responsible for it.
16 It's different cells that are responsible for it.

17 Q. You mentioned the inflammatory phase of a
18 bruise?

19 A. Yes.

20 Q. How long is the inflammatory phase of a
21 bruise?

22 A. Sure. So inflammatory phase initially
23 be -- so after there is a trauma, or after there is an
24 injury and a breakage of the blood vessels, it will
25 still have time for these neutrophils to be found in

1 large amount. So usually in histology, the presence
2 of these numerous or many neutrophils usually starts
3 to be around four to 12 hours, basically around 12
4 hours; and then later on, it will be taken up by the
5 mononuclear cells.

6 So as the time of healing in which an
7 inflammatory phase is part of that, as the time heals
8 or as the bruise is healing, there will be more, more
9 neutrophils, which is again at least four to 12 hours.
10 It takes around 12 hours to right, and then the rest
11 will be mononuclear cells. And later on, scarring
12 will ensue.

13 Q. So when you say "later on scarring will
14 ensue" --

15 A. Correct.

16 Q. -- based on what you just said, does it
17 take at least 12 hours for the scarring to begin?

18 A. Scarring usually takes about, because it's
19 still part of the -- still the 12-hour; it's still
20 part of the active inflammatory stage. So what
21 scarring is, it's on the reparative phase of the
22 healing process. So it will be days.

23 Q. Days for scarring to appear?

24 A. Correct.

25 Q. And on direct, you talked about stainable

1 iron being present in a bruise during the healing
2 phase; right?

3 A. Correct.

4 Q. And you said that usually takes two to
5 three days?

6 A. Correct.

7 Q. So if a bruise is within 24 hours old, is
8 there any way for you to pinpoint down to how many
9 hours old a bruise is?

10 A. Yes.

11 Q. There is?

12 A. Correct.

13 Q. What is that?

14 A. Sure. Again, based on -- as far as
15 referring to the report, Autopsy Report of
16 Ms. Yessenia Camp, on examination of the tissue under
17 the slides, the red blood cells are intact. As far
18 as -- I'm sorry, as far as the hemorrhages, hemorrhage
19 on the skin, hemorrhage on the brain, eyes, mesentery,
20 renal, pararenal soft tissue, so what appeared is that
21 the red cells are intact. And there are only a few
22 scattered rare neutrophils, which is pretty early.
23 And this actually narrows down so that -- before I go
24 further, so that and there's no stainable iron also.
25 So again, as stated, stainable iron is seen generally

1 at least two to three days post injury. So there's
2 none in there. So I can narrow down the injury to
3 less than 24 hours.

4 Now, in order for me to be more specific,
5 or not really specific, but at least to narrow down
6 the injury to the point of histology, there is no
7 overwhelming number or numerals number of neutrophils
8 in those areas of hemorrhage; okay. What actually is
9 being seen in the histology is still intact red blood
10 cells, and only few and scant or scant neutrophils.
11 And this is very early. As I have said, neutrophils
12 starting to call each other and to increase in numbers
13 by around four to 12 hours. They peak at 12 hours.
14 So if I don't have that in my histology, that will
15 bring the time line to within the period of four
16 hours.

17 Q. Within a period of four hours?

18 A. Correct.

19 Q. All right. Can bruises happen postmortem?

20 A. It has been reported, but I haven't seen
21 it.

22 Q. And is that because when someone dies,
23 there's no longer blood flowing in their body; right?

24 A. Correct.

25 Q. It would be the same thing with the healing

1 process of a bruise; right?

2 A. Correct.

3 Q. That if someone dies, the healing process
4 stops?

5 A. Correct.

6 Q. You've talked a lot about the different
7 hemorrhages that you observed. Do they have a similar
8 healing process to bruises?

9 A. I didn't find any healing as far as the
10 presence of scarring.

11 Q. Okay. And generally speaking, not specific
12 to this case, does a hemorrhage have a similar healing
13 process to a bruise?

14 A. A bruise by itself is a hemorrhage in the
15 soft tissue.

16 Q. So they're the same?

17 A. Correct.

18 (A juror passes a note to the bailiff.)

19 Q. (By Mr. Martinez) Does the time it takes a
20 person's body to heal vary depending on their age?

21 A. Correct.

22 Q. It does?

23 A. Yeah, it does. More or less it has the
24 same, but again, it does as far as you're talking
25 about the generalization of the body. That's the

1 question as I perceive it.

2 Q. Uh-huh, yes.

3 A. Generalization of the body. A body heals,
4 for example in a person who is malnourished, the
5 healing will be less. Person is diabetic, the healing
6 would be slow because diabetes is a bad environment
7 for the body to heal because it's infection. So
8 everyone is different in terms of its healing process.

9 Q. So some people take a little longer to
10 heal?

11 A. Correct.

12 Q. Some people might heal a little bit
13 quicker?

14 A. Correct.

15 Q. Let's talk about the skull. There are
16 different bones in the skull; right?

17 A. Correct.

18 Q. The one we were concerned with in this case
19 is the occipital bone; right?

20 A. Correct.

21 Q. And is that the base of the skull?

22 A. No.

23 Q. No?

24 A. It's actually -- the base of the skull,
25 it's a portion of the base of a skull, but it's not

1 really the base of a skull. So the base of a skull
2 consists of the -- we call it the sphenoid -- it's
3 part of the temporal bone.

4 Q. Okay.

5 A. So it's a different bone we call a sphenoid
6 bone.

7 Would you like me to spell it for you?

8 MS. REPORTER: No.

9 THE WITNESS: Oh, you're good. Thank you.

10 So the base of the skull is mainly consists
11 of the sphenoid bone, which is a portion of the
12 temporal bone, as well as the portion of the frontal
13 bone. So occipital bone is an interesting bone
14 because it's very round, and as it can be interpreted
15 as a base of a skull, but it's not really part of a
16 base of a skull as per anatomy is.

17 Q. Okay. And I believe on direct, you said
18 that that occipital bone in the skull is the thickest
19 and densest bone in the skull; right?

20 A. Correct.

21 Q. Does that mean that it's the hardest bone
22 to fracture in the skull?

23 A. Correct.

24 Q. And I'm going to ask a bad question that I
25 know what your answer is going to be. But does it

1 take a tremendous amount of force to cause a fracture
2 of that bone?

3 A. Correct.

4 Q. We can't quantify what tremendous of force
5 means; right?

6 A. That is correct.

7 Q. So is that the type of injury that you've
8 seen if a pedestrian gets hit by a car?

9 A. Correct.

10 Q. What if somebody fell out of the sixth
11 story of an apartment building?

12 A. Correct.

13 Q. I want to use the word symptom again, but
14 I'm not going to because you warned me against it last
15 time. If somebody suffers a fracture like that to the
16 occipital bone, are there other indications that you
17 could see that would lead you to believe that injury
18 occurred?

19 A. I'm sorry. Could you please repeat the
20 question?

21 Q. That was a bad question. I will try it a
22 different way. Is it common that if somebody suffers
23 a fracture to the occipital bone, that you would also
24 see bruising around the eyes?

25 A. I don't know if it is common, but it has

1 also been cited. And some of my findings also have,
2 you know, impact on the back of the head can cause
3 either a bruising around the eye, that kind of
4 example. But I don't know if it is common or not.

5 Q. Okay. But it's possible?

6 A. Correct.

7 Q. Is it possible that it could cause bleeding
8 from the nose?

9 A. I don't know. I'm not familiar with that.
10 The one that I have seen and commonly reported in the
11 text are the contusion around the eyes.

12 Q. All right. Could it cause fluid or blood
13 coming from the ears?

14 A. Yes.

15 Q. An injury that causes that fracture to the
16 skull, could that also cause the brain to shift around
17 inside the head?

18 A. It can.

19 Q. And that could be the cause of hemorrhaging
20 in the brain like you've seen in this case?

21 A. Correct.

22 Q. Could that same sort of impact also cause
23 the injury to the eyes that you saw in this case?

24 A. It can.

25 Q. Could that same sort of impact that causes

1 that occipital fracture, is that the type of impact
2 that can cause the injury to the spinal cord that you
3 saw in this case?

4 A. If that fracture is strong enough to cause
5 that whiplash effect of the neck or acceleration,
6 acceleration or moving back and forth of the head and
7 the neck, it can.

8 Q. If someone is shaken, and that's what
9 caused the injury to the spinal cord, would you expect
10 that that's going to cause a fracture to the occipital
11 bone as well?

12 A. Could you please elaborate the question
13 again as far as shaking?

14 Q. If a child is picked up and they are
15 shaken -- they don't hit anything, but they are just
16 shaken, is it possible for that to cause a fracture to
17 the occipital in the head?

18 A. If it doesn't hit any surfaces, the answer
19 is no.

20 Q. And you didn't observe any patterned
21 bruising on the back of Yessenia's head; right?

22 A. There's none.

23 Q. Would that lead you to believe that it was
24 a broad flat surface that struck her head?

25 A. It can, yes.

1 Q. On direct, you talk a little bit about how
2 the brain is covered by the dura; right?

3 A. Correct.

4 Q. And the spinal cord is also covered by the
5 dura; right?

6 A. Correct.

7 Q. Is it possible -- and the brain and spinal
8 cord are connected; right?

9 A. Correct.

10 Q. There's a hole in the base of the skull
11 where the spinal cord goes up through?

12 A. Correct.

13 Q. Is it possible that the blood that was
14 found on the nerve roots in the spinal cord fell down
15 from the brain, dropped down from the brain?

16 A. It has been reported, yes. It's possible.

17 Q. So it's possible that that's not an
18 entirely separate injury?

19 A. Not referring to the cervical hemorrhage on
20 the nerve root and ganglion; this is different.
21 Example, a subdural hemorrhage. I'm referring to the
22 subdura -- if I may. I'm sorry, if I may. I'm
23 referring to the subdural hemorrhage. It's been
24 reported it can go down by gravity from the --
25 because there's a hole. And you are correct, it can

1 go down. The hemorrhage can go down. That subdural
2 hemorrhage can go down.

3 Epidural is different. Epidural is a
4 hemorrhage in the surface of the skull, and it's
5 really a different area to -- it doesn't go down
6 because you don't see that. A subdural hemorrhage can
7 go down as a big chunk of blood going down into the
8 spinal cord that I may see or I have seen. But not
9 epidural and not cervical root nor ganglion. These
10 are two different areas, and they don't as far as the
11 injury of hemorrhage, they don't go down or just by
12 gravity. The blood doesn't flow like that.

13 Q. I understand. The dura that surrounds the
14 brain and the -- does that connect to the eyes in any
15 way?

16 A. Not to the eyes, but to the optic nerve.

17 Q. Okay. And it's the same dura; it's not
18 like there's any space where one starts and one stops?

19 A. That is correct.

20 Q. Now, we've talked a little already about
21 how you sent the brain and the eyes out for further
22 examination.

23 A. Correct.

24 Q. What guided your decision to do that?

25 A. It was an opportunity for me for the

1 office, as well as it is the resources that the office
2 provided the doctors, and it's a very beneficial
3 resources in helping out doctors there. So since the
4 resource is there for us to consume, it's there, any
5 doctors will be helpful in any way, I utilize the
6 three sources.

7 (A juror note is passed to the bailiff.)

8 Q. (By Mr. Martinez) Doctor, when children
9 are born, their bones are softer than an adult's
10 bones; right?

11 A. Correct.

12 Q. At a certain point in time, the bones
13 stop -- for lack of a better term, their bones stop
14 being soft; right?

15 A. Correct.

16 Q. About what age is that?

17 A. Eight to nine years old, usually -- or not
18 usually, generally speaking. Eight to nine years old,
19 their bones become more calcified, growth. But then
20 you still have to -- generally, that's it, but then
21 and you can extend that also -- eight to nine years
22 old, you can extend that also to 18 years old as the
23 growth spurts of a teenager, so you can have that.

24 Q. Okay. So prior to the bones becoming
25 calcified at eight to nine years old, is it harder or

1 easier for those bones to fracture at eight to nine
2 before they calcify?

3 A. It is harder or challenging. It requires a
4 lot of force than usual -- or than usually in a
5 (inaudible). I'm sorry. So it takes a lot of force
6 because the bone is very pliable so it doesn't bend
7 with pressure. It bends with force, with impact. So
8 it takes a lot of force to break a bone in children.

9 Q. We've narrowed down that the bruising you
10 saw in Yessenia occurred within four hours; right?

11 A. Correct.

12 Q. But you can't tell me specifically which
13 bruise occurred first; right?

14 A. Correct.

15 Q. And you can't tell me how much time there
16 was between the bruising and the fracture in her
17 skull; right?

18 A. That is correct.

19 Q. On direct, you spent quite a bit of time
20 talking about the circular bruises on Yessenia's body?

21 A. Correct.

22 Q. And you said that you could not rule out
23 that they were bite marks; right?

24 A. Correct.

25 Q. Is forensic dentistry a practice?

1 A. Yes, actually. And it's actually a
2 certification.

3 Q. Okay. Is there a situation in which you
4 would consult with a forensic dentist to confirm bite
5 marks?

6 A. I do not have one case that I consulted a
7 forensic odontologist if it is a bite mark or not.

8 Q. You don't have a case you said?

9 A. Correct.

10 Q. And this wasn't such a case?

11 A. Correct.

12 Q. Can I ask you why this wasn't such a case
13 if you could not rule them out as being bite marks?

14 A. Again, most likely -- most likely it is a
15 blunt force, those circular injuries. In addition
16 also, I am not familiar with any forensic odontologist
17 that the office provides as a resource for us to
18 consult.

19 Q. So it could just be a matter of you didn't
20 have anybody to go to?

21 A. Correct.

22 MS. REPORTER: What kind of a --
23 odontologist, are you saying?

24 THE WITNESS: Forensic. Yes, if I may
25 spell it for you, o-d-o-n, -tologist.

1 MS. REPORTER: Thank you.

2 Q. (By Mr. Martinez) Now, in your report and
3 on direct, you've said that Yessenia's brain was
4 swollen; right?

5 A. Correct.

6 Q. In your report, you put that her brain
7 weighed 1,180 grams?

8 A. Correct.

9 Q. What is the normal weight of a brain?

10 A. So normal weight for her age or for BMI
11 body weight height is usually in male, three years
12 old, usually it's about a thousand to 1200. For the
13 female, it's usually a thousand to 1100; so it's a
14 little bit on the higher side. But again, different
15 references. I forgot my reference for that, but
16 different references has it different. So I wouldn't
17 be surprised if someone would say 1200 on the average
18 for both males and females of three years old.

19 Q. And now, you said there were all sorts of
20 things that can cause the brain to swell; right?

21 A. Correct.

22 Q. You said drugs could be one of them?

23 A. Correct.

24 Q. Could an infection be one of them?

25 A. Yes.

1 Q. Toxins?

2 A. Correct.

3 Q. Altitude sickness?

4 A. It can as far as compromising oxygenation.

5 Q. And trauma can cause the brain to swell;
6 right?

7 A. Correct.

8 Q. And you said the brain swells when it's not
9 getting enough oxygen?

10 A. No. Again, it's a physiologic reaction to
11 any insult on the brain. And the one way you can
12 insult the brain is curtail or stop the person from
13 breathing or stop the brain from getting oxygen.
14 Another way to insult is toxins for that matter or
15 trauma for that matter. So it's not exclusive as far
16 as the oxygenation. It's just the -- for lack of a
17 better term, it is just the reaction of the brain to
18 any insult. It can be drugs. It can be heart attack
19 wherein there's no oxygen anymore coming into the
20 brain. It can be trauma. It can be high altitude for
21 that matter as well.

22 Q. Okay. And when the brain swells, what
23 happens to the body when the brain swells?

24 A. The brain swells, either the body will
25 become unconscious; and later on if the body, along

1 with the other, you know, findings that may that in
2 general will the body have, the body dies.

3 Q. Does trauma always cause the brain to
4 swell?

5 A. I've seen, yes.

6 Q. Okay.

7 A. Correct.

8 Q. And now, you said from what you've seen?

9 A. Correct.

10 Q. And you've seen a lot of dead people so.
11 And trauma can range in the amount of force; right?

12 A. That is correct.

13 Q. Does every brain swell necessarily cause
14 death if it's untreated?

15 A. Again, I don't know as far as that, because
16 I don't practice clinical medicine. Again, my cases
17 are all dead people.

18 Q. Okay. Now, you mention the hemorrhaging to
19 Yessenia's lungs?

20 A. Correct.

21 Q. Was there any way for you to tell if her
22 lungs were otherwise functioning properly?

23 A. I don't understand -- I don't think I
24 follow your question as far as properly.

25 Q. Could you tell us if Yessenia had trouble

1 breathing before she died?

2 A. I can't say that, no, I cannot.

3 (A note is passed to the bailiff from
4 a juror.)

5 THE COURT: Do you need a sidebar?

6 MR. MARTINEZ: No, Judge.

7 MR. VITTO: No, Judge.

8 THE COURT: Okay.

9 Q. (By Mr. Martinez) And, Doctor, you're
10 unable to pinpoint one injury that killed Yessenia;
11 right?

12 A. Correct.

13 Q. Based on your review, it's a combination of
14 all of them?

15 A. That is correct.

16 Q. Is that what's more likely than not
17 happened?

18 A. Could you please repeat the question again?

19 Q. More likely than not, that's what happened?

20 A. As far as -- I don't think I follow your
21 question as far as that happen.

22 Q. I will withdraw the question. Don't worry
23 about it.

24 MR. MARTINEZ: I'll pass the witness,
25 Judge.

1 THE COURT: Mr. Vitto?

2 MR. VITTO: I have a little bit of
3 redirect.

4 REDIRECT EXAMINATION

5 BY MR. VITTO:

6 Q. Doctor, in regard to a person's age having
7 any significance with regard to healing, either way,
8 slow healer, fast healer, you were able to observe
9 with hard science, objective science, the facts of the
10 healing process in this case; is that correct?

11 A. Yes.

12 Q. There was some question about I'm going to
13 use -- have you ever heard the word "raccooning"?

14 A. Yes.

15 Q. You have an understanding of what that
16 means?

17 A. Correct.

18 Q. Black eyes?

19 A. Correct.

20 Q. Raccooning can be caused by a punch in the
21 nose; right?

22 A. Yes. If the orbital bone is fractured or
23 the eye, soft tissue around the eye is also, or
24 there's damage to the soft tissue around the eye or
25 the soft tissue underneath the skin around the eye, so

1 it can.

2 Q. The injury to the eye that you observed
3 looking at the face, can you tell us whether what you
4 observed is more likely the result of the occipital
5 injury or an injury to the face?

6 A. This injury to the face.

7 Q. Injury to the face, as opposed to the
8 occipital injury?

9 A. Correct.

10 Q. Indicating more than one injury?

11 A. Correct. At least.

12 Q. As Defense counsel was talking to you about
13 the amount of force, et cetera, he referenced a car
14 accident and a fall from a sixth -- the sixth floor of
15 a building. Was that your reference point when you
16 were answering his questions?

17 A. Yes.

18 Q. And bones over time move from pliable to
19 brittle; correct?

20 A. I don't --

21 Q. Let me ask it a different way.

22 A. I'm sorry. I don't understand in terms of
23 what you mean by brittle bone.

24 Q. I will ask it a different way -- and I
25 think you already said it. It's more difficult to

1 break a child's bone than it is an adult's bone --

2 A. Right.

3 Q. -- especially when they're under age -- was
4 it eight to ten?

5 A. Eight to nine years old as far as the
6 softening of the bone, and then the bone hardens after
7 that. But still the growth spurt still happens during
8 the adolescence stage of human development.

9 Q. There's been observations that children are
10 more likely to bend or bounce than break?

11 A. I don't think I follow your question.

12 Q. That's okay. I will withdraw the question.

13 Doctor, referencing the injury you observed
14 to Yessenia's skull and head and brain, was there
15 anything unusual about her brain swelling?

16 A. I don't think again I follow your question.

17 Q. Okay. We know that Yessenia suffered
18 injury to her skull and to her brain; correct?

19 A. Correct.

20 Q. And we know that her brain had swollen to
21 one degree or another; correct?

22 A. Correct.

23 Q. Is the fact that her brain was observed to
24 have been swollen unusual in that set of
25 circumstances?

1 A. No.

2 Q. We would expect an injured brain to swell?

3 A. Correct. And as I have said, any insult to
4 the brain, it can be trauma, it can be drugs, it can
5 be stopping the brain from getting oxygen, for
6 example, heart attack or hanging for that matter.

7 Q. And talking about drugs, how much cocaine
8 was in her system?

9 A. Oh, there's none.

10 Q. Okay. And how much methamphetamine?

11 A. There's none.

12 Q. Alcohol?

13 A. The toxicology report showed none detected.

14 Q. No tetrahydrocannabinol?

15 A. None.

16 Q. I just wanted to say tetrahydrocannabinol.
17 So the swelling brain is seeking oxygen? The swelling
18 brain is swelling because of a lack of oxygen?

19 A. Part of that, yes.

20 Q. In this case her lungs had collapsed?

21 A. A portion of that collapsed. There are/
22 again, histology as I have seen it under the
23 microscope, there are areas that are collapsed. So
24 it's not everything in the lungs collapsed.

25 Q. But the heart had stopped?

1 A. It's like an airspace. It's like a net,
2 basketball net, you have an airspace in between. Some
3 of them collapse; some of them don't.

4 Q. Okay. But her heart had stopped; right?

5 A. Correct, because she's dead.

6 Q. Is there any way for a brain to get oxygen
7 when the heart stops?

8 A. No.

9 Q. When a brain begins to swell, can a person
10 become limp and nonresponsive?

11 A. As far -- again, I don't practice clinical
12 medicine, because all of these people, again, are
13 dead. I cannot -- I'm very biased. I'm very biased
14 to my field as my patients are dead people.

15 Q. I understand.

16 MR. VITTO: May I have the Court's
17 indulgence for a moment, Your Honor.

18 THE COURT: Sure.

19 MR. VITTO: Nothing further, Your Honor.

20 THE COURT: Counsel?

21 RE CROSS-EXAMINATION

22 BY MR. MARTINEZ:

23 Q. Doctor, can the brain swell postmortem?

24 A. No.

25 MR. MARTINEZ: Nothing further, Judge.

1 THE COURT: Anything else, Mr. Vitto?
2 Subject to recall?

3 MR. VITTO: Yes.

4 THE COURT: Did you say "yes"?

5 MR. VITTO: Yes.

6 THE COURT: We're going to ask you to step
7 down, and Mr. Vitto or the other side are the only two
8 attorneys you should -- these four are the only people
9 you should talk to about the case, and they'll give
10 you a call if they need you to come back. Not likely,
11 but they may call you and ask you to come back and
12 testify.

13 THE WITNESS: Sure.

14 MR. VITTO: Judge, having said that is
15 there any objection to my being able to sua sponte
16 release him. Can I -- he's subject to recall. After
17 I speak with him later in an hour or whatever, is
18 there any objection to my saying, "Thank you, Doctor.
19 You can go home now"?

20 THE COURT: Counsel.

21 MR. MARTINEZ: No.

22 THE COURT: All right. Mr. Vitto is going
23 to look at his notes and see if he remembered to talk
24 to you about everything. And then he's going to let
25 you know whether you can be permanently excused or

1 not. Until you hear from Mr. Vitto, don't talk about
2 the case.

3 THE WITNESS: Thank you.

4 MR. ARABIA: Your Honor, may I approach the
5 clerk to have something marked?

6 THE COURT: Yes, sir.

7 MS. BOSKOVICH: And before we go into the
8 next witness, can we take a quick recess, please?

9 THE COURT: Sure.

10 Don't form or express an opinion or talk
11 about the case with each other until you go on in to
12 deliberate. We'll take a ten-minute recess.

13 THE BAILIFF: All rise.

14 (A short recess is taken.)

15 (Whereupon State's Proposed Exhibit

16 No. 58A is marked for identification.)

17 THE BAILIFF: All rise.

18 THE COURT: Thank you. Please be seated.

19 MR. VITTO: Thank you, Your Honor.

20 THE COURT: Thank you.

21 What are the plans, Mr. Vitto?

22 MR. ARABIA: Your Honor, I'm going to jump
23 in here, and the State is calling Dr. Ed Plowey to the
24 stand.

25 THE COURT: Very good.

1 Good afternoon. Thank you for coming in.

2 Have a seat.

3 THE BAILIFF: Before you sit down, can you
4 face madam clerk and raise your right hand.

5 Whereupon,

6 EDWARD PLOWEY, PH.D.,
7 called as a witness on behalf of the State, was sworn
8 and testified as follows:

9 THE WITNESS: I do.

10 THE COURT: Thank you, sir. Have a seat.

11 We like the jury to be able to see your
12 face and hear your voice if you don't mind taking off
13 the mask. But if you're worried about Covid, you
14 don't have to.

15 THE WITNESS: Okay.

16 DIRECT EXAMINATION

17 BY MR. ARABIA:

18 Q. Good afternoon, Doctor. Would you be so
19 kind as to state your name and spell your last name
20 for the record?

21 A. Yes. My name is Edward Plowey, P -- the
22 last name is spelled P, as in "pencil," -l-o-w-e-y.

23 Q. Thank you. What is your current
24 occupation?

25 A. I am a pathologist. I am an anatomic

1 pathologist and neuropathologist.

2 Q. All right. What in laymen's terms, what
3 are those things?

4 A. So a pathologist is someone who gives a
5 diagnosis based on looking at tissues, specimens,
6 either that are produced during surgery or possibly in
7 an autopsy, et cetera.

8 Q. I'd like to ask if you are currently
9 employed; and if so, where and in what capacity?

10 A. Yes. I am currently employed. I work at a
11 company called Biogen. This is a pharmaceutical
12 company that is -- our mission is to develop new
13 therapies for chronic neurodegenerative diseases like
14 Alzheimer's disease, Parkinson's disease, ALS. I run
15 a lab at Biogen, which looks basically at brain
16 specimens to tell how our drugs are working, are they
17 safe, and what we can learn about our drugs.

18 Q. Thank you. How long have you been employed
19 there?

20 A. Just over two-and-a-half years.

21 Q. Doctor, if you could, what I would ask now
22 is that you tell us about your journey. And what I
23 mean by that is how you ended up where you are today,
24 your educational background, training, qualifications,
25 experience, and all of that stuff that gets you to

1 where you are now.

2 A. Yes. I went to college at a University of
3 Pittsburgh. It was there that I started to get
4 interest in neuroscience. I then went to a combined
5 medical school and graduate school at the University
6 of Illinois where I obtained a medical degree, an MD,
7 and I did an additional PhD in physiology.

8 Following that, I went and did anatomic
9 pathology and neuropathology residency and fellowship
10 training. And then also in that time I did additional
11 postdoctoral research. That led me to Stanford
12 University after my training where I practiced as an
13 anatomic pathologist, neuropathologist, and eye
14 pathologist for almost seven years.

15 Q. Is that where you were employed, Stanford I
16 mean, in July of 2017?

17 A. Yes.

18 Q. One question I would like to ask is can you
19 explain the difference between a neuropathologist,
20 which you are, and a forensic pathologist?

21 A. Yes. So my training is in neuropathology.
22 And along with that, I did extensive training in eye
23 pathology. So I'm qualified to look at specimens of
24 the eye and make diagnoses for physicians. Typically,
25 this is in the context of medical diseases. And in

1 that capacity, I've rendered diagnoses on I'd say over
2 3,000 specimens in my career.

3 I am not a forensic pathologist. So a
4 forensic pathologist does a different type of training
5 to enable that pathologist to be able to identify
6 causes and manners of death in deaths that are not
7 natural.

8 Well, I guess I could also say that how do
9 we come together is that very often forensic
10 pathologists do not -- they consult an eye pathologist
11 to look at the eye for evidence of nonaccidental
12 trauma. It's a very common thing for forensic
13 pathologists to do.

14 Q. You stole my next question. Thank you.
15 Okay. So it is true then that you did examine the
16 eyes of Yessenia Camp?

17 A. Yes.

18 Q. All right. I want to just ask kind of a
19 peripheral question if I may. There was a time after
20 that when you left the practice of medicine, and I
21 just think that we'd be curious as to why and what
22 you're doing instead.

23 A. Yeah. So the opportunity came up to do my
24 current role at Biogen. I've always been very heavily
25 invested and interested to do research on diseases

1 like Alzheimer's disease, Parkinson's disease. And so
2 for me, it was just a very attractive way to take the
3 next step in my career. That role does not include
4 practicing any clinical medicine, though. So while I
5 do maintain my board certification, and I do maintain
6 an active license in California, in my current job, I
7 don't have any role in practicing, actively practicing
8 medicine.

9 Q. Thank you. Obviously, Doctor, you've come
10 here today to testify about your part in the
11 Yessenia Camp case. So how did it come about that you
12 got involved in this case?

13 A. So Dr. Roquero, one of the forensic
14 pathologists for the Clark County Medical Examiner's
15 Office, sent me two eye specimens. They were labeled
16 "right eye" and "left eye," along with a
17 Yessenia Camp, and along with the number of the
18 autopsy case of the Clark County Coroner's Office,
19 which I don't recall off the top of my head at the
20 moment.

21 And so in this consultation, we were
22 provided some clinical history. It was identified as
23 a child abuse, and the question that arises in this
24 type of a consultation is do we see any evidence of
25 nonaccidental trauma in the eyes.

1 Q. In terms of actually examining these
2 specimens, the left eye and the right eye, what did
3 you do specifically?

4 A. So the most critical part of an examination
5 like this is to look inside the eye at a structure
6 called the retina. The retina is an organ in the eye
7 that senses light and gives us the ability to see.
8 It's in that part of the eye though where we see the
9 critical features that are characteristic of
10 nonaccidental trauma.

11 So I looked at these eyes grossly, I
12 dissected them open to see if we saw any evidence of
13 retinal hemorrhages or other changes, and then we also
14 made slides from these eyes to further look at the
15 evidence under a microscope.

16 Q. About how many times would you say that
17 you've done that process that you just described?

18 A. I estimate in about the eight years of
19 practicing that I did that examination approximately
20 40 times; that's 4-0, 40.

21 Q. Doctor, what, if any, findings did you make
22 in this case? And please feel free to provide as much
23 elaboration as you think would be helpful.

24 A. Okay. So the key examination again occurs
25 on the inside of the eye. And starting with the right

1 eye, which we -- I found that there were a total of
2 seven retinal hemorrhages that I could identify on a
3 gross exam. These were distributed in the posterior
4 and equatorial regions, so the back of the eye and
5 extending forward.

6 And they had mixed quality. Some were
7 flame-shaped, and from that description we know that
8 those hemorrhages occur in the very superficial
9 portions of the retina. Others were disk-shaped or --
10 and these are indicative of when the retina actually
11 becomes split, the layers become split, and so we know
12 that there's hemorrhages in multiple layers of the
13 retina. Those were evident on the gross examination.

14 When I looked at the slides, I also did
15 find that there were peripheral hemorrhages that
16 weren't quite as marked and not able to be seen
17 grossly. But they weren't evident on the slide, and
18 they also were in the deep part of the retina and went
19 under the retina. We call those subretinal
20 hemorrhages.

21 The findings in the left eye were actually
22 more severe. In the left eye, I saw too numerous to
23 count hemorrhages in the back portion of the eye.
24 They had the same quality as the right eye where we
25 had the flame-shaped hemorrhages and the disk-shaped

1 hemorrhages with retinal splitting, or what we call
2 retinoschisis. But in that right eye, we also did --
3 I also did see grossly that these hemorrhages went all
4 the way out to the peripheral part of the retina
5 towards the structure we call the ora serrata.

6 Additionally, in the right eye, I saw what
7 we call perimacular folds. And this is a raising of
8 the retina around the macula that is also -- all of
9 these features are characteristic of nonaccidental
10 trauma.

11 Q. Just to sort of backtrack a little bit, can
12 you, if you can, put into a laymen's terms what some
13 of those macula, retina, and those other things, what
14 they are? Like instead of a scientific word, if
15 there's some word, you know, "This is the part of the
16 eye that actually sees things," that kind of thing,
17 just to kind of give the jury a little bit of a more
18 layperson's version.

19 A. So the "retina," it's a thin layer in the
20 eye that it has cells that sense light and gives us
21 the ability to see, essentially. It has a region
22 called the "macula" where we have a lot more of those
23 cells, and this gives us the ability to have very fine
24 vision, be able to tell two points with very high
25 resolution, let's say.

1 The reason the macula is important in this
2 sense is that a structure called the "vitreous," which
3 is a jelly like substance that fills the eye is
4 heavily attached there. And if there's an
5 acceleration/deceleration of the head, it pulls on the
6 retina in those areas and causes blood vessels to
7 break, and we get hemorrhage.

8 The vitreous is also heavily attached to
9 the retina in the periphery, that peripheral extent
10 that I call the "ora serrata." And here, again, we
11 can get the vitreous pulling to the retina breaking
12 blood vessels when the head is accelerated/decelerated
13 causing hemorrhages there.

14 And getting back to the macula, the
15 vitreous can also pull on that retina in these
16 circumstances and give the "perimacular folds"; so the
17 fold that surrounds the retina in the eye.

18 Q. Were the hemorrhages acute; and if so, what
19 would that tell us?

20 A. The hemorrhages were acute. This means
21 that I saw no evidence of any changes that the body
22 had time to respond to the hemorrhages, the abnormal
23 hemorrhages being there.

24 Q. Based on that -- would it be possible based
25 on that and other work that you do, to tell how long

1 before death that might have occurred?

2 A. Well, we usually, the field does not favor
3 absolutely timing of retinal hemorrhages, because
4 rigorous studies have not been done there. But if we
5 see this type of hemorrhage in other parts of the
6 body, this is something that occurs in one day or
7 less. And so that would be my expert opinion that
8 that's the timing. Though their rigorous studies are
9 somewhat lacking out there.

10 Q. If I understand you correctly, the retinal
11 hemorrhages that you found in both eyes, would they be
12 consistent with inflicted, nonaccidental head trauma?

13 A. They are consistent with inflicted,
14 nonaccidental head trauma.

15 Q. Thank you. And then sort of a follow-up,
16 when you have these kinds of injuries, would you say
17 that this is something that could fly under the radar
18 for a long time? Or assuming that the person was
19 otherwise conscious or what have you, would they see
20 or feel the effects immediately, and what might those
21 effects be; please, in as much detail as you can?

22 A. If we're talking about the retinal
23 hemorrhages in isolation, these were large
24 hemorrhages. They covered parts of the retina, again
25 that senses light coming in. They would have

1 immediately obstructed hemorrhage -- I'm sorry,
2 obstructed vision and caused subjective complaints,
3 and potentially even objective issues due to impaired
4 vision.

5 Q. All right. Thank you.

6 MR. ARABIA: Your Honor, may I approach the
7 witness?

8 THE COURT: Yes, sir.

9 (Showing the exhibit to Defense Counsel.)

10 MS. BOSKOVICH: Thank you.

11 Q. (By Mr. Arabia) Doctor, I've handed you a
12 document that's been marked as State's Proposed
13 Exhibit 58A. Please take a moment, if you please, to
14 just look at it.

15 A. (The witness complies.)

16 Q. Doctor, do you recognize that?

17 A. Yes.

18 Q. Can you please explain what it is?

19 A. This is the standard Pathology Report that
20 we issue reporting our findings of an examination of
21 this type of a specimen.

22 Q. Is this for the examination you did of
23 Yessenia Camp?

24 A. Yes.

25 Q. All right. And, Doctor, I wanted to ask

1 you, in reviewing this report at some point prior to
2 testifying, did you identify a typo?

3 A. I did.

4 Q. Please explain.

5 A. So we -- I identified a typo that's my
6 accountability. In the diagnosis lines, the -- we put
7 a date, and this usually -- and so in the date, I
8 mistakenly put a seven for the month instead of eight.
9 And so the dates in the diagnosis lines read
10 "7/16/2017." However, our accessioners have a date in
11 the header of the report with the appropriate date on
12 8/16/2017, which is the date that we received the
13 specimens.

14 Q. All right. Other than that, have you had a
15 chance to just quickly review that?

16 A. Yes.

17 Q. Is it an accurate version of your report?

18 A. Yes.

19 MR. ARABIA: Okay. Your Honor, we'd move
20 to admit.

21 MS. BOSKOVICH: No objection.

22 THE COURT: It's admitted.

23 / / /

24 (Whereupon State's Exhibit No. 58A is
25 admitted into evidence.)

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

3 THE COURT: Yes, sir.

4 MR. ARABIA: Thank you.

5 All right. Thank you, Doctor. Nothing
6 further.

7 THE COURT: Counsel?

8 MS. BOSKOVICH: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. BOSKOVICH:

11 Q. Good afternoon, Dr. Plowey. Couple of
12 points of clarification. So you received the request
13 for this case on August 16, 2017?

14 A. Yes.

15 Q. Is that the date that you performed the
16 pathology?

17 A. No.

18 Q. When did you perform the pathology?

19 A. So the -- the entire examination was
20 finished on October 26th, 2017.

21 Q. Okay. And did you perform the pathology
22 yourself?

23 A. I performed every step myself.

24 Q. When you received the request from
25 Dr. Roquero, did he tell you what his initial thoughts

1 and findings were, or did he just send you the
2 specimens?

3 A. He provided a history on our requisition
4 form that said, quotations -- what it said was "Child
5 Abuse." There are many times we do receive additional
6 information, investigational in nature, that is in
7 that record but is not part of this report. And I do
8 not remember any of the circumstances, especially not
9 working there anymore and having -- I don't recall any
10 of that.

11 Q. Sure. And when the specimens are sent to
12 you, are they shipped safely, I guess, so as not to
13 damage them any further or in transit?

14 A. Yeah. So they are -- first of all, they're
15 fixed in a chemical called formalin, which basically
16 preserves the tissue in its state, in its state so
17 that it doesn't degrade. And then after the tissue is
18 fixed, it's wrapped in paper towels so that these
19 specimens are cushioned. And then they're sent in
20 rigid plastic containers through the mail to us.

21 Q. Have you testified in court before?

22 A. No.

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

25 THE COURT: Yes.

1 Q. (By Ms. Boskovich) So on the first page of
2 your report in the comment section, the last two
3 lines, the last half of the second line, "The folds
4 are consistent with nonaccidental head trauma, and
5 they are very unusual in accidental head injury."
6 That's what it says; correct?

7 A. Yes.

8 Q. They are very unusual, but it is possible
9 to have these occur in accidental head injuries?

10 A. It is possible. It is possible to have --
11 well, I should say it is possible to have retinal
12 hemorrhages. The full extent of the severity of the
13 findings very strongly favor inflicted, nonaccidental
14 trauma. But there are cases reported where retinal
15 hemorrhages, very small amounts at a time, can be seen
16 in accidents. These are typically very severe
17 accidents -- motor vehicle accidents, falls from
18 several stories, et cetera.

19 MS. BOSKOVICH: Nothing further,
20 Your Honor.

21 THE COURT: Thank you.
22 Counsel?

23 MR. ARABIA: Nothing further, Your Honor.

24 THE COURT: Can he be permanently excused?

25 MR. ARABIA: Yeah, I think so, Your Honor.

1 THE COURT: Thank you for testifying. You
2 can step down. You can be permanently excused.

3 MR. VITTO: Your Honor, we do have one more
4 witness that we can call today; however, it will
5 require argument to the Court. We can argue it and
6 pick up in the morning. We can argue it and try to
7 continue today. It makes no difference to me.

8 THE COURT: Ladies and gentlemen of the
9 jury, we're going to have you step out for a few
10 minutes while we do a legal argument, and then I will
11 decide whether or not we're going to keep going until
12 5:00 or if we're going to cut out. So head on out.

13 Don't talk about the case with each other.

14 (The jurors take a short recess. Outside
15 the presence.)

16 THE COURT: We're outside the presence of
17 our 15 jurors.

18 Mr. Vitto?

19 MR. VITTO: Your Honor, my next witness
20 would be Crystal Barajas. I'm calling her for the few
21 reasons of she created one of the photographs that we
22 have in evidence. She did some follow-up
23 investigation with Mr. DeFonseka's report. She did
24 some investigation in regard to items of evidence and
25 measurements and what's suspected to be bite marks --

1 excuse me -- and primarily her work with the
2 defendant's jail calls.

3 She's almost up to where we are today.
4 She's listened to 1700. She spent 140 hours listening
5 to them, identified ten different people. As a result
6 of that, we have pulled those calls and created a
7 transcript with 28 -- something like that?

8 MR. MARTINEZ: Twenty-four.

9 MR. VITTO: Twenty-four calls, a few of
10 which the Defense has no objection to, the bulk of
11 which the Defense objects on the grounds of relevance.
12 So that's what we need to discuss. I need to get
13 Your Honor -- the easiest thing to do would be to let
14 Your Honor see the transcript of the calls that we
15 want to argue the admission of and go from there.

16 MR. MARTINEZ: Sounds great, Judge.

17 THE COURT: Did I understand you to say
18 that she's done. There's not going to be more that
19 she's going to listen to and more transcripts being
20 made or anything?

21 MR. VITTO: She's almost caught up. She
22 might be into November. I don't anticipate any more.
23 I anticipate that this is where we are, but --

24 THE COURT: Where are the transcripts?

25 MR. VITTO: I would need to go get that

1 transcript from Crystal. She was working on it today.
2 We have working copies. We've had them actually
3 professionally transcribed. We've sent them back a
4 few times for corrections, and what -- after speaking
5 with Counsel, what we asked Investigator Barajas to do
6 is to work from her working copy. I asked her to
7 increase the font and put one call per page so that it
8 would be easy for us to address. And I'm assuming she
9 has that task completed.

10 THE COURT: As far as the transcripts, is
11 there anything you wanted to give me a guidance on
12 that's relevant and not relevant and stuff?

13 MR. MARTINEZ: Mr. Vitto made it seem very
14 unreasonable. The majority of the calls, I agree, are
15 going to be relevant and I probably won't have a legal
16 opposition to it. There are a handful, though -- and
17 I will say a handful -- that I don't believe that
18 they're relevant, they're not probative of any fact in
19 the case, and that's why I would ask their exclusion,
20 Judge.

21 So that being said, once you have the
22 transcript, I can tell you exactly which ones I have
23 an issue with so you can read through them and we can
24 go over it.

25 THE COURT: Yeah. That way I don't have to

1 read all 40; I can just read five or something.

2 MR. VITTO: Yes.

3 THE COURT: But if you'll get it for him,
4 let Daniel mark it up with a sticky or something, and
5 then I'll read those and we'll be good to go.

6 MR. VITTO: Yep.

7 MR. MARTINEZ: Thank you, Judge.

8 THE COURT: A short recess.

9 THE CLERK: All rise.

10 (A short recess is taken. Proceedings
11 resume outside the presence.)

12 THE BAILIFF: All rise.

13 THE COURT: Thank you. Please be seated.

14 MR. VITTO: Thank you, Judge.

15 THE COURT: Thank you.

16 I received a copy of the transcript.

17 Mr. Martinez put big stickies on them. I read each of
18 the stickies. I think the easiest way would be to
19 have Kirk tell me why they're relevant, and then
20 Mr. Martinez can respond.

21 MR. VITTO: All right. Call 5, this
22 strikes so effectively at the statements attributable
23 to him that are in evidence, and the State can impeach
24 it's own witnesses. The State is frankly using his
25 own words to impeach his own words. And for him to

1 say that he didn't know where Victoria was and that he
2 thought she was out having dinner with her old boss is
3 so contrary to the truth and so contrary to the facts
4 and so directly impacts his credibility, that it is
5 relevant.

6 It's also interesting that he would
7 reference his old boss -- her old boss when we have
8 testimony from Victoria that they were in a bit of a
9 tiff about that. They were irritated with one
10 another, and that was directly in relation to
11 Mr. Kafton, Steve Kafton. Call No. 5 is relevant. It
12 impacts his believability, his credibility when he's
13 saying that he doesn't remember anything and he forgot
14 everything.

15 MR. MARTINEZ: Mr. Engelson has not
16 testified, Judge, so I'm not sure that something going
17 towards his credibility is the right answer for the
18 State where we are right now. Whether or not
19 something is relevant, it needs to make the existence
20 of some fact more or less likely. That's what I'm
21 looking at in this phone call. What fact in this case
22 does this phone call make more or less likely, and the
23 answer is nothing. It has nothing to do with it at
24 all. If we're going towards his credibility, again,
25 Mr. Engelson hasn't testified so we haven't put his

1 credibility at issue, so to speak.

2 THE COURT: Mr. Vitto is saying the
3 testimony we've been hearing for the last few days
4 Mr. Engelson -- saying that he doesn't remember
5 anything. And Kirk is saying, "Look. He does."

6 But I have to tell you from my viewpoint
7 when I read it, he's babysitting the three-year-old
8 child. His girlfriend, whose three-year-old child it
9 is, is out with her old boss. That pisses him off.
10 So I'm looking at his state of mind that day when he
11 was babysitting the three-year-old. Maybe the fact
12 that mom was out with her old boss, and that pissed
13 him off got a couple of extra whacks in there or
14 something. That's how I was reading it.

15 MR. MARTINEZ: So perhaps that it goes
16 towards his motive?

17 THE COURT: Possibly.

18 MR. MARTINEZ: I don't read it that way,
19 Your Honor, especially since it's almost a month after
20 he's sitting in jail. I think it's hard to say that
21 having a conversation and making those statements a
22 month after you're in jail, that we can just kind of
23 twist them and turn them and say, "Hey, that goes
24 directly towards his motive there." So, you know, I
25 still have the same argument that I don't think that

1 that conversation's relevant.

2 THE COURT: And Kirk was talking about
3 there had been testimony for five days that he
4 basically tells everybody, "I don't remember
5 anything." And Kirk is saying that this contradicts
6 that.

7 MR. MARTINEZ: How does it contradict that?
8 He knows that -- he said that he knows that Victoria
9 wasn't home. It doesn't contradict anything that he
10 said previously. He said that he doesn't know where
11 she was, that she was gone longer than he thought she
12 was going to be gone.

13 THE COURT: I'm still looking forward to
14 hearing closing arguments, but I have to say that
15 based on the testimony I've heard so far today, my
16 understanding is that he remembers almost everything
17 well, except the incident itself. And so here he's
18 saying she went out with her daughter to go do this
19 and go do this, and I think she was out with her
20 ex-boss doesn't necessarily contradict the fact that
21 he's saying, "From the moment that I put the little
22 girl in the shower, or whatever, till I woke up three
23 hours later, I don't remember anything." That doesn't
24 necessarily contradict.

25 MR. VITTO: The Defense opening statement

1 forward: Mr. Engelson was drinking. Mr. Engelson was
2 drunk. Mr. Engelson was so drunk he was blacked out.
3 We don't know what happened, but it must have been an
4 accident.

5 In this phone call, look at who he's
6 talking to. He's talking to his dad, and that's why I
7 asked Victoria to identify some of the different
8 people that he's speaking to in these phone
9 conversations. So he tells Victoria a version of
10 events. He tells Alexandra Fernandes a version of
11 events. He tells Cox, Gibbs, and Fancher a version of
12 events, all of which is pretty consistent. There's
13 some dramatic difference with Alexandra Fernandes.
14 Then there's the version of events with
15 David Boruchowitz. And the one with Victoria is quite
16 truncated and different.

17 Call 5, he's talking to his dad. He's
18 clearly, throughout all of these phone calls, telling
19 the people most closest to him in his life, a
20 different version, soft-pedaling what actually
21 happened. And in this call, the facts, he's just
22 lying. In every other interview that he gave, he knew
23 exactly where Victoria was. He knew why she was where
24 she was. They went out. He made a nail appointment.
25 They were going to go get their nails done. And here

1 we got a phone call to daddy a month later, "Man, I
2 don't know where she was. I bet she was out with her
3 boss. She should have been home." He's just lying.
4 He's lying to his dad to save face. He doesn't want
5 to say, "Da-da, your son's a baby killer."

6 THE COURT: Anything else, Mr. Martinez?

7 MR. MARTINEZ: No, Judge. Submit it.

8 THE COURT: I'm going to allow it. Let's
9 go to the next one, Call No. 18.

10 Kirk, you want to go first?

11 MR. VITTO: Yes. And I think we can -- I
12 think we can argue 18 and 20 identically.

13 THE COURT: Thank you. Eighteen and 20,
14 not 18 and 19?

15 MR. VITTO: Correct.

16 THE COURT: Okay.

17 MR. VITTO: Can I have the Court's
18 indulgence just a minute?

19 Your Honor, we will -- we will agree to
20 omit 18 and 20.

21 THE COURT: All right. Nineteen?

22 MR. VITTO: Nineteen, I think is relevant
23 because he's speaking -- he's speaking to an old
24 friend TJ. And he again, trying to save face with his
25 old friend by saying that, "As soon as the autopsy

1 gets back, well, you'll see, you know, it's more of an
2 accident than a Murder." I think he's commenting on
3 the evidence, and I think it's fair game.

4 THE COURT: I think the Defense should be
5 arguing it gets submitted, and you be arguing against
6 it. But let's see what Mr. Martinez has to say.

7 MR. MARTINEZ: Judge, it shouldn't be
8 admitted, because it just goes toward his -- what fact
9 in the case does it make more or less likely? That
10 that's the question that I ask. It doesn't make any
11 fact in this case that has been argued thus far more
12 or less likely. It's not relevant. It's as simple as
13 that. Again, this is a conversation that happened
14 two-and-a-half months after he's in custody.

15 Presumably, he's talked to counsel already,
16 he's gone over some of the discovery, some of what
17 happened. He's trying to piece together what's going
18 on. And they're talking about waiting for the autopsy
19 report and what he believes will be shown in the
20 autopsy report. What does that make more or less
21 likely to be -- what does that prove in the trial
22 right now, Judge? I know it's a rhetorical question,
23 because the answer is it doesn't prove anything. It's
24 not relevant at all.

25 THE COURT: Anything else, Mr. Vitto?

1 MR. VITTO: I will agree to that one,
2 Judge.

3 THE COURT: Okay. Eighteen, 19, and 20 are
4 out. We'll go to 22.

5 MR. VITTO: Twenty-two, the defendant is
6 speaking with his mother and trying to impress his
7 mother with how brilliant he is. "I don't want them
8 knowing that I know stuff, that they think I'm dumb, I
9 guess. I don't know. They never had anybody like me
10 around." And I think that that plays into why we're
11 here today and what this jury will be deciding in
12 regard to his credibility.

13 THE COURT: Twenty-two is out. You want to
14 make a record. Do you want to say your words?

15 MR. MARTINEZ: No, Judge.

16 THE COURT: All right. Twenty-two is out.
17 Let's go to 23.

18 MR. VITTO: Twenty-three, he's just going
19 to take this to the box. He's going to fight it with
20 appeals. It's not about his being guilty, as if
21 that's a concession that he is; it's about being
22 railroaded. And I would like the jury to be able to
23 juxtapose his comments in regard to this trial not
24 being about his guilt, but about his being railroaded
25 by all of the lying cops in Nye County, according to

1 him, than whether this is something that a jury should
2 decide.

3 THE COURT: Mr. Martinez?

4 MR. MARTINEZ: Judge, I know it's a generic
5 argument and I've said it. What fact does that make
6 the existence of more or less likely in this trial?
7 Nothing. This is his opinion after he's reviewed the
8 case. At this point, two-and-a-half years after the
9 incident happened, he's had his attorneys, he's had
10 his riffs with the his attorneys at this point.

11 THE COURT: I'm going to deny it.

12 MR. VITTO: Thank you, Your Honor.

13 THE COURT: Twenty-four.

14 MR. VITTO: The last one, Judge --

15 THE COURT: I think it's pretty obvious
16 what the relevance is.

17 MR. VITTO: Fair enough.

18 THE COURT: Maybe we should hear from
19 Mr. Martinez.

20 I was surprised it was marked,
21 Mr. Martinez, but I know you have a brilliant argument
22 for me.

23 MR. MARTINEZ: I'll withdraw that one,
24 Your Honor.

25 THE COURT: All right. Twenty-four is

1 admitted. So No. 5 and No. 24 are allowed.

2 Do you need additional time before we bring
3 the jury back in?

4 MR. VITTO: You know what, Judge, the only
5 time I need right now is to quickly prepare a new
6 transcript. And frankly, I can begin the examination
7 of Crystal Barajas while that's happening.

8 THE COURT: Kirk, you guys --

9 MR. MARTINEZ: Kirk -- sorry, Judge.

10 I believe, Mr. Vitto, you also need a new
11 disk that has those excerpts taken off it.

12 THE COURT: You think you'll be done by
13 6:00?

14 MR. VITTO: Actually, Daniel, that disk --
15 correct me if I'm wrong, Kassie, Renne -- that disk
16 has entries. I only have to play the entries that
17 were admitted. We can then submit into evidence the
18 correct disk that you will okay --

19 MR. MARTINEZ: Okay.

20 MR. VITTO: -- so that we can start. Is
21 that fair?

22 MR. MARTINEZ: That's fair.

23 MR. VITTO: All right. We just need to
24 prepare the redacted transcript. We can begin.

25 THE COURT: Do you think you'll be done by

1 6:00, both sides?

2 MR. VITTO: I do think we will be done.

3 MR. MARTINEZ: I can't imagine I'm going to
4 have much on cross, Judge.

5 THE COURT: Well, I need a commitment that
6 one minute to 6:00, if you're right in the middle of
7 your cross, I'm going to say, "Nope. That's all the
8 time you got. You committed." I'm just kidding.

9 MR. MARTINEZ: So be it. I'm the middle
10 child. I'm used to stuff like that, Judge.

11 MR. VITTO: Now, because this will be
12 prepared by somebody other than myself, let me just
13 verify the calls that are coming out are 18, 19, 20,
14 and 22 and 23?

15 MS. BOSKOVICH: Correct.

16 THE COURT: Yes, sir.

17 MR. VITTO: The dog-eared pages are out.

18 THE COURT: Kirk, you want us to bring the
19 jury in now, or do you need a few minutes?

20 MR. VITTO: I think as long as Crystal is
21 ready, I think we're ready.

22 THE BAILIFF: I'm going to take that as a
23 "yes."

24 MR. VITTO: If Crystal is ready, we're
25 ready.

1 Your Honor, the State calls Crystal Barajas
2 to the stand.

3 THE BAILIFF: Please face madam clerk and
4 raise your right hand.
5 Whereupon,

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

9 THE WITNESS: I do.

10 THE COURT: We would like the jury to be
11 able to see your face and hear your words. So if you
12 can take it off, that would be great. But if you're
13 nervous about Covid, you don't have to.

14 THE WITNESS: I don't want to speak with
15 this on. Thank you.

16 DIRECT EXAMINATION

17 BY MR. VITTO:

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

20 A. Crystal Barajas, B, as in "boy,"
21 -a-r-a-j-a-s.

22 Q. What is your occupation?

23 A. I'm an investigator for the Nye County
24 District Attorney's Office.

25 Q. How long have you been so employed?

1 A. About five years.

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

3 A. About ten years.

4 Q. Let me show you State's Proposed

5 Exhibit 22.

6 (Whereupon State's Proposed Exhibit

7 No. 22 is marked for identification.)

8 (State shows exhibit to Defense Counsel.)

9 MR. MARTINEZ: Judge, for the record, I
10 don't believe this one is just proposed. I believe
11 it's admitted by stipulation.

12 THE COURT: Exhibit 22 is admitted.

13 MR. VITTO: Thank you, Your Honor.

14 (Whereupon State's Exhibit No. 22 is
15 admitted into evidence.)

16 Q. (By Mr. Vitto) Referencing State's
17 Exhibit 22, Investigator, do you recognize that?

18 A. I do.

19 Q. How is it that you recognize it?

20 A. I had worked with this report.

21 Q. Okay. Specifically, do you recall what it
22 is you were tasked with?

23 A. Yes.

24 Q. And what task were you asked to perform?

25 A. I was assigned to confirm certain phone

1 numbers on this report.

2 Q. All right. And we have -- what is that
3 report?

4 A. This is a Summary of the Forensic Report
5 created by Computer Forensic Specialist
6 Chris DeFonseka.

7 Q. And he was looking at the defendant's
8 phone; is that correct?

9 A. Yes.

10 Q. All right. And he noticed that there was a
11 phone call at 12:40 in the afternoon, 727-4247;
12 correct?

13 A. Yes.

14 Q. Did you call that number?

15 A. Yes.

16 Q. What business responded to your call?

17 A. I believe it was a "Sheer Image," a local
18 place in Pahrump, where you can get your nails done.

19 Q. And the second number at 12:42 p.m.,
20 751-2662, did you call that number as well?

21 A. I did.

22 Q. And that was "Touch of Gold," a place where
23 you can get your nails done?

24 A. Correct.

25 Q. The third number at 12:44 p.m., 751-1116,

1 that was "Simply Divine," a place in Pahrump where you
2 can get your nails done?

3 A. Yes.

4 Q. And at 12:45, 537-1717, that was the
5 "Bella Salon," a place where you can get your nails
6 done?

7 A. Yes.

8 Q. And a fifth number there at 12:47 p.m.,
9 727-8786, that was "Pro Nail"?

10 A. Yes.

11 MR. VITTO: Court's indulgence just a
12 minute?

13 THE COURT: Yes.

14 Q. (By Mr. Vitto) Now, Investigator Barajas,
15 have you undertaken the task of listening to phone
16 calls made by the defendant?

17 A. Yes.

18 Q. Over what time period?

19 A. Starting from mid-July 2017 until present,
20 I started that project early-February 2019.

21 Q. And how close are you to being completely
22 caught up?

23 A. Close. I believe the last phone call I
24 listened to was October, maybe October 28th of 2020.

25 Q. How many phone calls have you listened to?

1 A. Approximately 1700.

2 Q. And how many hours have you spent listening
3 to those phone calls?

4 A. About 140 hours.

5 Q. How many different people has the defendant
6 spoken with during that time period?

7 A. About ten people.

8 Q. And who do you remember that he had spoken
9 with over that period of time?

10 A. His mom Sharon Sayre; his dad; his son
11 Cole Jr.; the mother of his child,
12 Alexa Partain Chevalier; Kristin Greene, a law
13 student; I believe a male named Mike and his wife
14 Jennifer; a friend named Greg Ash; and a friend named
15 TJ Terrance Murphy.

16 Q. Okay. Over the course of your listening to
17 the defendant's phone calls, 1700 calls, 140 hours, do
18 you recall listening to a phone call where the
19 defendant said or expressed how much he missed
20 Yessenia?

21 A. No.

22 Q. Did you ever hear him say how sorry he was
23 that Yessenia was dead?

24 A. No.

25 Q. Now, before we get into some of the jail

1 calls, let me ask you -- let me show you State's
2 Exhibit 6. Do you recognize that?

3 A. Yes.

4 Q. How is it that you recognize that?

5 A. I created this.

6 Q. And how did you create that?

7 A. I watched Pahrump Nugget Casino video
8 surveillance, and then I took a snapshot of the video
9 image.

10 MR. VITTO: Your Honor, I would ask that
11 this be published to the jury at this time.

12 MR. MARTINEZ: No objection.

13 THE COURT: That will be fine.

14 MR. VITTO: We can use the overhead?

15 THE COURT: Yes.

16 Do we have to turn off the lights a little?

17 Q. (By Mr. Vitto) Please, Investigator, what
18 scene were you capturing? What was the purpose of
19 what it is that you captured there?

20 A. To show the difference in size between the
21 defendant and the victim.

22 MR. VITTO: That's fine for now. Actually,
23 what a great idea. Okay. That's all for now.

24 Q. (By Mr. Vitto) Investigator, as part of
25 this investigation, were you made aware that different

1 witnesses had described certain bruises, referencing
2 some circle bruises type injury?

3 A. Yes.

4 Q. And were you able to observe those injuries
5 to Yessenia's body?

6 A. Yes. I reviewed some of them.

7 Q. And some of the injuries for measurements
8 in regard to the circle injuries; is that correct?

9 A. I'm sorry. Can you repeat?

10 Q. Some of the injuries, some of the circle
11 injuries to Yessenia's body for measurements; there
12 was a measuring device?

13 A. Yes.

14 Q. Now, with that knowledge and observation in
15 mind, did you also undertake to measure the PAW Patrol
16 cup?

17 A. Yes.

18 Q. And the Dave and Buster's glass?

19 A. Yes.

20 Q. And the bottom of the wine bottle?

21 A. Yes.

22 Q. Let me show you -- do you have a number for
23 this.

24 THE CLERK: 65.

25 MR. VITTO: 65A through whatever.

1 (Whereupon State's Proposed Exhibit
2 Nos. 65A through L are marked for
3 identification.)

4 Q. (By Mr. Vitto) And what exactly did you
5 undertake to do?

6 A. My job was to take measurements for the
7 three items in question and compare them to some of
8 the circular bruises on the decedent's photograph.

9 Q. So you measured the PAW Patrol cup, the
10 opening and the bottom?

11 A. Yes.

12 Q. And you measured the bottom of the wine
13 bottle; right?

14 A. Yes.

15 Q. And the Dave and Buster's glass, you
16 measured the opening and the bottom?

17 A. Yes.

18 Q. And in reference to the circle marks on the
19 decedent's body, what were you able to discover?

20 A. The measurements for the three items in
21 question appeared to be a little bit larger than the
22 measurement for the photographs on the decedent's
23 body.

24 Q. So in each case, the PAW Patrol cop -- the
25 top of the PAW Patrol cup was too large to have made

1 the bruise on Yessenia's body?

2 A. Yeah, it appeared so.

3 Q. The same with the bottom?

4 A. Yes.

5 Q. And the same with the opening to the
6 Dave and Buster's glass and the bottom of that glass?

7 A. Yes.

8 Q. And the same with the bottom of the wine
9 bottle?

10 A. Yes.

11 Q. So showing you State's Proposed Exhibit 65A
12 through L.

13 (Showing exhibits to Defense Counsel.)

14 Q. (By Mr. Vitto) Let me show you these
15 exhibits. Take your time, go through those. When
16 you've had an opportunity to review them, look up and
17 I will ask you some questions.

18 A. (The witness complies.)

19 Q. Have you had opportunity to review those?

20 A. Yes.

21 Q. What can you tell us about those
22 photographs?

23 A. They're the PAW Patrol cup, the photographs
24 that I took, and the centimeters, ranging from four to
25 eight centimeters.

1 Q. And they are all accurate?

2 A. Yes,

3 MR. VITTO: Your Honor, I would ask that
4 these exhibits be admitted into evidence.

5 MR. MARTINEZ: No objection, Your Honor.

6 THE COURT: Admitted.

7 (Whereupon State's Exhibit Nos. 65A
8 through L are admitted into evidence.)

9 (Whereupon State's Proposed Exhibit
10 Nos. 70A through L are marked for
11 identification.)

12 (Showing the exhibit to Defense Counsel.)

13 Q. (By Mr. Vitto) Now, Investigator, showing
14 you State's Proposed Exhibits 70A through L. Take
15 your time, go through these photographs, look up when
16 you're done. I will ask you some questions about
17 them.

18 A. (The witness complies.)

19 Q. Have you had opportunity to review those?

20 A. Yes.

21 Q. Do you recognize them?

22 A. Yes.

23 Q. Are they accurate?

24 A. Yes.

25 Q. Is that your work?

1 A. Yes.

2 Q. What did you?

3 A. I took photographs and measurements of
4 inches and centimeters for the PAW Patrol cup and the
5 Dave and Buster's glass cup.

6 MR. VITTO: I would ask that these exhibits
7 be admitted into evidence, Your Honor.

8 MR. MARTINEZ: No objection, Your Honor.

9 THE COURT: Admitted.

10 (Whereupon State's Exhibit Nos. 70A
11 through L are admitted into evidence.)

12 MR. VITTO: And after this, it's going to
13 be 48A and B.

14 (Whereupon State's Proposed Exhibit
15 Nos. 71A-O, and 48A and -B are marked for
16 identification.)

17 Q. (By Mr. Vitto) Showing you what's been
18 preliminarily marked as State's Proposed Exhibits 71A
19 through O. I would like you to go through those
20 exhibits. Let me know when you're done.

21 A. (The witness complies.) I'm done.

22 Q. Do you recognize those?

23 A. Yes.

24 Q. How do you recognize those?

25 A. I took photographs of these items.

1 Q. And they're accurate photographs?

2 A. Yes.

3 Q. And what were you doing there?

4 A. I was taking measurements of the wine
5 bottle and the glass -- Dave and Buster's cup.

6 Q. And all of those photographs led to the
7 conclusion you reached; is that correct?

8 A. Yes.

9 MR. VITTO: I would ask that 71A through O
10 be admitted into evidence.

11 MR. MARTINEZ: No objection, Your Honor.

12 THE COURT: Admitted.

13 (Whereupon State's Exhibit Nos. 71A
14 through O are admitted into evidence.)

15 MR. VITTO: And 22 is admitted into
16 evidence? By stipulation.

17 MR. MARTINEZ: Yes.

18 THE COURT: Yes.

19 Q. (By Mr. Vitto) Let me show you what has
20 been preliminarily marked --

21 MR. VITTO: Your Honor, I have 48A marked
22 for identification purposes, and 48B that I'm
23 asking -- I will be asking the witness some
24 authentication questions regarding.

25 THE COURT: Thank you.

1 Q. (By Mr. Vitto) Initially, Investigator,
2 directing your attention to 48A; do you recognize
3 that?

4 A. Yes.

5 Q. How do you recognize that?

6 A. I created this CD.

7 Q. And what is on that CD?

8 A. They are jail excerpts calls that I
9 created.

10 Q. Okay. Now, when you say "excerpts," so
11 they're a portion of a phone call?

12 A. Yes.

13 Q. But you had listened to the entire phone
14 call; is that correct?

15 A. Yes.

16 Q. And what we have here are excerpted aspects
17 of certain phone calls; is that correct?

18 A. Yes.

19 Q. Now, you talked about how many phone calls
20 you've listened to and how long it took you to do
21 that, but there was actually about a six-month period
22 that you weren't able to listen to; is that correct?

23 A. Correct.

24 Q. And do you remember when that was from?

25 A. Yes.

1 Q. When was that?

2 A. From like mid-June 2019, till maybe
3 late-November, early-December of 2019.

4 Q. And you personally created each of the
5 excerpts represented there?

6 A. Yes.

7 Q. And each one is accurate?

8 A. Yes.

9 Q. In fact, you have initialed marked for
10 identification 48A; is that correct?

11 A. Yes. I signed it.

12 Q. As having listened to them and verified
13 their accuracy?

14 A. Yes.

15 Q. Let me show you -- you should have 48B in
16 front of you; yes?

17 A. Yes.

18 Q. Do you recognize that?

19 A. Yes.

20 Q. Did you also create that?

21 A. Yes.

22 Q. What is that?

23 A. It's a transcript of the audios from the
24 CD.

25 Q. You personally typed out word for word what

1 it was that you could hear on the excerpted phone
2 calls?

3 A. To the best of my ability, yes.

4 Q. Did you check it and recheck it for
5 accuracy?

6 A. I checked it multiple times, yes.

7 Q. So the best you know, it's 100 percent
8 what's written down there is what we would hear if we
9 played the jail call?

10 A. Yes.

11 MR. VITTO: Your Honor, I'm asking that
12 State's Proposed Exhibit 48B be admitted into
13 evidence. I have a copy of the transcript for each
14 juror, a copy of 48B for each juror. And I'm asking
15 that the calls be played, published to the jury at
16 this time so the jury can follow along.

17 We will, for instance, on the list that
18 they get, the list that you will get, the list that we
19 all have, the first one says call 1. We will play
20 call 1, and so forth.

21 THE COURT: 48A and B, the CD and the
22 transcript, you want to preserve the objection to the
23 ones we discussed earlier?

24 MR. VITTO: We would ask that 48A be
25 published, but not admitted in its current state. We

1 will create a 48A that is consistent with the correct
2 rulings by this Court.

3 THE COURT: And then you stip to the
4 admission of that when it's edited?

5 MR. MARTINEZ: Yes, that's correct, Judge.

6 THE COURT: All right. So after Kirk does
7 the editing and gets it to you for your prove-up, then
8 we'll go ahead and admit 48A. 48B you've done the
9 editing on already --

10 MR. VITTO: Correct.

11 THE COURT: -- pursuant to the earlier
12 discussion, and you're fine with that?

13 MR. MARTINEZ: That's no objection,
14 Your Honor.

15 THE COURT: Very good.

16 MR. MARTINEZ: No objection other than my
17 previously argued objections, Your Honor.

18 THE COURT: Right.

19 (Whereupon State's Exhibit Nos. 48A will
20 be admitted when edited; 48B is admitted into
21 evidence.)

22 (The transcript passed out to jurors.)

23 Q. (By Mr. Vitto) Now, directing your
24 attention -- directing your attention to Call No. 1,
25 do you have that in front of you, Investigator?

1 A. I do.

2 Q. Who was the defendant speaking with in that
3 phone call?

4 A. A female named Kristin Greene.

5 Q. And let's go ahead and play call 1 whenever
6 you're ready.

7 (Call 1 is played for the jurors.)

8 Q. (By Mr. Vitto) In regard to the second
9 call -- Investigator, do you happen to know who
10 Kristin Greene is in relationship to the defendant?

11 A. I know that he is -- she is an old friend.

12 Q. Okay. And who was the second call to?

13 A. A male named Greg Ash.

14 Q. And do you happen to know who Greg Ash is
15 to the defendant?

16 A. A close friend.

17 MR. VITTO: Let's play call 2.

18 (Call 2 is played for the jurors.)

19 Q. (By Mr. Vitto) And call 3, Investigator,
20 who was that to?

21 A. His dad.

22 MR. VITTO: Let's go ahead and play that
23 call.

24 (Call 3 is played for the jurors.)

25 Q. (By Mr. Vitto) And call 4 who was that to?

1 A. That's the mother of his child,
2 Alexa Partain Chevalier.

3 MR. VITTO: Go ahead and play call 4.

4 (Call 4 is played for the jurors.)

5 Q. (By Mr. Vitto) How about call 5?

6 A. Is from his dad.

7 MR. VITTO: Play call 5.

8 (Call 5 is played for the jurors.)

9 Q. (By Mr. Vitto) And call 6 was to his
10 father as well?

11 A. Yes.

12 MR. VITTO: Play call 6.

13 (Call 6 is played for the jurors.)

14 Q. (By Mr. Vitto) And call 7 was to who?

15 A. His friend Greg Ash.

16 MR. VITTO: Play call 7.

17 (Call 7 is played for the jurors.)

18 Q. (By Mr. Vitto) And call 8, who was that
19 to?

20 A. His friend Greg Ash.

21 MR. VITTO: Play call 8.

22 (Call 8 is played for the jurors.)

23 Q. (By Mr. Vitto) And call 9, who is that to?

24 A. His dad.

25 MR. VITTO: Let's play call 9.

1 (Call 9 is played for the jurors.)
2 Q. (By Mr. Vitto) And call 10?
3 A. To his dad.
4 MR. VITTO: Let's play call 10.
5 (Call 10 is played for the jurors.)
6 Q. (By Mr. Vitto) And call 11?
7 A. To his friend Greg Ash.
8 MR. VITTO: Go ahead and play call 11.
9 (Call 11 is played for the jurors.)
10 Q. (By Mr. Vitto) And call 12?
11 A. To a male named mike.
12 MR. VITTO: Play call 12.
13 (Call 12 is played for the jurors.)
14 Q. (By Mr. Vitto) And call 13?
15 A. Kristin Greene.
16 MR. VITTO: Let's go to call 13.
17 (Call 13 is played for the jurors.)
18 Q. (By Mr. Vitto) Call 14?
19 A. To Kristin Greene.
20 MR. VITTO: Let's play that one.
21 (Call 14 is played for the jurors.)
22 Q. (By Mr. Vitto) Call 15?
23 A. To Alexa Chevalier.
24 MR. VITTO: Let's play call 15.
25 (Call 15 is played for the jurors.)

1 Q. (By Mr. Vitto) Call 16?

2 A. Again to Alexa Chevalier.

3 MR. VITTO: Let's play call 16.

4 (Call 16 is played for the jurors.)

5 Q. (By Mr. Vitto) Call 17?

6 A. It was TJ.

7 MR. VITTO: All right. Let's play call 17.

8 (Call 17 is played for the jurors.)

9 Q. (By Mr. Vitto) Call 21?

10 A. Again Alexa Chevalier.

11 MR. VITTO: Let's play call 21.

12 (Call 21 is played for the jurors.)

13 Q. (By Mr. Vitto) And call 24?

14 A. To TJ.

15 MR. VITTO: May I have the Court's

16 indulgence a moment, please?

17 THE COURT: Yes.

18 Q. (By Mr. Vitto) And call 24, that was to
19 who?

20 A. TJ.

21 Q. Let's play call 24.

22 (Call 24 is played for the jurors.)

23 MR. VITTO: I have no more questions of
24 this witness at this time, Your Honor.

25 THE COURT: Counsel?

1 MR. MARTINEZ: Thank you, Judge.

2 CROSS-EXAMINATION

3 BY MR. MARTINEZ:

4 Q. Good afternoon, Investigator?

5 A. Hi.

6 Q. So you're familiar with the phone system in
7 the Detention Center; right?

8 A. Yes.

9 Q. Are you familiar with how calls are made by
10 inmates?

11 A. I have a good idea.

12 Q. You know that the inmate has to put in
13 their ID to make a phone call; right?

14 A. I believe so. It depends.

15 Q. And you know when they make an outgoing
16 phone call, they hear a recording; right?

17 A. Yes.

18 Q. And that recording tells them that the
19 phone conversation is being recorded; right?

20 A. I am aware of that, at least on one of the
21 systems.

22 Q. Is there more than one system?

23 A. They have three, to my knowledge.

24 Q. Why do they have three systems; do you
25 know?

1 A. I'm not exactly sure why, but they started
2 off with the first one for like 2017 to maybe the
3 middle of '18. And then they, for some reason,
4 changed companies twice after that.

5 Q. Okay. So at least one of the systems tells
6 the inmate that the phone call is being recorded;
7 right?

8 A. The first one does for sure.

9 Q. So an inmate would know there's people
10 listening to the phone call; right?

11 A. They should know that it's being recorded.

12 MR. MARTINEZ: Nothing further, Judge.

13 MR. VITTO: Nothing further.

14 THE COURT: You'll be subject to recall.
15 Don't talk about the case with anyone but the
16 attorneys. If we need you, we'll give you a call
17 back.

18 THE WITNESS: Yes, sir.

19 THE COURT: Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: How many more witnesses today;
22 three you said?

23 MR. VITTO: Four.

24 THE COURT: Ladies and gentlemen, you're
25 admonished not to converse among yourselves or with

1 anyone else on any subject connected with the trial.
2 Do not read, watch, or listen to any report of or
3 commentary on the trial, including without limitation,
4 television, newspapers, radio, and Internet.

5 Don't form or express an opinion on any
6 subject connected with the trial until after you hear
7 the closing arguments and you go in to deliberate.

8 We're going to meet back here tomorrow
9 morning at 8:30. 8:30?

10 MR. ARABIA: Your Honor, can I have the
11 Court's indulgence for one moment?

12 THE COURT: Sure.

13 MR. VITTO: Our two morning witnesses,
14 Your Honor, are flying in from lands far away.

15 THE COURT: All right. Find out what time
16 they're available then.

17 MR. ARABIA: Your Honor, I would ask that
18 we start at 9:00, if possible.

19 THE COURT: That will be fine.

20 MR. ARABIA: Thank you.

21 THE COURT: We're going to have you come
22 back in. We'll start the trial testimony at
23 nine o'clock in the morning. I'm going to ask you to
24 step out with the bailiff, and I will stick around and
25 talk to the attorneys.

1 (The jurors are excused for the day.)

2 THE COURT: Is there anything we need to
3 make a record of and do outside the presence of the
4 jury?

5 MR. MARTINEZ: Nothing that comes to mind
6 for me, Judge.

7 THE COURT: Kirk said earlier today you
8 have three witnesses for tomorrow?

9 MR. ARABIA: That's correct, Your Honor.

10 THE COURT: All right. We're going to
11 start at 9:00, and they're long ones like that guy was
12 today.

13 MR. ARABIA: I would say they're going to
14 be more like Plowey.

15 MR. VITTO: Judge, we do have -- we
16 actually, we have three live witnesses.

17 And then we have Pullen. I don't remember,
18 Daniel, an hour?

19 MR. MARTINEZ: Yes, about an hour.

20 MR. VITTO: We don't foresee or anticipate
21 any way that we could logistically wrap this up
22 tomorrow. We anticipate doing what we can,
23 accomplishing what we can. When we finish, maybe
24 finishing jury instructions tomorrow, and then be
25 prepared to read jury instructions Monday morning and

1 close.

2 THE COURT: All right. And I wasn't
3 looking for a commitment. I was just trying to get an
4 idea what the plans were.

5 MR. VITTO: That's the plan.

6 THE COURT: Okay. Very good. Then I'll
7 see you at 9:00 in the morning.

8 MR. VITTO: Thank you, Your Honor.

9 MR. MARTINEZ: Thanks, Judge.

10 MR. ARABIA: Thank you, Your Honor.

11 THE BAILIFF: All rise.

12 (The proceedings concluded at
13 5:15 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