

IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,
Petitioner,

vs.

RENEE BAKER, WARDEN
Lovelock Correctional Center,
Respondent.

S.Ct. No. 82060

D.C. No. C298879-

Electronically Filed
Oct 01 2021 06:14 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANT'S APPENDIX
Volume I**

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(702) 671-2500
Attorney for Respondent

Perry v. Warden Case No. 82060

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CLERK OF THE COURT

1 **INFM**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ROBERT STEPHENS
6 Deputy District Attorney
7 Nevada Bar #011286
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

7 I.A. 06/26/14
8 1:00 PM
9 T. SHETLER

9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO: C-14-298879-1

11 -vs-

DEPT NO: VI

12 GENARO RICHARD PERRY,
13 #1456173,

Defendant.

INFORMATION

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
18 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That GENARO RICHARD PERRY, the Defendant(s) above named, having committed
20 the crimes of **ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony -**
21 **NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF A**
22 **DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND**
23 **LARCENY AUTO (Category B Felony - NRS 205.228.3 - NOC 56014); ASSAULT**
24 **WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201);**
25 **COERCION (Category B Felony - NRS 207.190 - NOC 53159); BATTERY**
26 **RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC**
27 **VIOLENCE (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 57937) and**
28 **PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING**

1 **CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305 -**
2 **NOC 52996)**, on or about the 1st day of May, 2014, within the County of Clark, State of
3 Nevada, contrary to the form, force and effect of statutes in such cases made and provided,
4 and against the peace and dignity of the State of Nevada,

5 COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON

6 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:
7 car keys and/or cellular telephone, from the person of CORLA CARPENTER, or in her
8 presence, by means of force or violence, or fear of injury to, and without the consent and
9 against the will of the said CORLA CARPENTER, with use of a deadly weapon, to-wit: a
10 knife.

11 COUNT 2 - FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON

12 did then and there wilfully and unlawfully confine and detain, without sufficient legal
13 authority, the personal liberty of another, to-wit: CORLA CARPENTER, with use of a deadly
14 weapon, to-wit: a knife, by battering the said CORLA CARPENTER and threatening her by
15 said knife and refusing to allow her to leave.

16 COUNT 3 - GRAND LARCENY AUTO

17 did then and there wilfully, unlawfully, feloniously, and intentionally, with intent to
18 deprive the owner permanently thereof, steal, take and carry away, drive away or otherwise
19 remove a motor vehicle owned by another person, having a value of \$3,500.00, or greater, in
20 the possession of CORLA CARPENTER, to-wit: a 1999 Mercedes CLK 430, bearing Nevada
21 License No. 617LTU.

22 COUNT 4 - ASSAULT WITH A DEADLY WEAPON

23 did then and there wilfully, unlawfully, feloniously and intentionally place another
24 person in reasonable apprehension of immediate bodily harm and/or did willfully and
25 unlawfully attempt to use physical force against another person, to-wit: CORLA
26 CARPENTER, with use of a deadly weapon, to-wit: a knife, by threatening to kill the said
27 CORLA CARPENTER while holding said knife and/or by slashing at/towards her with said
28 knife and/or by holding said knife to her throat.

1 COUNT 5 - COERCION

2 did then and there wilfully, unlawfully, and feloniously use physical force, or the
3 immediate threat of such force, against CORLA CARPENTER, with intent to compel her to
4 do, or abstain from doing, an act which she had a right to do, or abstain from doing, by
5 throwing the telephone belonging to the said CORLA CARPENTER against the wall and/or
6 into the toilet to prevent her from calling the police and/or by not allowing her to leave the
7 residence.

8 COUNT 6 - BATTERY RESULTING IN SUBSTANTIAL BODILY HARM
9 CONSTITUTING DOMESTIC VIOLENCE

10 did then and there wilfully, unlawfully, and feloniously use force or violence upon the
11 person of his spouse, former spouse, or any other person to whom he is related by blood or
12 marriage, a person with whom he is or was actually residing, a person with whom he has had
13 or is having a dating relationship, a person with whom he has a child in common, the minor
14 child of any of those persons or his minor child, to-wit: CORLA CARPENTER, by grabbing
15 the said CORLA CARPENTER and striking her head against/into the floor and/or by kicking
16 her repeatedly in the face, resulting in substantial bodily harm to the said CORLA
17 CARPENTER.

18 COUNT 7 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
19 REPORTING CRIME OR COMMENCING PROSECUTION

20 did then and there wilfully, unlawfully, and feloniously, by intimidation or threats,
21 prevent or dissuade, or hinder or delay CORLA CARPENTER, from reporting a crime to the

22 ///

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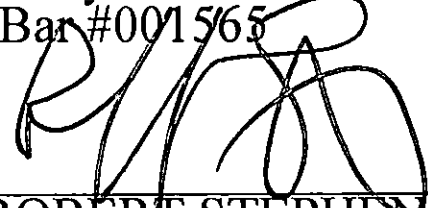
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1 police by threatening to kill the said CORLA CARPENTER and her husband if she called the
2 police.

3 STEVEN B. WOLFSON
4 Clark County District Attorney
Nevada Bar #001565

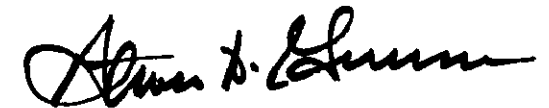
5
6 BY


7 ROBERT STEPHENS
8 Deputy District Attorney
9 Nevada Bar #011286

10 Names of witnesses known to the District Attorney's Office at the time of filing this
11 Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
BRAGG, ALMEDIA M.	LVMPD #4150
CARPENTER, CORLA	C/O DISTRICT ATTORNEY'S OFFICE
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD RECORDS
LASTER, GEORGE TIMOTHY	LVMPD #5658
MARRIOTT, DEBORAH	District Attorney Investigator
PATTERSON, DEBRA	District Attorney Process Server

21
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27 DA#14F07966X/td/dvu
28 LVMPD EV#1405011127; 1312092558
(TK14)



CLERK OF THE COURT

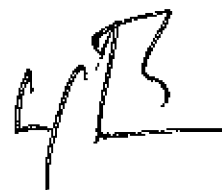
1 TRAVIS E. SHETLER, ESQ.
Nevada Bar No. 004747
2 TRAVIS SHETLER, P.C.
844 East Sahara Avenue
3 Las Vegas, NV 89104-3017
Telephone: (702) 866-0091
4 Facsimile: (702) 866-0093
Attorney for Defendant
5

6 DISTRICT COURT

7 CLARK COUNTY, NEVADA

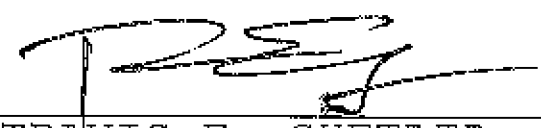
8 STATE OF NEVADA)	CASE NO.: C-14-298879-1
)	Dept. No.: VI
9 Plaintiff,)	
)	
10 v.)	
)	<u>NOTICE OF APPEAL</u>
11 GENARO RICHARD PERRY,)	
#1456173)	
)	
12 Defendant.)	
13)	

14 Notice is hereby given that Petitioner GENARO RICHARD
15 PERRY, Petitioner above named, hereby appeals to the Supreme
16 Court of Nevada from the jury verdict in this action on the 1st
17 day of October, 2015.

18
19 Dated this  day of November, 2015
20

21 LAW OFFICE OF TRAVIS SHETLER
22

23
24 By:


25 TRAVIS E. SHETLER, ESQ.
Nevada State Bar No. 4747
844 East Sahara Avenue
26 Las Vegas, NV 89101
Attorney for Petitioner
27 GENARO RICHARD PERRY
28

AA5

1 TRAVIS E. SHETLER, ESQ.
Nevada State Bar No. 4747
2 LAW OFFICE OF TRAVIS E. SHETLER
844 East Sahara Avenue
3 Las Vegas, NV 89104
Telephone: (702) 866-0091
4 Facsimile: (702) 866-0093
Counsel for Petitioner
5 GENARO RICHARD PERRY

6
7 DISTRICT COURT
8 CLARK COUNTY NEVADA
9

10 STATE OF NEVADA)

11 Plaintiff,)

12 v.)

13 GENARO RICHARD PERRY,
#1456173)

14 Defendant.)
15

Case No. A-13-692122-C

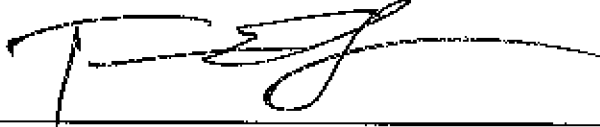
CASE APPEAL STATEMENT

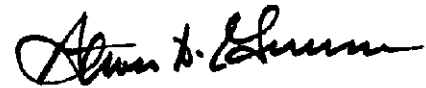
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17 CASE APPEAL STATEMENT

- 18 1. The name of appellant filing this case appeal
19 statement is GENARO RICHARD PERRY.
20 2. JUDGE ELLISA F. CADISH, was the Judge issuing the
21 judgment appealed.
22 3. THE STATE OF NEVADA and myself are the extent of the
23 parties to the proceedings in the District Court.
24 4. GENARO RICHARD PERRY is the only party involved in
25 this appeal.
26 5. TRAVIS E. SHETLER, ESQ., LAW OFFICE OF TRAVIS SHETLER,
27 844 East Sahara Avenue, Las Vegas, Nevada, 89104,
28 represented Petitioner GENARO RICHARD PERRY in
District Court.

1 6. Appellant had appointed counsel in the District Court
2 7. The Initial Arraignment was held on or about June 2,
3 2014.

4 Dated this 4th day of November, 2015

5
6 
7 TRAVIS E. SHETLER, ESQ.
8 Nevada State Bar No. 4747
9 LAW OFFICE OF TRAVIS E. SHETLER
10 844 East Sahara Avenue
11 Las Vegas, NV 89101
12 Telephone: (702) 866-0091
13 Facsimile: (702) 866-0093
14 Attorney for Petitioner
15 GENARO RICHARD PERRY
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CLERK OF THE COURT

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY
#1456173

Defendant.

CASE NO. C298879-1

DEPT. NO. VI

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of
COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in
violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE
OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –
GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT
4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS
200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;
COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM
CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS

//

1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and
4 the Defendant having been found guilty of said crimes; thereafter, on the 6th day of
5 January, 2016, the Defendant was present in court for sentencing with his counsel,
6 TRAVIS SHETLER, ESQ., and good cause appearing,
7

8 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO **COUNT 3** - TO A
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS
22 TO **COUNT 4** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;
24 AS TO **COUNT 5** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole
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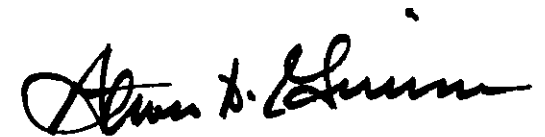
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1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;
2 AS TO **COUNT 6** - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with
4 Count 5; and AS TO **COUNT 7** - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.
7 Defendant's AGGREGATE TOTAL SENTENCE is THREE HUNDRED THIRTY-SIX
8 (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96) MONTHS.
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12 DATED this 22 day of January, 2016.

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15 ELISSA F. CADISH
16 DISTRICT COURT JUDGE
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CLERK OF THE COURT

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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9 THE STATE OF NEVADA,

10 Plaintiff,

11 VS.

12 GENARO PERRY,

13 Defendant.

)
) CASE#: C298879

) DEPT. VI
)
)
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)

14 BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE
15 TUESDAY, SEPTEMBER 29, 2015

16 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**
17 **BENCH TRIAL - DAY 1**

18 APPEARANCES:

19 For the State:

ROBERT BRAD TURNER, ESQ.
Chief Deputy District Attorney
MICHELLE SUDANO, ESQ.
Deputy District Attorney

22 For the Defendant:

TRAVIS E. SHETLER, ESQ.

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25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

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ALMEDIA BRAGG

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DANIELLE KELLER

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DEFENSE WITNESSES

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[None presented.]

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STATE’S EXHIBITS

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DEFENSE EXHIBITS

DAY **PAGE**

[None presented.]

1 TUESDAY, SEPTEMBER 29, 2015 1:35 P.M.

2
3 THE MARSHAL: All rise. District Court, Department 6 is now in session. The
4 Honorable Judge Cadish presiding.

5 Please be seated. Come to order.

6 THE COURT: All right, folks, go ahead and state your appearances for the
7 record.

8 MS. SUDANO: Good afternoon, Your Honor. Michelle Sudano and Brad
9 Turner on behalf of the State.

10 THE COURT: Okay.

11 MR. SHETLER: Good afternoon, Your Honor. Travis Shetler on behalf of Mr.
12 Perry, who's present at the counsel table in custody.

13 THE COURT: Okay. So let me just confirm on the record. It's my
14 understanding that both parties have agreed for this to be a bench trial, with me at
15 the trier of fact rather than a jury.

16 The State agree?

17 MS. SUDANO: That's correct, Your Honor.

18 THE COURT: Defendants?

19 MR. SHETLER: That is correct, Your Honor.

20 THE COURT: Okay. And I guess part -- because it's a bench trial, rather
21 than a jury, Mr. Perry was not dressed out --

22 MR. SHETLER: Right.

23 THE COURT: -- today. I've seen him in the jail uniform before, so we know
24 he's in custody, and I'll still rule based on the facts and the law.

25 MR. SHETLER: Right. Thank you, Your Honor. Noted.

1 THE COURT: Okay. No objection to --

2 MR. SHETLER: On objection.

3 THE COURT: Okay. Thank you.

4 And although -- so we put this over till today from yesterday because
5 there were some issues about the doctor availability. And now it's my
6 understanding that he is available.

7 MS. SUDANO: That is --

8 THE COURT: Somehow he made himself available.

9 MS. SUDANO: That is correct, Your Honor. I apologize for all the confusion
10 and I do want to thank Your Honor and the department for being accommodating
11 and pushing this back for us for a day in order to attempt to get the doctor here.

12 THE COURT: Okay. Trying to think if -- I did get instructions on the law from
13 the State. And I -- even though it's a bench trial I think it's useful to have
14 instructions even, you know, for my own use and to make sure that we're on the
15 same page about the law that applies as we go through the trial and ultimately when
16 you argue at the end.

17 I expect that when we end it and I'm -- I'll sort of take some time with
18 the evidence in chambers and then call you back when I've got a decision. I don't
19 expect it to be a particularly -- I mean, lengthy time, but however much time it takes
20 for me to review it and feel comfortable. But there will sort of be a deliberation
21 among me, myself and I, I guess.

22 MR. SHETLER: Good. That's all we could ask for, Judge.

23 THE COURT: Okay. So with that, is there anything else we need to discuss
24 before we just do like an opening statement?

25 MR. SHETLER: No, Your Honor. We do think that we can probably wrap up

1 things, if not today, certainly tomorrow.

2 THE COURT: Okay.

3 MR. SHETLER: And Ms. Sudano and I had spoken about what the Court
4 wanted as far as an opening statement or not. I know her doctor is supposedly
5 ready to go at 1:30.

6 THE COURT: Okay.

7 MS. SUDANO: I just checked out there. He had not arrived --

8 THE COURT: Okay.

9 MS. SUDANO: -- a few moments ago. He may be there now and I have
10 confirmed that he's on his way here.

11 THE COURT: Okay.

12 THE MARSHAL: What's his name?

13 MS. SUDANO: Dr. Leivowitz.

14 MR. SHETLER: But we're certainly happy to accommodate the doctor's
15 schedule if you want to start --

16 THE COURT: Right.

17 MR. SHETLER: However the Court prefers.

18 THE COURT: Sure. So first, before I forget, I think we should schedule to
19 start I think 10:30 tomorrow. Does that work for you? Is that --

20 MR. SHETLER: I think I have three in the morning. I have a sentencing;
21 another calendar call, and that's in a court that sometimes take a little bit of time,
22 Your Honor. I'll try and get it pulled, but that might be a little bit tight to make it by
23 10:30.

24 THE COURT: Okay.

25 MS. SUDANO: That works for the State, Your Honor. I don't know why --

1 THE COURT: I mean, I'm hoping --

2 MS. SUDANO: -- I was thinking you had --

3 THE COURT: -- I'll be done --

4 MS. SUDANO: Okay.

5 THE COURT: -- with my regular morning calendar by then. The calendar's a

6 little shorter than some of what we've had lately. That doesn't necessarily mean it's

7 short, but -- I mean, we could call at, you know, 11 --

8 MR. SHETLER: I'm pretty sure by -- I would know what's going on. If there's

9 a problem I could give the Court a heads up much before then.

10 THE COURT: Right. I mean --

11 MR. SHETLER: Yeah.

12 THE COURT: We don't have -- I don't have a jury to stress over, so if we run

13 a few minutes behind 10:30 that's okay. I may be a little behind; you may be a little

14 behind, but --

15 MR. SHETLER: Thank you, Judge.

16 THE COURT: -- if we can get started then that would be good because --

17 because of a personal appointment I have, I'd like to be out of here by 3:30

18 tomorrow. Maybe we'll be done by then, but if we're not I'm going to want to finish,

19 so we'll see how it goes.

20 MR. SHETLER: That sounds fine, Your Honor.

21 MS. SUDANO: Absolutely, Your Honor.

22 MR. SHETLER: Easily doable. Thank you, Judge.

23 THE COURT: Ten-thirty tomorrow.

24 And then -- so a lot of times when I have -- so usually when I have

25 bench trials it's in civil cases not criminal cases. It's the second time I've had one in

1 a criminal cases. So -- but usually in a civil case, when I have a bench trial, I read
2 their pretrial briefs and I don't necessarily ask for an opening. I guess it's up to you
3 -- I mean, if -- I've seen the instructions and gone through it, but -- and I know we've
4 had some motion practice, but if you want to quickly outline what you expect to
5 present it might be helpful just -- especially if we have a minute before the doctor
6 starts.

7 MS. SUDANO: Absolutely, Your Honor.

8 So in this case the State intends to prove that on the evening of April
9 30th of 2014 the Defendant in this case, Genaro Perry, arrived at his ex-girlfriend's
10 house, that being Corla Carpenter. They had just broken up after about six months
11 of dating shortly prior to that. Once Mr. Perry arrived, Ms. Carpenter agreed to let
12 him stay in the house for the evening and then he was going to take his belongings
13 and leave the following morning.

14 Early on the morning of May 1st, 2014, Mr. Perry woke up and was in an
15 agitated state. He began making threats and statements to Ms. Carpenter that were
16 very concerning to her. She attempted to call 9-1-1 while she was still in her bed.
17 Once she attempted to call 9-1-1 the Defendant took her phone and threw it against
18 a wall. She tried to get out of the bedroom and into a bathroom to get away from
19 him. Once that happened, he began punching and kicking her; knocked her to the
20 ground inside the bathroom. Once she was on the ground in the bathroom the
21 struggle continued. She was able to pick up -- or pick herself up. She bit the
22 Defendant to get downstairs.

23 Once she was about halfway downstairs he caught up with her; kicked
24 her down the remaining stairs and into a landing inside her kitchen. Once she was
25 in the kitchen, she was still on the ground, he continued to beat and kick her while

1 she was on the ground in the fetal position in the kitchen. He then located kitchen
2 knife that was on a counter just to her side. He picked up the kitchen knife, began
3 swinging it at her; forced her to go inside the living room at knife point. While she
4 was in the living room he continued making threats against her and her family.
5 Made several statements to her about how he was going to kill her that evening.

6 While she was still in the kitchen he locate -- or he still had that knife,
7 he located her keys; picked up the keys to her 1999 Mercedes Benz and told her
8 that he was going to take the car. He then forced her back upstairs at knife point
9 and put her back into a back bathroom in the house and told her that she was not to
10 leave until she heard the garage door close. He again threatened to kill her and her
11 family or cause them great harm if she attempted to leave or call the police. He then
12 left he bedroom, went and got her cell phone that he had prior -- previously thrown
13 against a wall, came back into the bathroom and threw the cell phone in the toilet
14 and again told her not to call the police. She then heard the car leaving and was
15 able to go downstairs; attempted to leave the house to find a neighbor; was unable
16 to do so and then used her phone that was still wet to call the police.

17 You're going to also hear from the first responding police officer, Officer
18 Almedia Bragg, who responded to the scene and was able to observe the injuries to
19 Ms. Carpenter.

20 You're also going to hear from the crime scene analyst, Danielle Keller,
21 who was there to document the scene; the blood and the items found at the house,
22 as well as the kitchen knife with apparent blood on it that was located in the garage.

23 And finally you're going to hear from Officer Justin Terry of the Las
24 Vegas Police Department; will tell you that the following day, so May 2nd of 2014, he
25 located the victim's car approximately two to three miles away from where she lived

1 and where it had been taken the day prior.

2 And at the end of the evidence the State's going to ask that you, Your
3 Honor, acting as our trier of fact today, find the Defendant, Genaro Perry, guilty of all
4 of the counts as charged.

5 THE COURT: Thank you.

6 Mr. Shetler?

7 MR. SHETLER: Your Honor, the crux of our case, there are some of the facts
8 that are going to be in dispute and some we may be in agreement upon.

9 THE COURT: Mm-hmm.

10 MR. SHETLER: Mr. Perry's position is this stemmed from a dispute regarding
11 money that was loaned for drug purposes. That he went to get his -- there was a
12 fallout between the two of them a few days before the alleged date of the incident.
13 That he went to get his stuff from her house; tried to make arrangements to do that.
14 There was some discussion about what took place when he got there. What he was
15 worried about is that she was the aggressor. He knew of her previous incident
16 where she had used a knife on somebody. Any actions he did take were taken at
17 self-defense. And that we have -- there's no evidence that's going to tie him to the
18 Mercedes. But all his actions were taken in self-defense and any injuries that she
19 sustained as a result of that. There's also a question to the extent of her injuries in
20 light of the bodily harm charge. We'll get into that with the examination of the
21 doctor, but the x-rays do show at the emergency room that there was a fracture of
22 the orbit, so that's challenging.

23 THE COURT: Mm-hmm. Okay, you done?

24 MR. SHETLER: Yes, ma'am.

25 THE COURT: Sorry. Okay.

1 MR. SHETLER: Yes, Your Honor. I apologize.

2 THE COURT: It's all right.

3 Okay. So is the doctor here?

4 THE MARSHAL: I keep checking. I didn't see him. I'll check one more time.

5 THE COURT: Okay.

6 I see that the clerk has been given evidence that he's working on
7 marking exhibits. Are there any stipulations as to the evidence?

8 MR. SHETLER: Your Honor, last time we were able to stipulate to those. I
9 don't think we'll have any issue. We'll just go through them one more time. Ms.
10 Sudano's told me they're same as last time, but I haven't gone through with my
11 client this time yet. So maybe we could take, once they're done -- marked we'll do
12 that.

13 THE COURT: Why don't we go off the record while we're waiting for the
14 doctor and you can do that.

15 MR. SHETLER: Thank you, Your Honor.

16 MS. SUDANO: And, Your Honor --

17 THE COURT: Oh, stay on.

18 MS. SUDANO: -- the named victim is present. I can call her so we don't keep
19 the Court waiting. If Mr. Shetler wants to look through the exhibits first, and then if
20 the doctor's still not here we'll call Ms. Carpenter.

21 THE COURT: Okay.

22 MR. SHETLER: That's great. Thanks.

23 THE COURT: All right. Let's go off.

24 [Off the record at 1:46 p.m.]

25 [Proceedings resumed at 1:50 p.m.]

1 THE COURT: So my understanding is defense will stipulate to Exhibits 1
2 through 37?

3 MR. SHETLER: That's correct, Your Honor.

4 THE COURT: Okay. So they'll be admitted by stipulation then.

5 And my understanding is the doctor's here, so we can get started.

6 MS. SUDANO: That is --

7 THE COURT: Let's go.

8 MS. SUDANO: -- correct, Your Honor. And --

9 THE COURT: Is anybody invoking the exclusionary rule?

10 MS. SUDANO: I was just going to say, yes, the State does, Your Honor.

11 THE COURT: Okay. So we'll make sure that we don't have witnesses in the
12 courtroom before they testify. Let's go.

13 THE MARSHAL: If you could make your way up into the box and remain
14 standing. Raise your right hand and face that gentleman right there.

15 **STEVEN LIEVOWITZ**

16 [having been called as a witness and being first duly sworn, testified as follows:]

17 THE COURT CLERK: Thank you. Please be seated.

18 Please state your complete name, spelling both your first and last name
19 for the record, please.

20 THE WITNESS: Steven with a V -- S-T-E-V-E-N, LEIBOWITZ,
21 L-E-I-B-O-W-I-T-Z.

22 THE COURT: Go ahead.

23 MS. SUDANO: Thank you, Your Honor.

24 ///

25 ///

1 **DIRECT EXAMINATION**

2 BY MS. SUDANO:

3 Q Sir, how are you employed?

4 A I'm self-employed.

5 Q What's your educational background?

6 A I went to Brandeis University for undergraduate. Then I went to
7 Columbia College of Physicians and Surgeons in New York for medical school. And
8 I did my internship in internal medicine at Stanford University. And I did my
9 ophthalmology residency and fellow -- and fellowship in ophthalmic plastic and
10 reconstructive surgery and orbital surgery at Harvard University.

11 Q How long have you been practicing medicine?

12 A I think 20 -- 27 -- since 1985.

13 Q Now do you have any additional certifications beyond the ones that
14 you've already listed?

15 A Well, I'm board certified in ophthalmology by the American Board of
16 Ophthalmology. And I'm a member of the American Society of Ophthalmic Plastic
17 and Reconstructive Surgeons, ASOPRS, which isn't really a board certification, but
18 in order to do that you have to do an approved fellowship, which now I think there's
19 17. At my time there was only 14 in the country. You have to do a written exam and
20 an oral -- a written exam, a thesis, and an oral exam.

21 Q Do you have any sort of teaching background?

22 A Yeah, I'm assistant clinical professor at UCLA, the Jules Stein Eye
23 Institute.

24 Q What do you teach there?

25 A Ophthalmology, ophthalmic plastic and reconstructive surgery.

1 Q Now I want to draw your attention to May 27th of 2014. On that day did
2 you have occasion to consult with a patient named Coral Carpenter?

3 A I have the chart here. If it's okay I'll refer to that.

4 Q Would that refresh your recollection as to the date?

5 A Yeah. I certainly wouldn't know the date without looking at that.

6 THE COURT: Okay, go ahead.

7 THE WITNESS: It was on --

8 THE COURT: So what are you looking at?

9 THE WITNESS: I'm sorry?

10 THE COURT: What are you looking at?

11 THE WITNESS: My note from May 27th, 2014 --

12 THE COURT: Okay.

13 THE WITNESS: -- which is the first time I saw the patient.

14 BY MS. SUDANO:

15 Q And that patient was Coral Carpenter?

16 A Correct.

17 Q What was the nature of your consult with her that day?

18 A Well, it was referred by Dr. Voo. She was referred by Dr. Voo, who's
19 the retinal surgeon, so I assumed that she saw Dr. Voo for a retinal consultation. I
20 don't really handle inside the eye itself. So I do -- I do -- I'm an oculoplastics and
21 orbit surgeon, so I was sent because they believed that she had an orbital fracture,
22 so that's why they sent her to me because we're very sub-specialized in
23 ophthalmology.

24 Q Now were you able to confirm that she had an orbital fracture?

25 A Well, I was very suspicious of it by the examination, but I also had the

1 CT scan available at the time, which I actually still have in my chart. So when I
2 looked at the CT scan I could confirm it.

3 Q Which eye fracture --

4 THE COURT: You confirmed that --

5 THE WITNESS: She had a orbital fracture.

6 THE COURT: Okay.

7 BY MS. SUDANO:

8 Q And which eye was that orbital fracture in?

9 A It was the right eye.

10 Q Were you able to determine any other fractures based on the CT scan?

11 A Well, the CT report, if I could read you that, it's fair -- you know, fairly
12 specific. There it is. The impressions -- you know, they have a whole -- long report,
13 but this is the impressions.

14 Q Now, doctor, I'm going to interrupt you there; I apologize. Would you be
15 able to remember all of this information without looking back at your chart?

16 A I can only remember what -- the part that I do, which is that she had a
17 right orbital fracture. You asked me about other fractures that don't really pertain to
18 my work; that's why I wanted to review the -- from the chart. But from my -- my
19 recollection she had a typical blow -- what we call blowout fracture, which is an
20 orbital fracture of the orbital floor, as well as a fracture of the medial orbital wall,
21 which is called the lamina papyracea.

22 Q Now when we're talking about the right orbital, where is that on the
23 face?

24 A The orbit are bones around the eye. Like the socket is -- it would be a
25 -- you know, layman's way of talking about it. There's four sets of walls around the

1 eye that house it. And when there's a -- what they call a blowout fracture, there's
2 really two different theories as to how they happen. Both of them are very
3 interesting in that -- usually happens like from a punch or something like that where
4 a blunt trauma, where the eye itself compresses almost to -- they've shown this with
5 fast action photography, compresses to the size of a -- you know, of a pancake, but
6 doesn't -- the eyeball is more like a rubber ball and doesn't lacerate unless it's a
7 sharp object.

8 And the two theories as to what causes the blowout fracture are that
9 when the -- one is that the eyeball, when it expanse, the force of it blows out the
10 walls at the weakest portions, which are the inferior wall, down below eye, or the
11 medial wall on the side of the eye. And when I said lamina papyracea for the side of
12 the eye that's -- means paper plate, so you can it's paper thin. And those both
13 connect with sinuses. Those walls connect with the two sinuses. The inferior wall
14 connects with the maxillary sinus and the medial wall connects with the ethmoid
15 sinus.

16 Q Now you said that there were two theories for how --

17 A A second theory is that the actual trauma itself turns the bone itself and
18 the torque of it blows out the orbits.

19 Q Now through your training and experience, doctor, are blowout fractures
20 generally associated with some sort of trauma?

21 A It's almost always blunt trauma because as you can see if it were -- let's
22 say with a stick or something or whatever -- the actual orbital rim, which is the bone
23 you feel right here, doesn't fracture. It's underneath the eye or on the side of the
24 eye at the weakest points. So it's really a -- an injury that happens from the blunt
25 trauma, but it's not where directly the trauma hits.

1 Q So if a client were -- or a patient were to have some sort of other
2 ongoing medical history -- history of say lupus or something along those lines, would
3 that be consistent with an orbital fracture?

4 A I don't understand the question.

5 Q So if an individual had a pre-existing medical condition, such as lupus,
6 is that something on its own that could cause an orbital fracture?

7 A No -- no way.

8 Q Okay. Now you indicated that you were able to observe the orbital
9 fracture on Ms. Carpenter. Were you able to make any other diagnoses on May 27th
10 of 2014?

11 A Well -- I mean, do you want to know what the problems were; why I
12 thought there was a blowout fracture or what are you asking?

13 Q We'll start there and then we'll go onto the other diagnoses as well.

14 A Okay. So the things that -- the symptoms that people have when they
15 have a blowout fracture is -- one is the diplopia, in other words, double vision. And
16 the reason for that is because there are six muscles that move the eye like pulleys.
17 And the inferior rectus muscle is on directly right below your pupil at the bottom, and
18 you can see it's right where the orbital rim is. So when there's a fracture, that
19 muscle becomes somewhat entrapped in the fracture cite itself, so people can't
20 move their eye up and down real well and that's why they have diplopia. So that's
21 one of the main things you have. In her particular case, she also had numbness of
22 the cheek, upper lip and teeth area, which indicates a more posterior fracture; in
23 other words, a bigger fracture going further back.

24 Q Now did she also report any additional issues, or were you able to
25 observe any issues perhaps with where the eye was located?

1 A Well, she had enophthalmos, I'm sure.

2 THE COURT: She had what?

3 THE WITNESS: Enophthalmos, E-N ophthalmos. And -- E-N-O-P-H-T-H-

4 THE COURT: Thank you.

5 THE WITNESS: -- A-L-M-O-S.

6 THE COURT: Thank you.

7 THE WITNESS: Enophthalmos --

8 THE COURT: Uh-huh.

9 THE WITNESS: -- which means the eyeball is sunk in.

10 THE COURT: Okay.

11 THE WITNESS: And the reason for the eyeball being sunk in is pretty

12 obvious and it's a volume question. So the eye is in its normal position, but if there's

13 more volume; in other words, the bone is all of a sudden down, the eyeball sinks in

14 because there's -- it's -- there's -- it's taking up more of the volume of the orbit. It

15 would be like where the attorney is standing --

16 THE COURT: Mm-hmm.

17 THE WITNESS: -- if all of a sudden was a hole in the floor there, she would

18 be halfway into the 14th floor.

19 THE COURT: Right.

20 THE WITNESS: Okay. And she would be sink back -- you would only see

21 half of her. That's why you would see -- that's why there's enophthalmos and that's

22 what basically happens when there's a orbital floor fracture. If you could picture

23 where her feet are, are where the inferior rectus muscle is. You can see why it

24 would get entrapped into the fracture cite itself because right now the floor is solid

25 there.

1 THE COURT: Right. We hope so.

2 THE WITNESS: Yeah.

3 MS. SUDANO: I didn't eat lunch, so just everybody's clear.

4 BY MS. SUDANO:

5 Q Now, doctor, so those two additional diagnoses, the enophthalmos and
6 then the diplopia --

7 A I would call that traumatic enophthalmos, which is the code for it.

8 Q Now -- and is that just related to a trauma?

9 A Correct.

10 Q So those are not two separate diagnoses. Those are more consistent
11 with just the diagnosis overall of an orbital fracture?

12 A Well, for insurance to approve repair of an orbital fracture -- not every
13 fracture has to be repaired, okay, because God heals them on their own. They just
14 -- we want to treat orbital fractures that need to be treated. The ones that need to
15 be treated are ones that are symptomatic with diplopia, that's one criteria;
16 enophthalmos is the other criteria. If they just had a fracture that wouldn't be
17 enough to -- for insurance to approve that.

18 Q Now was the fracture in this case one that did need to be repaired?

19 A Yes.

20 Q Were you actually the surgeon that completed that repair?

21 A I was the surgeon.

22 Q When did that occur?

23 A I'm going to have to ask -- look at the date here of my op report
24 because --

25 THE COURT: You --

1 BY MS. SUDANO:

2 Q And would that refresh your recollection, doctor?

3 A I hope so. It would have the date on it, so it should -- oh, here it is. And
4 it was --

5 THE COURT: Okay.

6 BY MS. SUDANO:

7 Q And you're looking at -- you said your op report, doctor?

8 A Well, I didn't even make it there yet, but I'm looking at the face sheet,
9 which was on 6-14-14. And then the next page is the op report.

10 THE COURT: Okay.

11 BY MS. SUDANO:

12 Q Can you just walk us through, very generally, the surgery that you
13 performed on --

14 A Okay. We'll get back to the hole in the floor analogy where you're
15 standing. If you -- if there was a hole in the floor and you were halfway on the 14th
16 floor what would we do? We'd lift you up with a hoist, although you don't seem that
17 heavy we could just pick you up, and we would put a piece of plywood down
18 underneath your feet. And the construction people would come and fix the floor and
19 then everybody would be okay.

20 Same kind of thing in the orbit. We don't usually repair the medial
21 fracture, the lamina papyracea, even though that does still cause traumatic
22 enophthalmos -- you know, can cause enophthalmos. We want to fix mostly the
23 inferior wall problem because the eyeball and the muscle are sinking down into the
24 sinus; that's not good. So what we do is we -- I go in by a cosmetic approach,
25 where I go in from the inside of the eyelid called the conjunctiva, so there's no scar

1 on the outside, and I go right down to the orbital bone, the orbital rim right here; you
2 can feel it. I make an incision in the lining of that bone called the periosteum, and I
3 lift up the periosteum and try to get everything that was formally in the orbit back in
4 the orbit. So you want to -- the stuff that's in the sinus, by hand-over-hand
5 maneuvering you lift it up to -- with both a elevator and a retractor to try to get the
6 stuff back in the orbit.

7 Q Now when you say the stuff, are you referring to pieces of bone, or
8 you're referring to the eye matter; what are you referring to?

9 A No, it's the orbital contents. You want to get whatever was in the orbit
10 before, the periosteum, the muscle, the fat, everything that's now in the sinus that
11 doesn't belong there back to where it belongs. So then -- I told you we'd put a piece
12 of plywood underneath your feet, we put an orbital implant there that's to -- to make
13 the new floor. In her case I used a titan orbital implant, I believe, which is --

14 Q Are you referring back to your op report again, doctor?

15 A Yes, I am. Yeah, titan implant. And that's the state-of-the-art implant in
16 that it's -- about ten years ago we used just titanium mesh, okay, but a lot of the --
17 which you use -- like titanium is used in your golf clubs and stuff. But what we found
18 is that a lot of the orbital contents stuck to the mesh itself. So there's a material
19 called porex [phonetic], which is devised by the Porex Company, that's -- allows
20 vascularization to grow into it. So they have the new -- when I put this in, this was a
21 fairly new implant. Now it's the number one used implant in the country. And it
22 allows the vascularization to grow into the porex and shields it away from the
23 titanium.

24 Now you say why would you even do that? The reason I put that
25 implant in as opposed to just a piece of silastic plastic is that a lot of the floor was

1 missing so you needed more support. So you need a heavier duty implant than -- if
2 it was just a tiny microfracture that I lifted the stuff up, I would just put a piece of
3 absorbable implant material and it would've been dissolved in six months. But this
4 needed some heavy duty support there.

5 Q Now is that because it was a more serious fracture, I believe is how you
6 characterized it earlier?

7 A Yes.

8 Q Now did you perform any additional operations or functions while you
9 were operating on Ms. Carpenter?

10 A I don't believe so.

11 Q Okay. Now did you have occasion to see Ms. Carpenter again after
12 June 14th of 2014?

13 A Right. I saw -- I see everyone in post-op always. So I saw her on
14 6-23-14.

15 Q What was the purpose of that visit?

16 A It's a post-op visit. I check everyone that I operate on post-operatively
17 to make sure everything's okay.

18 Q Were there any ongoing issues with Ms. Carpenter that concerned you
19 on that June 23rd visit?

20 A It said that she had some slight intermittent diplopia still; in other words,
21 some intermittent double vision. It was much better, but she still had some
22 intermittent double vision.

23 Q And so that would've been a week and a half after your surgery --

24 A Right.

25 Q -- she was still suffering from the double vision?

1 A Yeah.

2 Q Okay.

3 A And she also had a -- I wrote a subconj hemorrhage. That was still from
4 the original trauma; in other words, the weight of eye is covered with -- it kinda looks
5 like has blood in it, which it does.

6 Q Was that -- and I'm sorry, you said that that was from the original
7 trauma?

8 A Most likely from the original trauma. It could have been from the
9 surgery, but usually not.

10 Q Did you observe any of that, or note any of that prior to the surgery; do
11 you recall?

12 A I don't recall, but I'll look in my note here. And I don't have it down
13 there, so it could have been from the surgery. I don't know though.

14 Q Now -- I believe you already testified that the injuries in this case could
15 be -- or generally are consistent with trauma; is that fair?

16 A Correct.

17 Q Could that be consistent with being kicked in the face in addition to
18 being punched in the face?

19 A Kicked or punched; blunt trauma.

20 Q So could -- would that also be consistent with maybe having your head
21 struck against the floor or an object?

22 A Not usually --

23 Q Okay.

24 A -- because it -- it really is -- has something like -- has to go in to
25 compress the eyeball, like the fist or a boot or something, you know. It's not -- it just

1 doesn't happen from, you know, just hitting your head on the floor. When you hit
2 your head on the floor you just get like a black and blue mark all over your face, but
3 not an orbital fracture.

4 Q Now can you make any conclusions I suppose about whether the
5 trauma was from a single blow or from multiple blows?

6 A No.

7 MS. SUDANO: Okay.

8 Court's indulgence.

9 THE COURT: Uh-huh.

10 MS. SUDANO: I apologize, doctor.

11 BY MS. SUDANO:

12 Q Can you make any conclusions or opinions about the amount of force
13 that would be required to sustain this level of trauma?

14 A Not really. I mean, it's -- you know, it's basically being punched out. I
15 mean, that's really how I would describe it. I mean, I unfortunately see quite a bit of
16 this. And lots of times -- you know, as from a -- it's a reportable event. We're
17 supposed to report abuse of some kind or another. And -- so the first question I ask
18 is how did this happen. And -- you know, or is -- you know, if the -- if the patient is --
19 you know, says that oh, the guy's already in jail or something I leave it at that, but
20 otherwise -- you know, lots of times they try to shield the person who did this, you
21 know, I try to have more intense questioning about it because it's obvious that this
22 was, you know, an abuse situation from the clinical pattern.

23 Q Now when you spoke with Ms. Carpenter about this case, did you have
24 that conversation with her about what happened that caused this trauma?

25 A Absolutely.

1 Q Okay. What did she tell you?

2 A She said she was assaulted and the -- the guy's in jail. And then we
3 had her sign up for the Victims of Crime.

4 MS. SUDANO: No further questions, Your Honor.

5 THE COURT: Cross.

6 MR. SHETLER: Thank you, Your Honor.

7 Dr. Leibowitz, my name is Travis Shetler and I appreciate you being
8 here today. Thank you for rearranging your schedule and making yourself available.

9 **CROSS-EXAMINATION**

10 BY MR. SHETLER:

11 Q I want to ask you a couple of questions. The -- you just stated to Ms.
12 Sudano's last question that it was obvious that this was an abuse situation. Is that
13 based on what you observed independently of what Ms. Carpenter related to you, or
14 is that based on what she told you?

15 A It's based on the clinical observation of what I see; that she was
16 punched out. I assume it was abuse. I mean, it could've been any other kind of
17 fight, but it looked as though she was punched out. That's --

18 Q And that's -- and that's of course the crux of my concern, you used the
19 term abuse. It could've been mutual combat; correct?

20 A Well -- I mean, I think when someone gets punched by their significant
21 other that's abuse. I'm not a lawyer, but that's what it seems like to me.

22 Q Right, but you're not -- you're here to talk about her eye. You're not
23 here to talk about whether she was a victim of abuse; right?

24 A Well, I'm also -- the reason I came is because I don't think this stuff
25 should happen. You know, I -- I see -- I have, you know, a sister and daughter and I

1 wouldn't want them punched out and that's how I look at it.

2 Q And I appreciate that. And I could assure you I don't believe there's
3 anybody in this courtroom, and I could certainly speak for myself, that wants this to
4 happen to anybody, male or female. It's -- but my concern, because we are in the
5 courtroom, is your use of the term abuse. Did -- it's entirely possible, based on your
6 training and expertise, that an injury like this could happen from you and I in a fight;
7 correct?

8 A Anyone could have punched this person.

9 Q And so when you use the word abuse that brings in some -- an extra
10 truckload of baggage with it to this courtroom proceeding. Well, you're here --

11 A Well --

12 Q -- to talk about just the mechanism of injury; is that correct?

13 A Well, I'm supposed to as a physician evaluate that also and try to -- as I
14 said, it's a report -- my understanding is that it's a reportable event for me, so I have
15 to determine that -- what happened.

16 Q Right. Are --

17 A And that's why I assumed -- I concluded that it was abuse because I'm
18 charged with that as the treating physician.

19 Q Would the -- once you -- is it your --

20 A I'm not just a guy who fixes the stuff. I'm supposed to -- you know, if I --
21 if I thought that someone was punched out by someone, and it was an abuse
22 situation, I'm supposed to report it.

23 Q Right. Then you said you would then have some additional follow-up
24 questions; right? You would have a -- I think -- I don't want to misquote you, but I
25 believe you said once you thought that there might be some sort of abuse you would

1 then have other questions you would follow up on; is that correct?

2 A Right. I would ask if they've reported it to the police, which is the first
3 step. And if they haven't reported it, I'm supposed to report it. And if not -- and in
4 this case, we sent her to Victims of Crime.

5 Q Right. Right. If I came in and -- and I had the same injuries as Ms.
6 Carpenter, what you observe there, and you asked me what happened and I said I
7 was in a fight, would that be a reportable event?

8 A Well, possibly. I mean, if it was an assault situation; yes.

9 Q You said earlier that you assumed it was abuse or you then concluded
10 it was abuse. You said both; correct?

11 A Well, I asked her questions and I asked her what happened and she -- I
12 asked her who did this. It wasn't like there were two girls, you know, doing this in
13 the middle of the night at a bar or something or she punched herself out. I mean,
14 that's -- you know, to me when someone -- some other person, especially a
15 significant other -- a man punches you that's abuse. I mean, that's how I think about
16 it.

17 Q But abuse can occur between two women as well; correct?

18 A There can be assault between two women, but I consider this abuse.

19 Q Well, that's not my question. Abuse -- abuse is not gender specific; is
20 that correct?

21 A Once again, this is not my area. I would -- but if another woman had
22 punched her I would report that also.

23 Q Right. That's exactly where -- have you ever seen an injury such as
24 what you've observed in Ms. Carpenter that was not the source of abuse -- or result
25 of abuse? Excuse me for misspeaking.

1 A Well, once again, I -- I have -- theoretically you could have -- and I have
2 seen construction injuries and so on cause a blowout fracture, but 99 percent of the
3 time it's because they're punched out.

4 Q Dr. Leibowitz, you stated that the symptomology -- not -- let me keep it
5 simple. I don't want to get mixed up on the words. You stated that not every orbital
6 fracture needs to be repair; is that correct?

7 A Yes.

8 Q And you specifically stated in this case that you believed it needed to be
9 repaired because the double vision and the displacement of the eye; is that correct?

10 A The enophthalmos of the eye.

11 Q Right, which is the displacement?

12 A It's -- the eye really -- she did have displacement, or called globe ptosis,
13 which is the eye sinking down, but that's not what I was meaning. The
14 enophthalmos, the eyeball sinking back, is the reason for the trauma enophthalmos.
15 Those are the two criteria that insurance company -- that's not my criteria, but they -
16 - she fit both of them. You need only one of them to have the operation --

17 Q Do --

18 A -- to be approved.

19 Q Do -- at any point, in your opinion, was Ms. Carpenter at risk of losing
20 her eyesight in that eye as a result of this injury?

21 A It's not an eyesight issue; okay. It's not a -- the trauma to the eye that I
22 do is not an eyesight issue. You could lose obviously vision in your eye from trauma
23 for lots of reasons. One is that the vessels to the eyes the vasculature gets
24 compromised by the trauma; that did happen in this case, or two is that, you know,
25 have trauma to the lens or the retina or so on. Now she was sent to me by the

1 retina person, so I assumed that her retina was cleared. I'm down the line as far as
2 fixing the eye. All this intraocular stuff has to be done before it gets to me.

3 Q Were you of whether or not Ms. Coleman [sic] had a history of -- and I
4 don't want -- I'm going to be very general, any type of eye condition -- pre-existing
5 eye condition, or symptomology, or problems?

6 A If you'll let me look at my chart there I'll tell you what I --

7 Q Would by --

8 A -- what she told me.

9 Q Before you do that, doctor, by looking at your chart would that refresh
10 your recollection --

11 A Yes.

12 Q -- as to your question, please?

13 MR. SHETLER: Court's permission.

14 THE COURT: Go ahead.

15 THE WITNESS: She claimed no prior eye problems because I always ask,
16 you know, really four sets of questions besides the why you're there now.

17 MR. SHETLER: Uh-huh.

18 THE WITNESS: I always ask past ocular history, past medical history, what
19 medications they're on, and what allergies they have; every single time, every
20 patient. And under POH, that's past ocular history, I have a negative sign, so --

21 BY MR. SHETLER:

22 Q Were you aware of any sort of a history -- and, of course, you're relying
23 on the patient to be honest and frank with you in the history; correct?

24 A That's my only way.

25 Q And do you find that patients are always honest and frank in their

1 history?

2 A Not really.

3 Q Did you find any evidence in there -- or do you note any evidence in
4 your chart of problems with conjunctivitis?

5 A No, but conjunctivitis wouldn't -- a lot -- people wouldn't even tell me
6 about that because that really isn't a -- what I'm looking for. When I ask them have
7 they had anymore eye problems in the past -- I mean, conjunctivitis is a minor thing
8 that half the population has had at one point, including myself. I mean, I wouldn't
9 give that in my history if I had a blowout fracture. I mean, I'm asking -- I ask them if
10 they've had any history of glaucoma, retinal detachment, cataracts.

11 Q Right.

12 A Those are the three things I usually ask them. That's what I consider
13 more significant ocular history.

14 Q And are those matters that you have to rely on the patient reporting to
15 you, or are those matters that you can observe independently based on your training
16 and education?

17 A Well both. I mean, the part I'm saying now is what I ask them, but then
18 when I do the physical examination and look with the slit lamp, you know, I can see
19 if they've had cataract surgery. I mean -- you know, I -- you know, they'll be an
20 implant there rather than a lens. I mean -- and this happens all the time. I say, you
21 ever had any eye problems; no, no, nuh-uh, nuh-uh. And then I look with a slit lamp
22 and there's two implants in there and I go, well, you had cataract surgery; oh, yeah,
23 yeah, I had cataract surgery. I mean, that's pretty standard stuff. It's not, you
24 know --

25 Q Ms. Sudano asked you if a prior -- if a history of lupus would've had any

1 impact on your observations or treatment. I would ask you the same question
2 regarding any sickle cell anemia.

3 A No, sir. I mean, these are medical issues that we have to deal with
4 [indiscernible] and they have to be cleared for surgery --

5 Q Right.

6 A -- but not the actual causation of the problem.

7 Q What was your prognosis after you conducted your affairs to Ms.
8 Carpenter's --

9 A Well --

10 Q -- eye orbit, I guess?

11 A I always tell people it's never gonna be perfect. You know, it's just not.
12 You're dealing -- now in her case -- let me just get the timeline again. The -- I saw --
13 the assault was supposedly on 5-1-14. And I operated on her on -- what date did I
14 give you there?

15 THE COURT: 6-14 maybe?

16 THE WITNESS: Yeah, so that's, you know, a month and a half later. That's
17 not good. The optimal time to operate is ten days to two weeks by our academy. All
18 literature tells you that because after that, I always tell the patient God's been
19 healing it. And if there's material that's in the orbit that's into the sinus now, there's
20 already scar tissue around that and everything else, so it's not -- the prognosis is not
21 nearly as good. If it's a fresh fracture, ten days to two weeks -- and it's the same if
22 you fractured your arm. You wanna -- they want to set it right away before it starts
23 to heal itself, so that's one thing that I always tell the patient about.

24 The other issue is that, you know, the numbness of the cheek, upper lip
25 and teeth area could be permanent in nature. And I actually can make it worse by

1 fooling around with it during the operation because the nerve that cause -- it's call in
2 the infraciliary nerve, and that goes right through the bone that's been fractured. So
3 when we're leaving the fracture we're traumatizing that nerve some more. We tell
4 patients that if it comes back it takes a full six months to come back, and then it may
5 not come back at all. It feels like you've been to the dentist on one side. People
6 can't see it. You know, they don't -- they don't -- they can't -- it's not a motor
7 problem. They can't see like one side of your face being numb --

8 MR. SHETLER: Right.

9 THE WITNESS: -- but, you know, you feel it. And people have trouble
10 chewing; they bite their tongue. It's an annoying thing.

11 BY MR. SHETLER:

12 Q Is that factor -- is the timeframe that took place here -- and let me lay a
13 little foundation. I'm sorry. If there was no -- if she sustained this injury -- Ms.
14 Carpenter sustained this injury and there was no -- if I use the words displacement
15 of any of the eye orbit is that --

16 A Enophthalmos.

17 Q I can't say that word. I can't do it. I'm sorry. The -- if there was no --
18 you said there are times you don't repair this injury; is that right?

19 A Correct.

20 Q One of those times --

21 A This wasn't one of those.

22 Q -- would be -- right.

23 A This wasn't one of those.

24 Q Is that factor -- you said there were two factors. A double -- or at
25 least --

1 A Right.

2 Q -- two factors you mentioned. I don't mean two factors exclusively, the
3 double vision or the displacement --

4 A Right, enophthalmos.

5 Q -- enophthalmos. Would the timeframe, the six weeks that had
6 transpired, would that also be a factor in making that decision?

7 A No, it wouldn't be a factor in the decision making process. A decision in
8 the prognosis -- it's a factor in the prognosis, that's the problem.

9 Q Can you elaborate a little bit on that?

10 A Well, it's like I said, the optimal time to operate is ten days to two
11 weeks. When I go in there -- and I told you I lift up the stuff, you know, and try to put
12 it back where it belongs and then put the implant in -- slide the implant in. It's a lot
13 easier when the stuff hasn't stuck down and made a scar. It's -- you know, it --
14 when it's made a -- it's already -- when it's six weeks already it's tough because it --
15 it's made a scar with the sinus tissue; now it's merged with that. Any -- anything
16 heals, you know, so it makes into a scar and it's tougher to separate the stuff that
17 should be in the orbit from the stuff that's in the sinus.

18 And I tell all the patients that, you know. It's -- you know -- you know, I
19 had a kid last week that, you know, was hit by a soccer ball and had a fracture
20 around the eye and I told him I was going to -- I operated this past weekend and I
21 told him I'd fit him in and they were busy. They had stuff to do, so I said, well, that's
22 not real smart, but that's what they chose to do. So in this case, I didn't have a
23 choice because she came to me, which is very common by the way. By the time
24 they get to me I'm a tertiary guy; it's already past ten days to two weeks. They don't
25 send them right away.

1 Q Is that -- when you talk about the difference in the diagnosis or the
2 prognosis is that also a factor in whether or not it's going to be covered by insurance
3 or not covered by insurance. That timeframe --

4 A No.

5 Q -- not an issue at all?

6 A No, insurance covers it if they have the two criteria is what I -- that's not
7 a criteria whether they're going to cover it or whether I'm going to do it. I've done
8 fractures six months later, you know, but I tell them that, you know, the prognosis is
9 worse; that's all. It's not a Fixodent.

10 Q Is it possible that another doctor with your training would have looked at
11 Ms. Carpenter's injury and said it did not need to be repaired surgically?

12 A Well, anything's possible. I don't think it would be good medicine, but
13 anything's possible.

14 Q Do you believe there's any part of your treatment of Ms. Carpenter that
15 wasn't necessary? And I mean that with all due respect, doctor.

16 A Oh, absolutely not. I would tell you if I did.

17 Q Do you have --

18 A Absolutely not.

19 Q -- do you have, as you sit here today -- did you have any opportunity to
20 visit with Ms. Carpenter after your follow-up visit?

21 A No. And, you know, that's unusual in itself because what my usual
22 pattern is, is I see people like a week or, you know, eight days or ten days
23 depending on when we do the surgery. If I did it on a Saturday I'll see them like a
24 week from Monday or Tuesday for their first post-op visit and then I see them three
25 months later. And apparently she didn't come for the three month later appointment,

1 but, you know, that's when I usually see them because then I see if, you know, A
2 they're -- you know, what -- if something else has to be done or not. Insurance
3 doesn't usually approve a second surgery until three months anyway, so that's why I
4 have them come back three months later to see if they need any more surgery. But,
5 you know, no news is good news too. A lot of people don't come back when they're
6 doing better.

7 Q So if she -- if Ms. Carpenter had report to other individuals three months
8 later that she was worried about losing her vision, would you have expected her to
9 show up for your appointment?

10 A Once again, the vision part is not mine.

11 Q Nothing to do with this injury?

12 A I wouldn't be dealing with this surgery. You know, they would go to her
13 -- I think she went to Dr. Yee and Dr. Voo. Dr. Yee is a general ophthalmologist
14 corneal specialist and Dr. Voo is a retinal specialist, so they would be more handling
15 the actual vision part of it.

16 Q If she had complaints like that to a third party and didn't follow up with
17 any of those doctors would you be surprised?

18 A Nothing really surprises me. I mean -- you know, I have -- honestly,
19 nothing really surprises me. I have patients that lost -- I had one patient this year
20 that I -- I treat a lot of thyroid disease around the eye. That's the orbital problem,
21 you know, because the eyeballs stick out, the opposite problem to this, and I've had
22 two patients in the 20 years of practice I've been here in Las Vegas who went blind
23 in the eye from -- that they didn't have surgery and that their optic nerve was
24 compressed. The first one, you know, normally called me that minute and, you
25 know, we worked on it and that's a normal response. The second one came a

1 month later to my office, which I just can't understand. I mean, people would call me
2 if they have a contact lens flipped inside out --

3 Q Right.

4 A -- you know, and someone goes blind in the eye --

5 Q Right.

6 A -- and doesn't call you for a month. So people have denial and nothing
7 surprises me is what I'm saying.

8 Q Doctor, when you used the recent example of the child who was injured
9 by the soccer ball, that was a different type of injury; is that correct?

10 A No, actually a soccer ball can cause a blowout fracture if the ball is --
11 you know, goes right in -- oh, actually -- I'm sorry. It wasn't the soccer ball, it was
12 the knee in the that did it.

13 Q Uh.

14 A Okay, while they were playing soccer.

15 Q It doesn't seem ideal, no.

16 A You know --

17 Q And that was not a reportable event because there was a logical history
18 of how that came about --

19 A Right, and --

20 Q -- that you were comfortable with?

21 A -- you know, the coach was there too. I mean, everybody was there.

22 Q Right.

23 A It wasn't a -- besides the mom -- and the -- but the injuries can be just
24 as bad. I'm actually -- you know, I have dealt with this more than regular orbit
25 surgeons because UCLA in the infinite wisdom sent me to Martin Luther King

1 Hospital for 13 years in my -- when I first started in practice, so I'm a trauma
2 specialist. There's no designation for that, but I'm the one who's taking care of lots
3 and lots of trauma.

4 MR. SHETLER: We're all glad you're out there doing that. Thank you,
5 doctor.

6 If I could have the Court's indulgence for just one moment?

7 THE COURT: Yep.

8 MR. SHETLER: Doctor, Your Honor, thank you. We don't have any further
9 questions at this time.

10 THE COURT: Okay. Any redirect?

11 MS. SUDANO: No, Your --

12 THE COURT: Hold on. Sorry.

13 MS. SUDANO: No, Your Honor.

14 **QUESTIONS BY THE COURT**

15 THE COURT: Okay. Just a quick question. I just -- because probably
16 everybody understands this but me. Where did you see Ms. Carpenter?

17 THE WITNESS: In my office.

18 THE COURT: Which is --

19 THE WITNESS: In Summerlin.

20 THE COURT: -- in California?

21 THE WITNESS: No, in Summerlin.

22 THE COURT: In Summerlin.

23 THE WITNESS: I'm a Nevada resident. I live here. I just have maintained
24 my UCLA professorship --

25 THE COURT: Uh --

1 THE WITNESS: -- and I go there once a week. And I'm actually -- I'm
2 missing my flight right now --

3 THE COURT: Sorry.

4 THE WITNESS: -- to testify here.

5 THE COURT: I apologize for inconvenience, but I do appreciate it.

6 So you -- where was the surgery done?

7 THE WITNESS: At Sunrise.

8 THE COURT: At Sunrise; okay.

9 Anything else?

10 MR. SHETLER: No, Your Honor.

11 MS. SUDANO: No, Your Honor.

12 THE COURT: Okay. Thank you, doctor, I do appreciate --

13 THE WITNESS: Thank you.

14 THE COURT: -- you making your way here.

15 Okay. Next witness.

16 MS. SUDANO: State calls Corla Carpenter.

17 THE MARSHAL: If you could step up in the box and remain standing. Raise
18 your right hand and face that gentleman right there.

19 **CORLA CARPENTER**

20 [having been called as a witness and being first duly sworn, testified as follows:]

21 THE COURT CLERK: Thank you. You may be seated.

22 Please state your complete name, spelling both your first and last name
23 for the record.

24 THE WITNESS: Corla Carpenter, C-O-R-L-A C-A-R-P-E-N-T-E-R.

25 THE COURT CLERK: Thank you.

1 **DIRECT EXAMINATION**

2 BY MS. SUDANO:

3 Q Good afternoon, Ms. Carpenter.

4 A Good afternoon.

5 Q Do you know Genaro Perry?

6 A Yes, I do.

7 Q Do you see him here in the courtroom today?

8 A Yes, I do.

9 Q Would you please point to him and identify an article of clothing he's
10 wearing today?

11 MR. SHETLER: Your Honor, we'll stipulate to [indiscernible] Perry.

12 THE COURT: Okay, so stipulated.

13 BY MS. SUDANO:

14 Q Now, Ms. Carpenter, how did you first meet the Defendant in this case?

15 A I first met Mr. Perry when I was taking some boxes or some -- moving
16 some things from my car to my condo and he was walking down the street going to
17 visit a neighbor in the same condo complex and he offered to carry one of the
18 articles for me.

19 Q Do you recall approximately when that was?

20 A Maybe September -- August -- sometime in the summer part of 2012, I
21 believe. Maybe --

22 Q Now, did you have --

23 A 2013; I'm sorry.

24 Q So summer of 2013?

25 A Yes.

1 Q Did you have occasion to meet him -- or see him again after that first
2 time in the summer of 2013?

3 A I believe it was a couple months later he was back visiting the same
4 neighbor. And she had told him what I was doing and --

5 Q What were you doing?

6 A I owned my own independent paralegal service. I was working with a
7 team of attorneys throughout the State.

8 Q Now did the Defendant have a legal matter that he asked you to help
9 him with?

10 A Yes, at that time he was being evicted from an apartment and he asked
11 if he could -- if I could help him in some way, so I had him make an appointment with
12 me.

13 Q At some point did your roman -- or your relationship become romantic?

14 A It did.

15 Q When was that?

16 A Towards fall.

17 Q Later on in that same fall?

18 A Right, that same year towards the fall.

19 Q So 2013?

20 A Yes.

21 Q Now how long did you date?

22 A The complete relationship from start to finish?

23 Q Yes.

24 A My best guess would be six to eight months, somewhere in there.

25 Q So it started fall of 2013, when did you break up?

1 A The end of April 2014.

2 Q Now was your relationship physical during that period, fall of 2013 to

3 spring of 2000 -- or -- sorry -- fall of 2013 to 2014 in the spring?

4 A When you say physical what do you mean?

5 Q Was it sexual in nature?

6 A It got sexual at some point.

7 Q About when did it get sexual?

8 A Towards the winter of 2013.

9 Q Did it continue on that course? Was it still sexual up until the end of

10 April 2014?

11 A It was off and on.

12 Q Now I want to draw your attention to the end of April 2014. Were the

13 two -- you said the two of you broke up?

14 A Yes, I broke up with him. I ended the relationship.

15 Q Do you recall when that was?

16 A Yes, it was mid to the end of April 2013.

17 Q 2013?

18 A 2014; I'm sorry.

19 Q Now I want to fast forward a little bit to April 30th of 2014. Were you and

20 the Defendant dating on April 30th of 2014?

21 A No, we were not.

22 Q Had you seen the Defendant since you broke up a couple weeks prior?

23 A No, I had not.

24 Q Had you been in communication with him at all?

25 A Yes.

1 Q How was that?

2 A Via text message.

3 Q Now did there come a time on April 30th of 2014 that he came to your

4 house?

5 A I'm sorry, repeat that.

6 Q Did there come a time on April 30th of 2014 where the Defendant came

7 to your house?

8 A Yes.

9 Q How did that come about?

10 A What I recall happening is he showed up to my home and he asked to

11 be let in. And I told him I didn't want him at my house without a police escort and he

12 showed up anyway.

13 Q So just to be clear, had you invited him over to your house on April 30th

14 of 2014?

15 A No.

16 Q And approximately what time did he arrive on April 30th of 2014?

17 A It was later in the evening, so -- and when I say evening, late evening,

18 so 10 p.m. or on --

19 Q Okay.

20 A -- being I was already in bed.

21 Q Now where were you living on April 30th of 2014?

22 A In my attorney's condo at 2461 Old Forge Lane, Apartment 106 --

23 Q Okay.

24 A -- or condo 106; sorry.

25 Q Is that here in Clark County, Nevada?

1 A Yes.

2 Q Now when the Defendant showed up at your house on April 30th of
3 2014 did you let him in?

4 A Eventually, yes.

5 Q How did that come about?

6 A He had told me he had been in a fight that night and he needed his
7 blood pressure medication.

8 Q Was the blood pressure medication at your house?

9 A Yes, it was.

10 Q Was that just something that had been left there when you were dating?

11 A Yes.

12 Q So is that why you agreed to let him come into the house?

13 A Yes.

14 Q Were there any additional conversations that took place that night
15 between you and the Defendant?

16 A Once I let him in I told him he had to leave in the morning. I also was
17 very dry. I didn't have too much conversation. I made it known there would be no
18 physical interaction with us and I soon went back to sleep.

19 Q Now you say back to sleep. Were you asleep before he came to your
20 house on the 30th?

21 A I believe so. I was already in bed. It was pretty late.

22 Q Now did the Defendant spend the night over at your house that night?

23 A Yes, he did.

24 Q Where did he sleep?

25 A He slept in my bed.

1 Q Now where were you sleeping?

2 A I slept in my bed.

3 Q So I want to fast forward then to the following morning on May 1st of

4 2014. Was the Defendant still in your bed when you woke up?

5 A I think he had gotten up before me and had went to use the restroom.

6 Q Do you know approximately what time you woke up?

7 A It was seven in the hour -- seven o'clock hour.

8 Q In the morning?

9 A Yes.

10 Q Now -- so you said the Defendant had gotten up and gone to the

11 bathroom?

12 A Yes.

13 Q Was he still in the bedroom when you woke up?

14 A Yes.

15 Q Was he clothed?

16 A Yes.

17 Q What about shoes; was he wearing shoes?

18 A Yes.

19 Q How about you; were you clothed?

20 A I was clothed. I normally don't wear clothes when I sleep, but I did have

21 on a -- like a sports bra, but from the waist down I was not clothed. That's how --

22 more comfortable sleeping.

23 Q So that's just your normal practice, I guess?

24 A Normal pattern; yes.

25 Q Okay. Now did you ever have a conversation with the Defendant on the

1 morning of May 1st of 2014?

2 A When I got up that morning, I believe I asked him -- I didn't wake up
3 talking to him as if it was normal, but I did say, okay, you know, you spent the night.
4 You had a chance to take your blood pressure medication, I want you to leave.

5 Q How did the Defendant respond to that?

6 A He started using profanity. He started making remarks about my
7 mother that were unkind. And at that point I kinda knew I was in trouble because he
8 still appeared agitated.

9 Q When you say he still appeared agitated, when was he agitated
10 previously?

11 A I noticed he was agitated that evening, but I just dismissed it as he had
12 just been in a fight, 'cause that's what he told me, so he was still worked up. I was
13 not alarmed at that point, but in the morning he was aggressive and he was moving
14 kinda fast paced in my room. He was cursing. He was making up -- you know, just
15 using obscene language about my mother. And that really upset me and I realized,
16 oh, God, I should've followed my gut; I'm in trouble now, so I went to grab my
17 phone.

18 Q Now where were you when you went to grab for your phone?

19 A In my bed.

20 Q Were you lying down or sitting up?

21 A I sat up at that point.

22 Q Where was your phone?

23 A In close proximity to me.

24 Q Was it on the bed or --

25 A It was on the bed.

1 Q Now where was the Defendant when he started to get agitated and you
2 were reaching for the phone?

3 A He was standing in front of my bathroom door.

4 Q Is that still in the bedroom?

5 A Yes.

6 Q Okay. So master bedroom --

7 A With an attached bathroom.

8 Q Now what, if anything, happened when you went to reach for your
9 phone?

10 A He charged towards me; took my phone and threw it up against the
11 wall.

12 Q What did you do after he took the phone?

13 A I think I ran -- or walked -- ran or walked, but in a hurriedly fashion, to
14 my bathroom so that I could kinda close myself in there till he calmed down. I don't
15 know why I was going to the bathroom, but I knew I was trying to get away from him.

16 Q Did the Defendant say anything to you when he took your phone or
17 when you were going to the bathroom?

18 A He said -- he used some more obscene language. I don't recall the
19 exact pattern of obscene language, but he told me I was not going to call the police
20 on him.

21 Q Was that when he took your phone?

22 A That was when he saw me reaching for my phone.

23 Q All right. So prior to taking the phone he said you're not calling the
24 police?

25 A Yes.

1 Q Okay. Now was he making any additional statements as you were
2 going into the bathroom?

3 A I don't recall.

4 Q What happened -- well, did you make it to the bathroom?

5 A Not quite.

6 Q What happened before you got to the bathroom?

7 A He punched me in my face.

8 Q And when we say he you're talking about the Defendant; correct?

9 A Yes.

10 Q Now, just to be clear, were you -- were you dressed at this point?

11 A No.

12 Q So same top, no bottom situation as before?

13 A Correct.

14 Q Had you taken a swing at the Defendant at this point?

15 A No.

16 Q Did you have any weapons or anything in your bedroom?

17 A No.

18 Q Now what happened after he took a swing at you?

19 A I fell backwards into the restroom; I hit my head on the toilet and -- the
20 toilet and the tub are in close proximity, so I kinda tumbled over and landed on my
21 back.

22 Q Now what happened after you tumbled over and landed on your back in
23 the bathroom?

24 A He started punching me in my face. I started screwing. He told me to
25 shut the fuck up. He started punching me some more, so a struggle did ensue. At

1 that point, I was in defense mode and so I bit his -- bit his hand and that allowed the
2 grasp of him and his -- his punches making contact to my face to stop. And I got up.
3 I was able to get -- get to the point where I got up and I took off down my stairs.

4 Q Now approximately how many times did the Defendant punch you while
5 you were in the bathroom?

6 A I think five or less.

7 Q Is it more than one?

8 A More than one.

9 Q Now, just to be clear, did you ever punch the Defendant or hit him other
10 than the biting?

11 A No.

12 Q Okay. Now was the biting enough for you to get out of the bedroom at
13 that point?

14 A Yes.

15 MS. SUDANO: Your Honor, may I publish Exhibit 13?

16 THE COURT: Go ahead.

17 MS. SUDANO: And permission to publish all the exhibits.

18 THE COURT: Yeah, they're all admitted; go ahead.

19 MS. SUDANO: Thank you.

20 BY MS. SUDANO:

21 Q Ms. Carpenter, I'm showing you State's Exhibit 13; do you recognize
22 what's depicted in that photo there?

23 A Yes.

24 Q What is that?

25 A That's my bedroom.

1 Q And that's how it looked on May 1st of 2014?

2 A Yes.

3 Q Now what part of the bedroom specifically are we looking at in this

4 photo?

5 A There's a -- the shoe closet, a fan, an end table and a bed -- or excuse

6 me, two mattresses.

7 Q Now -- so off to the left is that shoe closet and then your bed is in the

8 bottom right of this photo; is that fair?

9 A No, off to the right of the room -- oh, you mean on this picture?

10 Q Yeah.

11 A Yes, off to the left.

12 Q Okay. Now showing you also Exhibit 14; what's depicted in Exhibit 14?

13 A That is the restroom and the proximity to the door to exit out of my

14 master bedroom.

15 Q Now, Ms. Carpenter, if you actually touch that screen you can indicate

16 on there what you're talking about. So where's the bathroom door depicted?

17 A This is the bathroom room.

18 Q So that's the door to the left in this photo?

19 A Yes, and this is the door exit to get out of the master bedroom.

20 Q And that's the door to the right?

21 A Correct.

22 Q So when -- can you also see the corner, I guess, of the mattress or the

23 bed in this photo?

24 A Yes, I do.

25 Q And is that in the bottom right?

1 A Yes.

2 Q Okay. So just using this photo can you walk us kinda through where
3 the altercation with the Defendant started and where it ended up in the bedroom?

4 A Sure. So when I knew I was in trouble and he came and snatched my
5 phone and threw it up against a wall that's not in this photo --

6 Q Okay.

7 A -- I walked this way to kinda get to my -- my bathroom. And right
8 around here is where I was punched and then fell into the restroom. And actually
9 my feet were kinda hanging out of the door here and I was on my back into the
10 restroom.

11 Q Now -- so you were indicating that you walked from the bottom right of
12 this photo up to the left towards the bathroom, and you were punched right around
13 the doorway to your bathroom?

14 A Yes.

15 Q Okay. And then after you left the bathroom you walked towards the
16 door to exit your bedroom, which is the door on the right?

17 A I didn't walk; I ran. I scurried out of there as fast as I could.

18 Q And then you indicated that you started to go down your stairs; is that
19 fair?

20 A I was running down the stairs.

21 Q Were you able to make it all the way down the stairs?

22 A No.

23 Q What happened?

24 A So on the staircase it is a set of stairs, a landing, and then a set of
25 stairs that takes you downstairs. When I got to about the landing I was kicked in the

1 back and I tumbled down the rest of the stairs into the kitchen.

2 Q Now who kicked you?

3 A Genaro Perry.

4 Q So you said you kinda tumbled down the stairs into the kitchen?

5 A Yes.

6 Q Where did you land in the kitchen?

7 A I landed on my stomach in front of the stove.

8 MS. SUDANO: And if you tap -- will you tap either the bottom left or the
9 bottom right of that screen it will clear out those marks for me. Perfect. Thank you.

10 BY MS. SUDANO:

11 Q Now I'm showing you State's Exhibit 6; do you recognize what's
12 depicted there?

13 A Yes, I do.

14 Q What's that?

15 A That is the bottom -- towards the left side of the screen that's the
16 bottom part of the stairs. And then that's the kitchen -- leading into the kitchen. And
17 there's also a little half bath, and the garage, so --

18 Q Now I know this isn't the best picture to do this, but can you kind of
19 indicate on State's Exhibit 6 how you ended up in the kitchen?

20 A Sure. So I was tumbling down these stairs from him kicking me and I
21 slid right here and here's the stove. There's some clutter on the counter, but the
22 stove sits in the middle here, but I landed here on the floor on my stomach kinda in a
23 fetal position.

24 Q What happened while you were in the fetal position in the kitchen?

25 A Genaro Perry continued to punch me in my face, and kick me with

1 boots on in my head, and punch me in the eye, and kick me on my right side
2 because I was laying in a fetal position on my left side, so I took several blows to my
3 face via his foot and his fist.

4 Q Now when you say several blows, do you recall approximately how
5 many times he struck you?

6 A I don't. I wasn't counting, but I remember pleading for him to stop.

7 Q Now I'm going to show you --

8 MS. SUDANO: Can you clear that out for me, Ms. Carpenter?

9 THE WITNESS: Sure.

10 BY MS. SUDANO:

11 Q I'm showing you State's Exhibit 7; now is that a different angle of that
12 kitchen?

13 A Yes, it is.

14 Q And can you see better where you were located at that point?

15 A Yes.

16 Q Now -- go ahead; I'm sorry.

17 A No, I was just gonna say right around where this blue towel is is kinda
18 where I landed.

19 Q And so that's right in front of -- or the middle of the picture to the left of
20 the stove?

21 A Yes.

22 Q Now you said that you were begging for the Defendant to stop hitting
23 you?

24 A Yes.

25 Q At some point did he stop hitting you?

1 A Yes.

2 Q What happened when the Defendant stopped hitting you?

3 A What do you mean what happened? I don't understand.

4 Q Well, so let's back up. Prior to him, I guess, stopping hitting and kicking
5 you, was there ever a point where anything else happened in the kitchen?

6 A Yes.

7 Q What happened in the kitchen?

8 A So obviously I'm not the best housekeeper; I own that. So there was --
9 actually I had had a steak dinner the night before. There was actually a knife that I
10 had left on the stove. I think it was like one of the only knives I owned. He picked it
11 up and he started to attack me with the knife. So after that -- after -- I started to
12 blackout briefly. And I was pleading and begging for him to stop and -- you know,
13 not to hurt me, don't kill me, I was screaming. And I sat up and he took that knife;
14 he began to swing it at me, and then he drug me up and then walked me into the
15 living room with the knife at my back.

16 Q Now when he was swinging that knife at you did he ever strike you with
17 the knife?

18 A He did.

19 Q Where did he strike you?

20 A My hands.

21 Q Now you said that he picked you up and dragged you into the living
22 room at knife point?

23 A No, I sat up and he kinda drag -- when I say dragged, he was gripping
24 me. I don't recall where, but he had a really strong hold onto the shirt that I was
25 wearing and then he had the knife to my person and walked me into the living room.

1 Q What happened when you got to the living room?

2 A He told me to sit on the loveseat that I had in the living room at the time.

3 Q Did you sit on that living -- or that loveseat in the living room?

4 A Yes.

5 Q Now did you want to sit on the loveseat in the living room?

6 A No, I didn't want to sit there.

7 Q Why did you sit there?

8 A Because he had a knife on me.

9 Q What --

10 A He -- when -- he had the knife still in his possession and he did not

11 allow me to go anywhere else.

12 Q Now showing you State's Exhibit 21.

13 MS. SUDANO: If you could clear that out for me one more time.

14 THE COURT: What exhibit?

15 MS. SUDANO: Twenty-one, Your Honor.

16 THE COURT: Thank you.

17 BY MS. SUDANO:

18 Q Now what's depicted her in Exhibit 21?

19 A That is the loveseat that I had to sit on at his demand.

20 Q And that's to the right of this photo?

21 A Yes.

22 Q Now what happened while you were sitting on the loveseat?

23 A He paced in front of me and I sat there holding a Bible and bleeding.

24 He's pacing and acting very erratic. He then threatened me several more times. He

25 also made a statement, look at your eye; look at what you made me do. He made

1 the statement, because he knew from a previous marriage I was married to a Muslim
2 man, and he said you're going to go see Allah tonight. And I sat there -- I don't
3 know if you could see it, but there's -- for whatever reason a Bible on that couch. I
4 don't read the Bible daily, so I'm not sure how it even got there. I just sat there,
5 kinda gripped the Bible like, oh, my God, this is how I'm gonna die.

6 Q Now how long were you on the couch?

7 A About 50 minutes.

8 Q Fifty, 5-0?

9 A Fifty, 5-0.

10 Q Now the entire time you were on the couch where was the Defendant?

11 A He was standing in front of me pacing back and forth. I don't know if
12 you have slides to show it, but there's a fireplace. He was walking back and forth in
13 front of the fireplace with a knife in his hand making more plans to kill me.

14 Q When you say that was he making additional statements?

15 A He was.

16 Q Do you recall any of those statements?

17 A Yes. He said, I'm going to kill you. I'm gonna -- he said, I'm going to
18 kill. He said, I'm going to leave you here until this evening and you're gonna die.
19 He was cursing and saying things about my family, my children, my ex-husband; he
20 was a very jealous person. And I think -- what -- what really stood out was you're
21 gonna go see Allah tonight. And I just -- I just thought, oh, my God, this is how I'm
22 going to die. And my sister and everybody else told me so; I should've let this man
23 alone.

24 THE COURT: Okay. What --

25 MR. SHETLER: Objection, Your Honor. This is beyond the scope. There's

1 no relevance; there's no foundation for what's going on here.

2 THE COURT: Sustained, so I'll strike the last part of that answer. Go ahead.

3 MS. SUDANO: And, Ms. Carpenter, I just want to focus on what you did. I
4 don't want to focus on what anybody else told you; okay.

5 BY MS. SUDANO:

6 Q Now at some point do you get up off the couch?

7 A I do.

8 Q Where'd you go?

9 A I exited to the half bath downstairs.

10 Q Where was the Defendant when you went to the half bathroom?

11 A Behind me with the knife in my back.

12 Q Was he making you go to the half bathroom?

13 A No, he wasn't making me go to the half bath, but at that point --

14 instinctually, by being a paralegal, I was like well, if I'm gonna die I'm gonna leave
15 some evidence to show that there was a struggle, I was bleeding, something
16 happened. So I went to wipe blood on the wall and spit in the sink because I was
17 bleeding so heavily. And because he had made the statement previously, look at
18 your eye, I wanted to see my eye. I hadn't seen it before then, but I know I was
19 bleeding profusely as I sat on the couch.

20 Q Now I'm showing you Exhibit 10; what's depicted in Exhibit 10?

21 A That's the half bathroom that I exit -- that I went into from the living
22 room and I wiped my hand on the wall as I went in.

23 Q Let me zoom in on that a little bit. Can you mark on this photo where
24 you wiped your hand?

25 A Sure.

1 Q And so that should be your blood, I guess, on that doorway in the
2 middle of the photo?

3 A Yes, it is.

4 MS. SUDANO: Okay. If you'd clear that for me, please, Ms. Carpenter.
5 Thank you.

6 BY MS. SUDANO:

7 Q I'm showing you now Exhibit 12; what's depicted in Exhibit 12?

8 A More blood.

9 Q And is this also in your half bathroom?

10 A It is.

11 Q Now you'd indicated something about the sink?

12 A Yes.

13 Q Can you sort of see the sink in that photo?

14 A It's a pedal stool sink off to the right.

15 Q Now what was it specifically that you were doing with regards to the
16 sink?

17 A So I walked up to the sink to look at my eye because there's also a
18 mirror above the sink. I again wiped my hand down the side of the wall to leave
19 more blood evidence, and then I spit and I looked at myself in the mirror.

20 Q Was that the first time that you were able to see your injuries?

21 A Yes.

22 Q Now what, if anything, happened after you looked in the mirror?

23 A I was numb. I just looked -- Genaro Perry was still behind me with the
24 knife and I just tried to act as normal as possible like I was just going to spit -- I was
25 just gonna spit; kind of damp the blood off.

1 Q Now where did you go after you left the bathroom?

2 A He escorted me back to the couch.

3 Q You sit back down on the couch?

4 A Yes.

5 Q What, if anything, happened this time while you were sitting on the
6 couch?

7 A I'm looking for ways to escape. I'm looking towards the door to see it's
8 locked. To see do I have enough time to unlock the door and run. Do I have
9 enough time to grab something to get him to -- to be able to fight him back and win.
10 I'm terrified at this point, but I sit there. And then I say to him -- so I realized I don't
11 have time to do that. He's gonna catch me; he's gonna kill me. So I say to him, it's
12 going to be okay. I start telling him things to kinda get him to calm down; it's going
13 to be okay. My eye will heal. We'll be fine.

14 Q Now did he say anything back to you at that point?

15 A I don't recall.

16 Q At some point does the Defendant obtain some of your property?

17 A Yes. So we sat there for a little bit longer and he observed the keys on
18 a coffee table that I had downstairs and he --

19 Q Specifically what keys?

20 A The keys to my Mercedes Benz.

21 Q What kind of Mercedes do you have?

22 A I have a CLK430.

23 Q What year is that?

24 A A '99, I think. It's a '99.

25 Q Now do you recall the license plate number to that car?

1 A No. I can give you a partial, I believe, because I just wrote it down for
2 something, but I don't recall the entire --

3 Q What's the partial that you remember?

4 A I believe LTU.

5 Q Now I'm going to come back to the car in a little bit, but what happened
6 when the Defendant found your car keys?

7 A He stated, I spoke up for you on this car and I'm going to take it.

8 Q Did you understand what he mean when -- or what he meant when he
9 said I spoke up for you on the car?

10 A Yes.

11 Q What did that mean to you?

12 A He was there when I was purchasing the car.

13 Q When did you buy it?

14 A March that same year.

15 Q So March of 2014?

16 A Yes.

17 Q How much did you pay for the car in March of 2014?

18 A Nearly \$5,000.

19 Q Now --

20 A It was marked at \$4,200, but when they added taxes and things, doc
21 fees, it was about \$5,000.

22 Q So it was \$4,200 plus tax?

23 A Yes.

24 Q Did you ever have occasion to go onto a website and obtain the value
25 of that car?

1 A Yes.

2 Q When did you do that?

3 A After Mr. Perry was arrested and one of the prior DAs that was handling
4 this case asked me to get the value.

5 Q What was the value of that car when you looked it up?

6 A Five thousand, one hundred and some odd dollars.

7 Q Now -- so I want to go back to -- the Defendant said, you know, I spoke
8 up for you when you got this car. What did he do at that point?

9 A He took the keys and then he marched me upstairs.

10 Q Did he still have the knife on his person -- or on him when he was
11 taking the keys?

12 A Yes.

13 Q Did he do anything with that knife while he was making the statements
14 about I spoke up for you?

15 A No, not while he said that. He still had it in his hand, but not to me.

16 Q Now at some point you said he marched you upstairs?

17 A Yes.

18 Q Can you explain that a little bit?

19 A He told me to get up. He took the knife and put it to my back. He
20 marched me up the stairs, me being in front of him, he was in the back of me with
21 the knife in my back. He told me that he was going to leave in the car and that if I --
22 if I left out of the bathroom, because he marched me up to a secondary bathroom.
23 Not the one that you showed as an exhibit earlier, but there's another bathroom
24 attached to another bedroom upstairs, and he stated to me that if I left and tried to
25 come after him before he left in the car -- excuse me. If I left out of that bathroom

1 before he left my home in my car before the garage shut he would kill me.

2 Q Now you brought up a good point. You said you went to a different
3 bathroom. I guess, how many bedrooms are in your condo?

4 A Two.

5 Q How many bathrooms?

6 A Three total.

7 Q So is it the one downstairs that we're looking at in this photo here --

8 A Yes, that's a half bath --

9 Q -- Exhibit 12?

10 A -- downstairs and one in each of the bedrooms upstairs.

11 Q Okay. And so this was the bedroom not in -- or excuse me -- the
12 bathroom not in your bedroom?

13 A Yes.

14 Q Now did the Defendant say anything else to you while you were going
15 up to that bathroom?

16 A I don't recall, but I -- I do recall him going back into the bedroom that he
17 attacked me in and grabbing my only form of communication that I owned in the
18 home.

19 Q What was that form of communication?

20 A It was a Samsung Galaxy cell phone.

21 Q Was that the same cell phone that he thrown against the wall earlier?

22 A Yes.

23 Q Now what, if anything, did he do with that phone the second time?

24 A So once he had barricaded me in the restroom and told me not to leave
25 or he would kill me, he took that phone and threw it in the toilet.

1 Q Did he make any additional statements when he threw the phone in the
2 toilet?

3 A He said something about you won't be able to call the police.

4 Q Now what happened -- well, did the Defendant still have the knife when
5 he came back into the bedroom that second -- or the bathroom that second time?

6 A Yes, he did.

7 Q What happened after he threw the phone in the toilet and told you that
8 you couldn't call the police?

9 A I sat there.

10 Q Did the Defendant stay in the bathroom?

11 A No, he left.

12 Q When you say he left, did he leave the room or did he leave the house?

13 A He left the bathroom. He exited because I heard the garage door open
14 and I heard my car start. And I assumed when I heard the motor to my car start he
15 left in my car, so I ran out of the bathroom at that point.

16 Q Now -- so your car was obviously parked in a garage?

17 A Yes.

18 Q When you ran out of the bathroom did you go downstairs to the
19 garage?

20 A Yes.

21 Q Was your car still there?

22 A I didn't go immediately. I actually ran out to -- outside to a neighbor's
23 home.

24 Q What was the purpose of running to the neighbor's home?

25 A I was bleeding half to death; I needed help. I wanted to -- I wanted him

1 to be apprehended shortly after he left my home so, you know, he could be
2 prosecuted for what he had done.

3 Q Now when you left your house were you able to find a neighbor or
4 anybody outside?

5 A No.

6 Q What did you do at that point?

7 A I ran back upstairs praying like please let this phone work; please let
8 this phone work and I got it out of the toilet.

9 Q Now once you got your phone out of the toilet what did you do?

10 A I started banging the water out of it, trying to get the power on, and I
11 called 9-1-1.

12 Q So the phone worked enough for you to call 9-1-1?

13 A Yes.

14 Q Did the police respond?

15 A Yes, they did.

16 Q Now are you still at the house when the police show up?

17 A Yes, I am.

18 Q Did the police show you anything or ask you about anything that was
19 located in your garage?

20 A Yes, they asked me how did the knife -- a bloody knife get in my
21 garage.

22 Q Now I'm showing you here Exhibit 26; do you recognize what's depicted
23 in the exhibit?

24 A Yes.

25 Q What is that?

1 A That is the steak knife I had on my stove that he attacked me with.

2 Q Now around this steak knife -- and I've got a better picture for you in a
3 minute. What's around the steak knife in that photo?

4 A A lamp he had given me, a bottle of water, a lighter. And I'm not sure
5 what this is. This was there when I moved in. I think it was some construction
6 materials left over from before I moved there.

7 Q I'm going to show you Exhibit 25. Is that just kind of a zoomed out
8 picture of that same area?

9 A Yes, it is.

10 Q So where is this area?

11 A So on the -- the other side of this wall is the half bath. You walk outside
12 and this is the garage and sort of a landing here. And then in this area is where my
13 car was parked.

14 Q And so obviously there's no car there, right, at the point this picture's
15 taken?

16 A Yes.

17 MS. SUDANO: Now if you clear the screen for me.

18 BY MS. SUDANO:

19 Q Zooming back in, this item here in Exhibit 26, that's the knife you were
20 talking about?

21 A Yes.

22 Q And not your normal practice to leave the knife in the garage?

23 A No.

24 Q Okay. Now at some point after the police arrive do you leave the
25 house?

1 A Yes, I do.

2 Q Where'd you go?

3 A To my sister's. Well, my sister picked me up and she took me to my

4 mother's house.

5 Q Why did your sister take you to your mother's house?

6 A Because he had the keys to my house and she did not -- and she was

7 in fear of my safety and she didn't want me there alone, because I lived alone,

8 knowing that at any moment he could come back and finish me off, so she made me

9 leave.

10 Q Now when we're saying he there you're talking about the Defendant?

11 A Yes.

12 Q And she is your sister?

13 A Yes.

14 Q Why did the Defendant have your keys?

15 A Because they were attached to my car keys.

16 Q So they were on some sort of key ring?

17 A Yeah.

18 Q Prior to this day had the Defendant had a key to your house?

19 A No.

20 Q Had he had a key to your car?

21 A No.

22 Q Now at some point do you also go to the hospital?

23 A Yes.

24 Q When did you go to the hospital?

25 A Later that evening.

1 Q When you went to the hospital were you able to talk to some doctors?

2 A Yes.

3 Q Now I want to talk a little bit about your injuries now. So we heard
4 about your eye. What was -- specifically what happened with your eye?

5 A I had a right orbital blowout and it was fractured, it was swollen, I had a
6 black -- two black eyes at this point.

7 Q Did you have any additional fractures to your face?

8 A I did. I had a broken nose.

9 Q Now did you have to undergo any sort of treatment for the injuries to
10 your eye?

11 A Yes.

12 Q Specifically what treatment?

13 A Initially I had to see a specialist that had to determine what damages
14 were done to my eye. And then I had to -- I had started seeing what's called flashes
15 and floaters, so I had to see a retina specialist to make sure that I didn't have a
16 detached retina. And then I had to -- they diagnosed me with an onset of glaucoma
17 due to trauma, so I had to go see another doctor -- another specialist that treated
18 that particular injury. And then I started seeing -- well, I didn't start seeing -- I had
19 been seeing a pain management doctor, but I had -- the hospital had notified my
20 pain management doctor that I had -- had some pretty serious injuries and was it
21 okay for them to -- because I had signed a narcotic agreement, if it was okay, and
22 the doctor said give her anything she needs. He was --

23 Q Now -- so prior to this day -- prior to May 1st of 2014, you said that you
24 were already seeing a doctor for pain management?

25 A Yes.

1 Q Why is that?

2 A I have been diagnosed with lupus -- systemic lupus.

3 Q And that was obviously prior to May 1st of 2014?

4 A Yes.

5 Q Now -- so you said that you got some pain medication and then you had

6 some other things going on; you received additional diagnoses. Did you ever have

7 to have any surgery after this incident?

8 A Well, I didn't actually get -- I got pain medication in the hospital. I opted

9 not to take any away from there because I normally got that from my pain

10 management doctor. But I -- was the question did I have any more treatment?

11 Q Yes.

12 A Yes, I did. I started seeing -- I had surgery on my eye where they

13 placed an implant in my face to build the orbital wall that was damaged so that my

14 eye could sit back in its proper place. I started going to physical therapy. And I

15 started seeing a retina consultant and a -- his name is Doctor Singh, and it leaves

16 me what practice he works for right now, but I started seeing him for the glaucoma --

17 the induced glaucoma due to trauma.

18 Q Now --

19 A And I also started seeing a psychiatrist.

20 Q So you said you were going to physical therapy?

21 A Yes.

22 Q Why were you going to physical therapy?

23 A Because as I laid in a fetal position in my kitchen and he stomped me,

24 and kicked and punched me, he did some damage to the right side of my hip area.

25 And I gotten to the point where I just wasn't walking well and it's something my pain

1 management had asked me to follow up with. He wrote a prescription for I think
2 eight -- eight weeks of physical therapy.

3 Q Did you go to all eight weeks of that physical therapy?

4 A We -- I went to four; they extended it. I went to four more and then after
5 that I would go sporadically.

6 Q Now prior to May 1st of 2014 were you going to physical therapy for any
7 hip issues?

8 A No.

9 Q Now did you have any additional physical injuries after May 1st of 2014?

10 A I was pretty battered and bruised, but you know I had two black eyes, a
11 fractured nose -- a broken -- fractured nose. I had bones sticking out of my face
12 where it was a concern with my eye. I was really sore. I was seeing physical --
13 physical therapy and then -- I had sore ribs all from laying in that fetal position and
14 getting beat -- beaten.

15 Q Now are you still undergoing treatment for your glaucoma?

16 A Yes.

17 Q Prior to May 1st of 2014 had you been diagnosed with glaucoma?

18 A No.

19 Q What treatment are you undergoing for that glaucoma?

20 A At this point, they were -- I became a glaucoma suspect due to trauma.
21 And what they had me on was a steroid called prednisonal [sic] -- prednisonal [sic]
22 eye drops, artificial tears, and there's another one that I use as needed that I don't
23 recall the name of.

24 Q And are you still on the prednisone and that other eye drop?

25 A Yes.

1 Q Now additionally you had an eye surgery to replace your -- or to repair
2 your eye socket; is that correct?

3 A Yes.

4 Q Are you still following up with any issues with regards to your eye
5 socket?

6 A I still follow up with the retina consultant because of the flashing and
7 floating and I have one more surgery scheduled. They're try -- my face from the
8 right over is numb because of the nerve damage that Mr. Perry caused when he
9 was beating me. So I'm numb and so the doctor is trying to help stimulate those
10 nerves so I can get the feeling back in my face.

11 Q Now prior to May 1st of 2014 had you had any nerve damage or nerve
12 issues with the right side of your face?

13 A No.

14 Q Now you said you had one more surgery.

15 A Yes.

16 Q Have you previously had some surgeries with regard to that nerve
17 damage?

18 A Yes, I had two -- in addition to Dr. Leibowitz, I've had two additional
19 surgeries to try to rejuvenate the nerves to get them -- get the numbness out.

20 Q Now -- and you said you have a third surgery scheduled?

21 A Yes.

22 Q In addition to the numbness, are you having any additional issues with
23 the right side of your face?

24 A Yes, when I -- when I eat hot or cold foods -- mainly hot foods, like a
25 slice of pizza, sometimes if I forget that I can't eat like I used to be able to, I'll bite

1 into the pizza and it burns so bad the right side of my face because that's all
2 damaged. And I don't know exactly how it works, but I feel the heat from the top of
3 my lip all the way to the upper part of my eye and near this part of my cheek.

4 Q And you're indicating kind of just to the right part of your cheek where
5 your molars are?

6 A Right.

7 Q Is that an issue that you had prior to May 1st of 2014?

8 A No. And I forgot to say this. I also lost teeth and so those -- I'm seeing
9 a dentist for the repair of the teeth he kicked out as well.

10 Q How many teeth did you lose?

11 A Two.

12 Q And you lost those May 1st of 2014?

13 A It wasn't that day. They fell out shortly after that. I don't recall the day
14 that I actually noticed I had loose teeth and had to go see a dentist for that, so I
15 don't -- I don't recall.

16 Q Now did you say that those teeth have been replaced now?

17 A No. I'm actually in the process of getting my whole mouth
18 reconstructed, so -- that was the recommendation from the dentist because of -- I
19 guess he wasn't able to just go in and fix what was damaged. He had to kinda
20 repair teeth next to it as well.

21 Q And so is that treatment ongoing today?

22 A Yes.

23 Q At some point are you going to have to have dental surgery?

24 A Yes.

25 Q Do you know how many teeth are going to have to be replaced or what

1 area of your mouth they're in?

2 A On the right side of my face they're -- I'm gonna have an implant put in
3 as soon as they're done moving the teeth back into a normal space and that is
4 gonna occur next year.

5 Q Prior to May 1st of 2014 did you have any dental issues that would
6 require surgery and reconstruction?

7 A No, it would've been cosmetic things that I would've just liked to have,
8 but they weren't considered necessary.

9 Q So maybe you were going to get adult braces or something along those
10 lines?

11 A Possibly, but it wasn't in the works.

12 Q Now are you still in any sort of pain from the incident on May 1st, 2014?

13 A Yes.

14 Q Can you describe that?

15 A Sure. So there are times in -- where I'm -- if I'm eating something hot
16 that my face burns. That's painful. There are times where I'm in hip pain. That --
17 that can be very painful. And I have this throbbing issue in my eye that's ongoing
18 and I think that -- that is about it.

19 Q Okay. And prior to May 1st of 2014 did you have any issues with the
20 throbbing pain in your eye?

21 A No.

22 Q I think I already asked you about the other two. Now I want to follow up
23 with you a little bit more about your glaucoma. I believe you already said that you
24 had not been diagnosed with glaucoma prior to May 1st of 2014.

25 A Correct.

1 Q Now I think you also testified that you have glaucoma suspect?

2 A That's what Dr. Singh indicated that I was a glaucoma suspect due to
3 trauma.

4 Q Now is it possible that you're going to lose your eyesight in your right
5 eye?

6 A I have not gotten a definitive yes or a definitive no from any of my
7 doctors 'cause that was a concern. I had asked some very specific questions
8 regarding, you know, the implant in my eye; how it's gonna affect me long term and
9 the nerve damage in my face because of, you know, the implant and the kicking.
10 And the answers that I get is that there's no guarantee that that feeling will ever
11 come back.

12 Q Okay. And there's also no guarantee about what could potentially
13 happen with your eyesight?

14 A Correct.

15 Q Okay. Now -- so we talked about your medical treatment and that all
16 started the evening of May 1st, 2014; right?

17 A Yes.

18 Q Now I want to fast forward to the next day, May 2nd of 2014. Did you
19 have occasion to go back to your house on May 2nd, 2014?

20 A Yes.

21 Q Why did you go back?

22 A I went back -- I don't know. That was my home. I wanted to go back,
23 grab some things. I just went back.

24 Q Did you take any precautions on May 2nd when you went back to the
25 house?

1 A I did.

2 Q What did you do?

3 A Well, first of all, I didn't go alone. And I also called for police suspect --

4 a police escort because my keys were still missing -- they weren't missing. Mr.

5 Perry had left with them, so I didn't know if he was hiding in the house waiting to

6 finish me off, and I had taken a girlfriend.

7 Q Now when you got back on May 2nd, 2014 did you take any additional

8 steps; you do anything else at the house?

9 A I did. I had bought a lock to rekey my home. And the metropolitan

10 SWAT had come with one of the K9s and sniffed the house out to make sure that

11 there was no one hiding in there.

12 Q Okay. Now were you able to change the locks on your front door?

13 A I wasn't, but the police assisted me in doing so.

14 Q Okay. Now while the police were there helping you change your locks

15 did anything else happen regarding this case?

16 A Yes. I figured I better try to find my car, so I called my finance company

17 and said, hey, I know this thing has GPS on it, do you think you can help me locate

18 it, and they said -- I kinda explained to them what had happened and they said sure,

19 right away. So they did do a search and they located the car.

20 Q Now do you recall where your car was located?

21 A Not the specific address, but I know the vicinity in which it was found.

22 Q And what was that vicinity?

23 A It was off of Karen Avenue and just before you hit Paradise in some

24 rundown type of apartments.

25 Q Now had you ever been to that apartment complex before?

1 A No.

2 Q To your knowledge, did the Defendant have any connections to that

3 apartment complex?

4 A Yes.

5 Q Okay. Now about how far away from your condo was that apartment

6 complex?

7 A One mile.

8 Q And were you able to recover your vehicle that day?

9 A Not that day I don't think. It was parked in such a way that the tow truck

10 wasn't able to get to it so -- I don't know if they got to it later that evening, but they

11 eventually got it.

12 Q Okay.

13 A I'm not sure if it was that day or the next day.

14 Q But at some point the vehicle's returned to you?

15 A Yes.

16 Q Is there any reason you couldn't just drive it home?

17 A I didn't have the keys.

18 Q Is there only one set of keys?

19 A Yes.

20 Q And that was the set that the Defendant took?

21 A Yes.

22 Q Okay. Now I want to talk to you, Ms. Carpenter, about an incident that

23 happened in 2012. Did you have occasion to go to a T.J. Maxx on July 2nd of 2012?

24 A Yes.

25 Q Now can you give us a little bit of the backstory about why you went to

1 that T.J. Maxx?

2 A Sure. I had a girlfriend that owed me some money. The money was
3 allocated already to purchase my severely disabled daughter's summer school
4 clothes because he had attended what's called ESY, extended school year, and she
5 had asked me to meet her there.

6 Q Now did you go to that T.J. Maxx?

7 A Yes, I did.

8 Q Were you able to meet this woman there?

9 A Yes, I did.

10 Q Did something else happen while you were in the store?

11 A Yes, it did.

12 Q Tell me about what happened.

13 A Sure. So I got there -- but prior to me arriving there she had kinda led
14 me on a goose chase. I had just gotten out of the hospital from having like a spinal
15 tap surgery, so we had been to a Walgreens; we had been to a bank, and this was
16 finally what I considered shenanigans. And so when we finally got to T.J. Maxx I
17 was really irritated.

18 Q So you meet her at the T.J. Maxx; right?

19 A Yes.

20 Q What happened inside the T.J. Maxx?

21 A I chased her. We had a brief argument and I chased her through the
22 store. I think I had a weapon. It was a crowbar and I chased her. What happened
23 was when we had the altercation she did not have the amount of money that she
24 had said she would have. And at that point I was furious. All I could think about is I
25 am so sick, and here it is my daughter has to return to school, and she's led me on a

1 goose chase and I lost my temper. And I went to threaten her. I didn't go to hurt
2 her; I went to threaten her. And when she started running I started chasing her.

3 Q Now, Ms. Carpenter, do you take responsibility for that action?

4 A Absolutely.

5 Q Did you plead guilty to a misdemeanor assault and a misdemeanor
6 carrying concealed weapons?

7 A Yes.

8 Q Now did you complete the requirements that were outstanding in that
9 case?

10 A Yes, I did.

11 Q Now I want to direct your attention now back to that day on May 1st,
12 2014. Did one of the police officers take your photo?

13 A A detective took -- a crime scene detective took photos of me; yes.

14 Q Now I'm going to show you State's Exhibit 29 here; do you recognize
15 that photo?

16 A Yes.

17 Q What's depicted there?

18 A That's me.

19 Q Is that how you looked on May 1st of 2014?

20 A Yes.

21 Q Can you show -- or tell the Judge some of the things that we can see in
22 that photo?

23 A So my right eye at that point is swollen shut. And actually my left eye
24 was closed because it was painful to keep it open, but they had asked me to open it
25 so that they could get pictures. At that point, I was laying down on a mattress that I

1 had put downstairs for my daughter because she is legally blind and it's hard to
2 maneuver her up and down the stairs, so I was laying on that mattress that I had
3 took downstairs. And then I have on a -- the bloody sports bra that I had slept in,
4 but when I slept in it it wasn't bloody. That blood came from me bleeding from the
5 injuries that I had from a broken nose, a busted lip and a fractured eye.

6 Q Okay. Now so this sports bra, is that what you were wearing when you
7 went to sleep on the -- or the night of April 30th of 2014?

8 A Yes.

9 Q Okay. Now I'm going to zoom in a little bit with this. This is Exhibit 30.
10 Is that just a closer-up photo of you?

11 A Yes.

12 Q And can you see kinda the blood a little bit better on your face there?

13 A Yes.

14 Q Okay. What I want to show you next is State's Exhibit 35; do you
15 recognize that photo?

16 A Yes.

17 Q When was that photo taken?

18 A I think that may have been a photo I took of myself.

19 Q Okay. Was that that same day, May 1st of 2014?

20 A I don't believe so. I think that was a couple of days later.

21 Q So this would've been a couple days after May 1st of 2014?

22 A Yes.

23 Q Now what can we see in this photo from a couple days after May 1st of
24 2014?

25 A Well, you can start to see that the swelling has taken place, so you can

1 see busted lips; you can see my nose is quite larger than what it normally is, and
2 you can see a black -- a black eye on the left side, but on the right side you can see
3 kind of a bone sticking out in the lower part of my eye and it was pretty much closed
4 shut.

5 Q I also want to show you Exhibit 36. Let me reposition that. So is that
6 another photo that you took a couple days later?

7 A Yes.

8 Q Now this is the top photo on Exhibit 36. Can you see some of those
9 other injuries that you were talking about; for instance, the black eyes?

10 A Yes.

11 Q And can you also see the bone sticking out or kind of the deformity on
12 the right side of your face?

13 A Yes.

14 Q And can you see the swelling to your nose? Is that a yes?

15 A Yes.

16 Q Okay. Now is the swelling worse in these photos than the photos that
17 were taken by the detectives and the crime scene folks?

18 A Yes.

19 Q Okay. And is that just because it was later on?

20 A Yes.

21 Q Now I'm going to show you kind of this other one. This is the bottom
22 photo on State's Exhibit 36; what's depicted there?

23 A My left eye was blackened and I had some swelling to my lips from him
24 punching me and -- as if -- I had blood clots in my nose because I wasn't able to
25 blow it -- get that -- that sort of dried out blood from out of there.

1 Q Now next I want to show you Exhibit 37. Let me zoom out there.

2 What's depicted in Exhibit 37 here?

3 A Cuts to my hands.

4 Q Now when was this photo taken?

5 A I don't recall.

6 Q Was it the same time that you took the pictures of your face?

7 A Yes, I believe so.

8 Q So a couple days after May 1st of 2014?

9 A Yes.

10 Q Now are these the cuts that we had talked about previously?

11 A These were defensive wounds from what happened in the kitchen of
12 me trying -- to kinda get him off of me and plead for my life; yes.

13 Q Now specifically you say defensive wounds. What were you defending
14 against?

15 A Him slicing at me with that knife that he found in the kitchen.

16 MS. SUDANO: Court's indulgence, Your Honor.

17 Your Honor, no further questions.

18 THE COURT: Okay. Why don't we take a short break; okay.

19 MR. SHETLER: Your Honor, if it would be okay to take slightly longer than
20 short, just a few moment to go over a few things with my client and then make a
21 phone call?

22 THE COURT: Okay.

23 THE MARSHAL: All rise. Court's now in recess.

24 [Recess taken at 3:34 p.m.]

25 [Proceedings resumed at 3:51 p.m.]

1 THE MARSHAL: Please rise. District Court Department 6 is back in session.

2 Please be seated.

3 MR. SHETLER: Thank you, Your Honor.

4 THE COURT: Sure. Okay, cross.

5 MR. SHETLER: Yes.

6 Ms. Coleman [sic], my name is Travis Shetler and I represent Mr. Perry.

7 I'm going to ask you some questions. If you need to take a break, if you need some

8 water -- I just need to get some information out; okay?

9 THE WITNESS: Okay, but my name isn't Miss Coleman. It's Ms. Carpenter.

10 MR. SHETLER: Thank you, Ms. Carpenter; I apologize.

11 THE WITNESS: No problem.

12 MR. SHETLER: Jury or no jury you still get a little nervous, you know.

13 **CROSS-EXAMINATION**

14 BY MR. SHETLER:

15 Q Ms. Carpenter, I want to go back briefly to the T.J. Maxx incident before

16 we go over to the condo. Do you remember what weapon you told the Court you

17 had with you that day?

18 A I do. I think I said a crowbar.

19 Q Was there another weapon also?

20 A There was a knife; yes.

21 Q And you told the Court -- Mr. Perry knew about that incident; is that

22 correct?

23 A He did.

24 Q Did you -- you told the Court that you took responsibility for that

25 incident; correct?

1 A Yes, I did.

2 Q You said you pled to a misdemeanor case?

3 A Yes.

4 Q Was that how it was charged originally?

5 A It was not charged as a misdemeanor originally.

6 Q What was the original charge?

7 A I believe there were two charges. There was a charge of an assault
8 with a deadly weapon and I don't know the other charge.

9 Q You had mentioned that you'd recently undergone -- I believe you said
10 a spinal tap --

11 A Yes.

12 Q -- shortly before that? And I don't want to take a lot of your time on that
13 and I don't want to pry, but what type of symptomology were you having that
14 required the spinal tap?

15 THE WITNESS: I don't know. Am -- do I answer that?

16 THE COURT: Yes.

17 THE WITNESS: Okay. I don't recall exactly. I just know that when I got to
18 the hospital -- it was during that time I had a lot of complications, but when I got to
19 the hospital that's the procedure that the ER recommended.

20 BY MR. SHETLER:

21 Q Do you remember how long before the T.J. Maxx incident that was?

22 A Two to three days, I believe.

23 Q And were those -- the complications that you talked about having, were
24 those stemming from an accident of some type?

25 A No.

1 Q Did any of those complications you were having cause you to have any
2 problems with your vision?

3 A No.

4 Q Any problems with your teeth?

5 A No.

6 Q Any problems with insomnia?

7 A No.

8 Q Any problems with an inability to control your anger?

9 A I'm sorry, I don't understand where -- what you mean. Are you --

10 MR. SHETLER: I'll reask it. And, please, if I do ask a question sometimes I
11 get so excited about my own words just please ask me to repeat it; okay?

12 BY MR. SHETLER:

13 Q The -- you said, I believe -- I'm paraphrasing, bear with me. You said --
14 talking about the T.J. Maxx incident and the victim in that -- what was the victim's
15 name in that case?

16 A I don't recall her entire name at this point.

17 Q She led you on a goose chase all over town?

18 A Yes.

19 Q And I don't remember if you said you'd snapped or you just lost it. Do
20 you remember the words you used?

21 A I think I said I lost it.

22 Q That's what I'm talking about. Did the -- did the complication you were
23 having that led up to whatever other procedures were performed, including the
24 spinal tap, were those complication -- would they cause you to lose it or to not be
25 able to control your anger?

1 A No, it had nothing to do with the spinal tap. I was agitated at her.

2 Q Have you had any other incident where you lost control of yourself in
3 public like that?

4 A No.

5 MS. SUDANO: And, Your Honor, I'm going to -- I withdraw that
6 [indiscernible].

7 THE COURT: Okay.

8 BY MR. SHETLER:

9 Q How did Mr. Perry know about that incident?

10 A We shared several things in confidence with each other that we had
11 done in our past.

12 Q In the course of sharing the facts relating to the T.J. Maxx incident, did
13 you ever brag to him about the outcome of that incident?

14 A No, I did not.

15 Q Did you ever get the rest of your money?

16 A No, I did not.

17 Q On the incident that took place at the condo, did that incident stem from
18 a dispute about money or drugs?

19 A No, it did not.

20 Q Did you know Mr. Perry to be involved at all with drugs?

21 THE WITNESS: I'm sorry, Judge, can I speak to a counselor about that?

22 THE COURT: You need to answer the question.

23 MR. SHETLER: [Indiscernible] pending.

24 THE WITNESS: Okay, just answer that. I did.

25 ///

1 BY MR. SHETLER:

2 Q How was that?

3 A What do you mean, how did I know to -- know of it?

4 Q Yeah.

5 A He frequently had it on his person.

6 Q Did he have the drugs on his person to use, did he have it on his
7 person to see, or do you know?

8 A I'm not -- what drugs are you referring to because I know of a couple of
9 different types?

10 Q I'm just talking about drugs in general. Did Mr. Perry -- you said Mr.
11 Perry frequently had drugs on his person; correct?

12 A Yes.

13 Q Did -- do you have an opinion or do you know if he had those on his
14 person for his personal use, if he had those on his person to sell, or do you not
15 know?

16 A If we're referring to marijuana, he had that normally to use. I don't
17 really recall if he sold that or not. And he told me that he had crack. I had never
18 seen crack cocaine prior to meeting Mr. Perry, so there were times that he showed
19 me, but I never witnessed him using it; I never witnessed him selling it.

20 Q Now when you say using it or selling it are you talking specifically about
21 just crack cocaine or any other drugs besides marijuana?

22 A Just crack cocaine.

23 Q Did he -- did you ever have occasion to -- well, let me strike that. I
24 apologize. Did you ever help him sell drugs?

25 MS. SUDANO: I'm going to object as to the relevance of that, Your Honor.

1 THE COURT: Relevance?

2 MR. SHETLER: Your Honor, our position is that there was a dispute that
3 night that took place related to drug money, drug loans. And there are -- is evidence
4 in text messages that the victim was aware that Mr. Perry was involved in drug
5 usage, drug sales. And I'd like a little bit -- well [indiscernible] the answer. Anyhow,
6 I believe it's relevant because I believe that's what the source of the dispute possibly
7 could have been that night and a dispute over money that the victim believed she
8 was owed by the Defendant, which is referenced in text message.

9 THE COURT: Ms. Sudano?

10 MS. SUDANO: Your Honor, in going through the text messages there's
11 reference to money, but I don't believe that that's what the money is for. There's no
12 relevance or foundation for that question or that line of inquiry, frankly, in this case.

13 THE COURT: So your theory is that it's a dispute about drug money that
14 gave rise to this dispute.

15 MR. SHETLER: Specifically that the victim was expecting money from my
16 client that she wanted some of the money that evening. And --

17 THE COURT: And there's going to be some evidence relating to that in this
18 trial?

19 MR. SHETLER: The -- they're in the text messages, yes. I don't think it
20 would take special lawyering to get there, Judge.

21 THE COURT: All right, I'll give you some leeway. Go ahead. Overruled.

22 BY MR. SHETLER:

23 Q You were aware that -- you communicated by text message with Mr.
24 Perry frequently; is that right?

25 A Yes.

1 Q And do you remember sending him text messages in the vein of being a
2 drug dealer?

3 A Possibly.

4 Q Do you believe he was a drug dealer?

5 A Yes.

6 Q Do you know how much money he made as a drug dealer?

7 MS. SUDANO: Your Honor, I'm going to object. I don't think that we really
8 have the proper foundation for this laid at this point. I don't know what text message
9 we're talking about here or when.

10 THE COURT: Okay.

11 MR. SHETLER: I don't want to go -- I'll, of course, do whatever the Court
12 would like. I don't -- I don't think we need to spend a lot of time in the heart of those
13 messages, but I'm happy to do that, Judge.

14 THE COURT: So the question is what?

15 MR. SHETLER: Do you have any idea how much money he made as a drug
16 dealer?

17 THE WITNESS: He asked me did I help him sell drugs.

18 THE COURT: You can ask about the money. Go ahead.

19 BY MR. SHETLER:

20 Q Do you have any idea how much money Mr. Perry made over the time
21 that you knew him from selling drugs?

22 A No, I -- I have no idea.

23 Q Did you ever make any money from his sale of drugs?

24 A No, I did not.

25 Q Did you ever assist him in his travels to sell drugs?

1 A I several times gave Mr. Perry rides. I don't -- I didn't know what he
2 was doing. I didn't -- I gave him a ride; I sat in my car. I didn't witness him doing
3 anything other than getting out of the car and going into the places he needed to go
4 into.

5 Q Did Mr. Perry -- do you believe Mr. Perry owed you money that night
6 before he came over to the condo?

7 A Yes.

8 Q Do you know why he owed you money?

9 A Because he signed a promissory note stating that he owed me money
10 for \$1,250.

11 Q What was the reason for that note?

12 A 'Cause he borrowed the money from me and I wanted some sort of
13 paper trail on getting it back.

14 Q And that was the amount you loaned him was \$1,250?

15 A Yes.

16 Q You weren't going to make any interest on the deal?

17 A There was a clause in there regarding interest.

18 Q Do you know what he used that money for?

19 A Not specifically. I know what he told me he was gonna use it for.

20 Q What was that?

21 A He wanted to invest in a travel company and purchase a car.

22 Q Did you ever see Mr. Perry with trying to generate revenue from
23 prescription drugs?

24 A Did I ever see it; no.

25 Q Do you -- well, strike that.

1 On the -- do you remember texting with Mr. Perry the night before he
2 came over to the condo?

3 A Yes.

4 Q Do you remember telling him that you needed money the following day
5 for a doctor?

6 A That what?

7 Q That you needed money the following day for a doctor or doctor's
8 appointments?

9 A Possibly.

10 Q Do you remember him stating that he needed to get his medications
11 and identification from you?

12 A Yes.

13 Q Do you remember what you told him?

14 A I don't.

15 Q Before Mr. Perry came to your condominium that night was he -- were
16 you scared of him?

17 A I was leery, I wasn't scared, no.

18 Q And when you say leery can you elaborate a little, please?

19 A He tended to have erratic behaviors.

20 Q In public department stores; where?

21 A I wouldn't have any idea other than when he was with me the behaviors
22 he exhibited so. He tended to have erratic behavior when he was with me.

23 Q Can you give us an example, please?

24 A He would get upset when I was handling business with people from out
25 of town that needed -- two gentlemen that was coming from out of town to transact

1 business with me that I needed to pick up from the airport. He would get upset at
2 comedy clubs when the comedians on stage, whom I was friends with, would heckle
3 me and make jokes. He would get upset about that.

4 Q Jealousy stuff you're talking about?

5 A Yes.

6 Q Did he ever raise a hand to you?

7 A When? I don't understand.

8 Q Any time before the events we're talking about that night in the
9 condominium. Did he ever raise a hand to you?

10 THE WITNESS: Can I talk to counsel about that because she told me not to
11 bring up incidents.

12 THE COURT: Right, but defense counsel is inquiring so I guess defense
13 counsel is knowingly getting into this issue, correct?

14 THE WITNESS: Yes he did.

15 MR. SHETLER: Yes, Your Honor.

16 THE COURT: Okay. All right.

17 MR. SHETLER: Thank you.

18 THE COURT: Go ahead.

19 MR. SHETLER:

20 Q And did he use a weapon against you previously?

21 A No.

22 Q Did you ever have to seek medical treatment previously?

23 A Yes.

24 Q Can you tell the Court what kind of treatment that was?

25 A Well, I was pretty embarrassed that I was doing what someone -- that I

1 was taught to be unequally yoked with me. So when we had --

2 Q I'm really stuffed up myself. Can you repeat that? I don't -- I didn't hear
3 it properly.

4 A Sure. I was pretty embarrassed regarding the first time he put his
5 hands on me.

6 Q You used a phrase though.

7 A Unequally yoked.

8 Q Yoked. Thank you.

9 A So, what I did was I informed two of my closest friends and my doctor
10 that I had been strangled by the Defendant and I did not report it to police.

11 Q And how did he -- what did he use to strangle you with? Did he use his
12 hands or did he use an object or an item?

13 A I don't recall.

14 Q Do you remember how long prior to this incident that was?

15 A I believe it was in November 2013.

16 Q And do you remember how long it was you maintained a relationship
17 with Mr. Perry after that?

18 A It was off and on until April 2014.

19 Q Do you remember texting Mr. Perry the night before the incident that
20 we're talking about in this case at the condo; do you remember texting him about
21 sending his stuff to the police station to pick it up?

22 A Yes.

23 Q Do you remember texting him about putting his stuff out on the front
24 steps to pick it up?

25 A No.

1 Q Did he tell you how much money -- did he ever tell you he was going to
2 bring you any money that night?

3 A No.

4 Q Did you think he was going to bring you money that night?

5 A No.

6 Q Do you remember what time it was when he arrived at your condo?

7 A Not specifically, I know it was late in the evening.

8 Q Still dark outside?

9 A Yes.

10 Q If I said that you were still texting between, say, midnight and one a.m.
11 would that sound about right to you?

12 A Possibly.

13 Q And you think he arrived sometime between one a.m. and before the
14 sun came up; is that fair?

15 A Yes.

16 Q And can you tell me how you knew he was at your condo?

17 A I think he rang the doorbell.

18 Q Did you know it was him when he rang?

19 A Not when he rang, when I went to the door and asked him who -- you
20 know, who's there I knew it was him.

21 Q Did he ask for his items at that time?

22 A No.

23 Q What happened?

24 A He -- I opened the door and he explained to me that he had been in an
25 altercation and that he wanted to just come in and I think he said he wanted to

1 spend the night.

2 Q You didn't tell him no?

3 A No. He mentioned he needed his blood pressure medication so, that
4 was the basis of me not turning him away

5 Q Do you remember in the course of the texting conversations back and
6 forth telling him that if anybody showed up other than Metro you were going to call
7 the police?

8 A Possibly.

9 Q But you didn't do that?

10 A I did not.

11 Q You said after he arrived, shortly after he arrived, you went back to
12 sleep.

13 A Yes.

14 Q And, do you have any trouble with sleeplessness or insomnia?

15 A I have had trouble in the past, yes.

16 Q Were you experiencing any problems with that at that point in time?

17 A I don't recall.

18 Q Is it a big deal for you to be woken up in the middle of the night? Do
19 you go back to sleep easily or is it something that creates problems for you?

20 A Normally if I'm woken up it's difficult for me to go back to sleep.

21 Q In this case you were able to go back to sleep easily?

22 A I don't recall if it was easy or not but I went back to sleep.

23 Q Fair enough. Thank you for clearing that up.

24 Was there any place else Mr. Perry could have stayed that night other
25 than in your bed?

1 A I'm sorry, inside my apartment?

2 Q No, inside your bed with you. Is there some place else he could have

3 slept in the condo?

4 A Possibly, yes.

5 Q Did you suggest that he sleep somewhere else?

6 A No.

7 Q Did he tell you where he was going to sleep?

8 A No.

9 Q How did the decision come to be made that he was going to sleep in

10 your bed?

11 A He just got in the bed.

12 Q Were you comfortable with that?

13 A I didn't care.

14 Q Do you remember what it was that woke up, either you or him, in the

15 morning?

16 A I believe he woke me up.

17 Q Do you remember how?

18 A No.

19 Q Were you alarmed when he woke you up?

20 A No.

21 Q Do you remembered what happened after he woke you up when you

22 first felt threatened or scared or worried?

23 A Yes.

24 Q What was that?

25 A He started pacing the floor, cursing about my mother and other things

1 that he was unhappy with.

2 Q And was he dressed at that point in time?

3 A Yes.

4 Q Had on, what kind of shoes did he have on?

5 A I don't recall what kind of shoes. I know they were some sort of high-
6 top tennis shoes.

7 Q Did he have them on at that time as far as you could tell or you
8 remember?

9 A Yes.

10 Q At some point in time did he later put on some boots?

11 A No.

12 Q Do you remember testifying earlier that he was kicking you with a
13 booted foot?

14 A Yes.

15 Q Are you talking about a different shoe or are you referring to the high-
16 top or?

17 A I was referring to the high-top sneakers.

18 Q So he's up pacing or moving in some sort of agitated manner and you
19 become concerned?

20 A Yes.

21 Q What do you do next?

22 A I reach for my phone.

23 Q What happens?

24 A He charges towards me and grabs the phone away from me and threw
25 it.

1 Q Where'd he throw it?

2 A He threw it against the southwest window in my room.

3 Q Did it break the window?

4 A No.

5 Q Did it hit the glass or some other part of the window?

6 A It didn't hit any part of the window he just threw it on that wall that the
7 window set on.

8 Q In that direction?

9 A Yes.

10 Q What happened next?

11 A So I was concerned at the level of irritability so I went to the bathroom
12 that was in my bedroom and I was -- my plan was to lock myself in there, I guess,
13 but I did quite make it in.

14 Q And that's when you told the Court that he hit you the first time in the
15 face?

16 A Yes.

17 Q I used a fist, I'm sorry; what did he hit you with?

18 A He hit me with his fist.

19 Q Do you know if it was his right or left fist?

20 A I don't recall.

21 Q And as you sit here today or even at that time, that morning, do you
22 have any idea what caused him to go from pacing to striking you?

23 A I have no idea.

24 Q At some point you were able to get up and try to leave the bedroom; is
25 that right?

1 A Yes.

2 Q And you made it to the stairs; right?

3 A Yes.

4 Q And of the stairs, you talked about stairs and a landing and stairs; are
5 they straight down stairs or do they make a turn at the landing?

6 A Um, I can go from my bedroom down about five steps, then there's a
7 landing, and then I go about another five steps.

8 Q Are you still going to the same direction though when you hit that
9 landing and keep walking or do you have to turn left or right from the landing to get
10 down?

11 A I go down the stairs I make a left, and then I go down the stairs and
12 make a right, a left to get off of them again, so two lefts.

13 Q They're not a straight staircase?

14 A No.

15 Q All right. And you testified that as you were going down the steps that
16 Mr. Perry kicked you and you fell -- tumbled down the rest of the steps; is that
17 accurate?

18 A Yes.

19 Q And you landed in the middle of your kitchen?

20 A Yes.

21 Q And you said you landed on your stomach originally; is that right?

22 A Yes.

23 Q And then you stated that you were in a fetal position?

24 A Yes.

25 Q And, was your face facing the -- so were on your side at that point

1 then?

2 A I was.

3 Q And were you facing the stove, were you facing away from the stove?

4 A I was facing the stove.

5 Q And what happened next?

6 A I kind of curled up in a fetal position and he continued to kick me in my

7 head and punch me.

8 Q So you were laying on right side or left side?

9 A My left side.

10 Q And he's kicking and punching you; where is he striking your body?

11 A My face, my right side. He's kicking and punching my right side

12 because I'm laying on my left side --

13 Q Right.

14 A -- kind of balled up trying to protect myself.

15 Q And you're facing the stove; right?

16 A Yes.

17 Q Is he between you and the stove?

18 A I don't know where he was.

19 Q You're positive he kicked you in the face?

20 A I'm positive.

21 Q You said you were blacking out a little bit?

22 A Somewhat.

23 Q Can you elaborate on that a little for us?

24 A I did not lose consciousness. I just remember my eye being swollen

25 shut and he was punching me so hard that I was kind of losing clarity, mental clarity,

1 kind of in and out.

2 Q Little bit surreal?

3 A I don't know if it was surreal, I just kind was in shock.

4 Q I don't take you through this for any other reason that I need to do this, I
5 apologize.

6 Is it possible he was standing between you and the stove?

7 A I don't know.

8 Q If he wasn't standing between you and the stove do you know how he
9 could have kicked your face?

10 A I don't know. I -- honestly I don't know. I just know that I was balled up
11 in a fetal position trying to keep from getting beat any further in my face and kicked.

12 Q I think you testified that you were having some pain problems in your
13 hip after this; is that accurate?

14 A Yes.

15 Q And those you believe were related to the incidents that you say that
16 Mr. Perry performed upon you?

17 A Yes.

18 Q Not related to any diagnosis or symptomology you had prior to this?

19 A I don't believe that the particular injuries I sustained after May 1, 2014
20 were lupus related.

21 Q Thank you, you knew where I was going. Did any doctor ever tell you
22 they were not related?

23 A What they did tell me is I didn't have a history and this was most likely
24 caused by the blows taken from Mr. Perry.

25 Q Let me take you out of that scene for just a second. You mentioned

1 that you had a pain management doctor; do you remember that?

2 A Yes.

3 Q Why did you have a pain management doctor?

4 A Because I've been diagnosed with sickle cell and lupus.

5 Q And what type of symptomology were you getting that caused you to
6 seek a pain management doctor?

7 A Joint pain mostly. Joint pain, I'm trying to think of what all I was treated
8 for, but it was mostly joint pain and joint swelling.

9 Q Was any of that related to the complications you were having prior to
10 the T.J. Maxx incident; do you believe any of those issues were related to your
11 diagnosis?

12 A No.

13 Q That was completely separate?

14 A It was a separate issue.

15 Q When you would have joint pain related to the -- before this incident
16 allegedly occurred, would it be random throughout your body, were there specific
17 areas that would suffer more than other areas?

18 A It was pretty random but normally my joint pain and swelling occurred in
19 places that bend such as my elbows, such my wrists, such my knees, anything that
20 bends or that I do repetitiously is normally where -- when I got the most pain.

21 Q Would it be fair to say that elbows and knees would be more of an issue
22 than say shoulders and hips; is that what you're trying --

23 A Yes.

24 Q Thank you. You mentioned to Ms. Sudano that you had -- you didn't
25 seek any other pain medication treatment when you went to get treated for the

1 injuries you allege were inflicted by Mr. Perry because you had your pain
2 management doctor; correct?

3 A Correct.

4 Q And you also mentioned specifically a narcotics authorization, I believe?

5 A Correct. I was under a pain management contract where I was not to
6 take any controlled substance from any other doctors besides my pain management
7 doctor, so when I was treated in the ER they gave me intravenous --

8 Q Right.

9 A -- medication.

10 Q They just called to clear that you gave -- you advised them of that and
11 they called to let the doctor.

12 A Yes.

13 Q Thank you. Did you ever obtain any prescription medications from Mr.
14 Perry?

15 A No.

16 Q Did you ever give him any prescription medications to try and sell?

17 A Not that I can recall.

18 Q Is it possible?

19 A Is it possible? I -- I don't recall. I'm jogging my memory regarding our
20 interaction. Mr. Perry knew that I received narcotic medication from my pain
21 management doctor.

22 Q A little or a lot?

23 A Did he know a little or are you asking about the quantity?

24 Q Did you receive a little or a lot?

25 A I received a therapeutic dose for what I was diagnosed with.

1 Q Were you under -- back at the T.J. Maxx incident, you did not have a
2 pain specialist at that point; is that correct?

3 A That's correct.

4 Q Did you have prescription medications on you that day?

5 MS. SUDANO: I'm going to object to the relevance of this, Your Honor.

6 THE COURT: Counsel?

7 MR. SHETLER: I'd be happy to lay some foundation, Your Honor.

8 THE COURT: Go ahead.

9 MR. SHETLER: I believe that it's possible that there was joint engagement in
10 the sale of prescription drugs. I believe that it's possible that the, I don't want to go
11 too far without a foundation, there are a number --

12 MS. SUDANO: And, Your Honor -- I apologize.

13 MR. SHETLER: That's okay.

14 MS. SUDANO: Continue. I'm sorry I didn't mean to interrupt you.

15 MR. SHETLER: There are a number of pills that were in her bag that day that
16 are not identified.

17 THE COURT: Okay.

18 MR. SHETLER: And, where I'm going is to try and determine if there was an
19 issue there that was existent and during the relationship with Mr. Perry, and that
20 could have influenced the incident that evening or morning is a better or accurate
21 statement.

22 THE COURT: Wait, there were pills in her bag the day of T.J. Maxx --

23 MR. SHETLER: Correct.

24 THE COURT: -- or the day of the incident with your client?

25 MR. SHETLER: T.J. Maxx.

1 MS. SUDANO: I think one, that assumes facts not in evidence; two, I don't
2 understand the relevance of something that happened a year and a half before this
3 incident before she even knew the Defendant.

4 THE COURT: Right. So, I'm sorry --

5 MR. SHETLER: Overrule?

6 THE COURT: I'm having trouble also, so.

7 MR. SHETLER: Okay. I'll withdraw the question, Your Honor. Thank you.

8 THE COURT: Okay. Sustained.

9 MR. SHETLER:

10 Q Can you tell me at some point in time he stops allegedly kicking and
11 hitting you in the kitchen floor; is that accurate?

12 A Yes.

13 Q What happens next?

14 A We kind of -- I sit up. I beg him and plead with him to quit hitting me
15 and I stand up. He kind of drags me up and marches me up into the living room.

16 Q And you talked about that earlier, kind of drag but you don't recall if it
17 was by an arm, by your hair, by your shoulders, or --

18 A No, when I say dragged I mean he more so dragged the article of
19 clothing that I had on.

20 Q Thank you. I'm sorry. Go ahead; he took you to the living room?

21 A He took me into my living room.

22 Q And what happened at that point?

23 A I sat down on the couch where he told me to sit and he began pacing in
24 front of me and threatening me, discussing things that had agitated him throughout
25 the time of our relationship so he talked about my ex-husband, my children, killing

1 me at seven p.m. that evening.

2 Q Why 7 p.m.?

3 A I don't know.

4 Q What caused him to go from pacing -- it was just trying to use your cell
5 phone that caused him to go from pacing to first reaching out and doing anything?

6 A I'm not following.

7 Q You wake up and at some point in time between waking up and all this
8 starting he's pacing and in an agitated manner. You feel the need to call for help;
9 right?

10 A Yes.

11 Q But you don't call for help because he takes your phone away; right?

12 A Correct.

13 Q And there was no incident that you're aware of that went from sleeping
14 to pacing to taking away your phone?

15 A I believe what happened was that he was still agitated by the fight that
16 he had told me he had the night before. I also had not -- I had not been in an
17 environment of drug users, what that behavior looked like. So when he woke up the
18 next morning and he was erratic, pacing, and cursing and talking about my mother I
19 didn't know whether he had been involved in some sort of illicit drugs or if he was
20 still hyped up about the fight he had gotten into the night before. All I know is that I
21 had asked him to leave the next morning, I had given him the privilege of staying the
22 night and taking his blood pressure medicine, I was ready for him to go ahead,
23 made that clear, and I went to grab my phone when I saw him acting erratic because
24 I knew at that point it was not gonna -- I was in some sort of danger. It wasn't gonna
25 lead to anything that I wanted it to lead to.

1 Q Why didn't he -- strike that.

2 After you go to the living room does he do anything to you, physically?

3 A Aside from holding me there against my will?

4 Q Right.

5 A He does not punch me or slice at me anymore. No.

6 Q And it was in the course of this slicing at you that your hands got cut?

7 A Yes.

8 Q Do you know why that's not in the police report?

9 A Because I was pretty dazed. I did make mention of quite a few things in

10 that particular time frame that I had to write the police report.

11 Q At any time during this night, morning in the condominium did you ever

12 initiate any aggression towards him?

13 A No.

14 Q Did you ever verbally harass, abuse, excite him?

15 A No.

16 Q This man who you told if he came to your house you're going to call the

17 police you decided, out of the kindness of your heart, to let him crash there; correct?

18 A I don't know that it was out of the kindness of my heart. Being

19 someone that needs medication I know what that's like to be in a position to be

20 without it, so it was empathy.

21 Q Empathy, that's a better description, thank you.

22 Do you remember the photograph Ms. Sudano showed you of the door

23 to the half bath that had the blood smear on the hinge?

24 A Yes.

25 Q Do you know what that blood was from?

1 A The blood was from my body. I don't know if it can from my nose, eyes,
2 lips but it was from my body.

3 Q Right. Was your hand bleeding?

4 A I don't recall what part of my body was bleeding at that point I was in
5 survival mode where I was just trying to leave some sort of evidence that a struggle
6 had occurred.

7 Q You used the word survival mode, previously, as well. Do you believe
8 at any point during your interaction with Mr. Perry that he was in survival mode?

9 A No.

10 Q Do you believe at any point during your interactions that he was scared
11 of you?

12 A No.

13 Q Have you ever given him reason, during the course of your relationship,
14 to be scared of you physically?

15 A No.

16 Q Have you ever threatened him verbally?

17 A When you say threatened, can you kind of be more specific?
18 Threatened bodily harm or threatened to leave him or, I don't understand.

19 Q Bodily harm.

20 A No.

21 Q When you gave him rides where he may or may not have been selling
22 drugs was that up and down Boulder Highway?

23 A Sometimes.

24 Q Do you remember when it was in your relationship that you were first
25 aware of drug activity?

1 A I don't.

2 Q Was it before this incident at the condo?

3 A Yes, it was.

4 Q You think it was before Christmas?

5 A I don't recall a specific time frame.

6 Q Was there anybody else in your condo during this time?

7 A No.

8 Q When you ran out to get help can you tell the Court what you did to try
9 and secure help?

10 A I ran across the way meaning adjacent to my apartment well, kind of
11 parallel actually, and I banged on a neighbors door. I heard someone home but
12 they didn't open the door.

13 Q Like heard voices inside?

14 A Yes. And at that point I just thought well I don't know if I would open my
15 door for a bleeding woman that looks like this either so I kind of ran back into my
16 home and ran upstairs to grab the phone to see if I could use the one form of
17 communication that I had in my home.

18 Q But it had been laying in the toilet for some time at least?

19 A Correct.

20 Q When the police showed up they took some photographs.
21 If I may approach?

22 THE COURT: Yes.

23 MR. SHETLER:

24 Q Correct?

25 A Yes, they did.

1 Q And then you took some photographs yourself a couple days later you
2 said; is that right?

3 A Yes.

4 Q You don't remember how many days later?

5 A It had to be maybe a couple because I had decided I was going to chart
6 the progress of my healing.

7 Q How long were you at the hospital before they released you to go to
8 your sister's home -- you went home but you went to your sister's house; right? Do
9 you remember how long?

10 A I didn't go to my sister's house I went -- she transported me to my
11 mother's home and I was treated and released from the hospital, I believe, the same
12 day.

13 Q I'm going to, with the Court's permission, put Exhibit 28 on the
14 overhead.

15 THE COURT: Go ahead.

16 MR. SHETLER:

17 Q And that's a picture that the police took; is that correct?

18 A Yes.

19 Q And I think it was 30 -- Exhibit 35, 36 and 37. I'm going to start with
20 Exhibit 35; and that you believe is a picture that you took of yourself?

21 A Yes.

22 Q And the same with 36?

23 A Yes.

24 Q And the same with 37, this is a picture of your hands; correct?

25 A Yes.

1 Q And it looks, on the bottom of the picture of 37, do you see the spot on
2 your knuckle there; there's a dark spot and then there's a not as dark spot, for a lack
3 of an artful term?

4 A Yes.

5 Q Do you know what that medium colored spot is?

6 A The little black dot or the --

7 Q No, the one next to the black dot. I don't have a good --

8 THE COURT: Why don't you put your finger on it.

9 MR. SHETLER: No pun intended.

10 THE COURT: Yes.

11 MR. SHETER:

12 A I believe that to be blood.

13 Q Blood, a couple days later?

14 And in the picture 36, the top picture, it looks like you're showing -- you
15 got your hair pulled back to get a good clear shot of your face; is that an accurate
16 statement?

17 A Yes.

18 Q And there's still quite a bit of blood still located around your mouth and
19 your nose; is that accurate?

20 A Correct.

21 Q And then do you see what top you're wearing in that picture?

22 A Yes.

23 Q Do you know what top that is?

24 A Looks like the same top that I had when the police showed up to my
25 home.

1 Q That's the top here in picture 28?

2 A Yes.

3 Q Exhibit 28, excuse me. You don't remember changing out of that top at

4 any time?

5 A No. This picture could have possibly been taken that same day.

6 Q And the same thing in 35; that looks like the same top?

7 A Yes.

8 Q And do you know what -- did you -- were those pictures taken with a cell

9 phone or with a camera or do you know?

10 A A camera.

11 Q Who's camera was that?

12 A My camera, I believe.

13 Q Did someone help you take those pictures?

14 A No, I don't recall, I don't think so.

15 Q Were they selfies?

16 A Yes. I do believe they were selfies.

17 Q But you didn't use the phone that was in the toilet?

18 A I don't know what phone I used. I had a couple of different cell phones

19 that I hadn't used in a couple of years since -- I had a nephew pass away and I had

20 kind of stored that phone without battery or SIM card so I may have pulled that one

21 out and begin to use that one to take selfies since the other one was damaged, but I

22 don't quite recall.

23 Q Did you have an opportunity -- did you ever try to get the phone from

24 the toilet, did it ever work later or did it just work for that 9-1-1 call, or do you know?

25 A I think, um, it eventually worked, sort of, like there was still some

1 features that did not work correctly.

2 Q I'm all too familiar with that, unfortunately.

3 Why do you think Mr. Perry took your car? Why do you believe --

4 MS. SUDANO: I'm going to object as to speculation, Your Honor.

5 MR. SHETLER:

6 Q Why did you tell the Court that Mr. Perry took your vehicle? You
7 testified that Mr. Perry took your car; correct?

8 A Yes, I did.

9 Q Why did you -- why do you believe that? Why do you believe it was
10 him; that's where I was trying to get. I apologize, Your Honor.

11 THE COURT: Okay.

12 MR. SHETLER:

13 Q Why do you believe it was Mr. Perry that took your car? I apologize to
14 the State as well.

15 A He took my keys in front of me when he was holding me hostage on the
16 couch in the living room. He marched me up my stairs at knifepoint and took me
17 into a bathroom where he asked me to stay until he left in my car and not to leave
18 the restroom until I heard the garage door up and there was no one else in the
19 home.

20 Q But you don't know if he drove your car away?

21 A I did not see him drive my car away.

22 Q Or if somebody else drove your car away?

23 A There was no one else in my home.

24 Q Once the garage -- the car was parked in the garage?

25 A Yes, it was parked in my garage.

1 Q And you heard the garage door open after Mr. Perry allegedly left you
2 upstairs in the bathroom; correct?

3 A Yes.

4 Q But somebody else could have taken the car?

5 A No.

6 Q It's not possible at all; 100 percent?

7 A I don't believe it to be possible.

8 Q That's fair enough.

9 What was the next time you saw Mr. Perry after this alleged incident?

10 A Two weeks later on Boulder Highway.

11 Q Can you explain how that came about?

12 A Sure. I was pretty determined that he would not go without -- he was
13 not gonna victimize me and think he was gonna walk the streets. So, I started
14 because I know that, you know, Metro doesn't have the manpower to go after one
15 criminal. They run into them and find out that they have an arrest, they arrest them.
16 But they -- he hadn't been charged for the crime that he had committed on me so I
17 figured I would assist and be proactive and helping locate Mr. Perry. So, I went in a
18 rental car that I had that my insurance had given me because my car had been
19 stolen by Mr. Perry and I went to places that I knew he would frequent hoping to
20 bump into him, and that day that I did bump into him. I called the police and said I
21 see him and he has a warrant. It was not at that time for me but I knew that he had
22 a warrant and I asked them to apprehend him and explained to him that I had been
23 attacked by the same person two weeks prior.

24 Q You believe that he had that warrant when he showed up at your condo
25 that night?

1 A Yes.

2 Q Is that one of the reasons you did not call the police?

3 A Yes.

4 Q Did you make any contact with Mr. Perry when you saw him on Boulder
5 Highway in the rental car?

6 A No.

7 Q Do you know how long it was before you got your car back?

8 A About a month and a half later. Well, they found it right away --

9 Q Right.

10 A -- but it had some damages to it so it went into a body shop and they
11 took a little longer to have it fixed.

12 Q Did you ever have an opportunity to say anything to Mr. Perry that -- the
13 police showed up after you called them.

14 A The police showed up and asked me not to say anything or approach
15 him.

16 Q Did you watch them take him into custody?

17 A Yes.

18 Q But you didn't say anything?

19 A No.

20 Q Do you know if he saw you?

21 A I don't.

22 Q How'd you feel when he got taken into custody?

23 A I don't know how I felt. I was upset, um, but I was happy to see that my
24 prayers had worked and that he was off the street.

25 Q Have you had any communication with Mr. Perry since that time?

1 A No. I was granted a TPO and an extension on a TPO. I've asked to
2 not never communicate with him.

3 Q And you haven't communicated -- you haven't reached out to him?

4 A No.

5 Q At any time during this altercation did you have the knife in your hand?

6 A No.

7 MR. SHETLER: May I have the Court's indulgence, please?

8 THE COURT: Mm-hmm.

9 MR. SHETLER:

10 Q After you received medical treatment you had several different
11 providers regarding your injuries; is that right?

12 A Yes.

13 Q And do you remember Dr. Leibowitz?

14 A Yes.

15 Q And Dr. Leibowitz did the reconstructive surgery; is that right?

16 A Yes.

17 Q And I want to -- you mentioned several times that there was a bone
18 protruding. You're not telling the Court the bone was through the skin are you?

19 A No.

20 Q Just that it was misshapen underneath; right?

21 A I read it in the medical report from Sunrise Hospital and Dr. Leibowitz.

22 Q All right. You said on being questioned on direct from Ms. Sudano that
23 you -- nobody could give you a good idea what was going to happen with your
24 vision?

25 A Correct.

1 Q And as you sit here today you still don't know that?

2 A I don't know that for sure.

3 Q You believe you may lose your vision in that eye?

4 A I don't know.

5 Q Did you do everything you could medically to try and insure that doesn't

6 happen?

7 A Yes, I have.

8 Q Do you remember having a post-op visit with Dr. Leibowitz?

9 A Yes.

10 Q And do you remember him telling you that he wanted you to come back

11 three months later?

12 A No.

13 Q If there was another appointment that Mr. Leibowitz -- Dr. Leibowitz

14 wanted you to go to would you have gone to that appointment?

15 A Yes.

16 Q And if he testified that you didn't would you have any explanation for

17 that?

18 A I would not?

19 MR. SHETLER: Thank you very much.

20 THE WITNESS: Thank you.

21 THE COURT: Redirect?

22 MS. SUDANO: Briefly, Your honor.

23 **REDIRECT EXAMINATION**

24 BY MS. SUDANO:

25 Q Now, Ms. Carpenter, you were asked whether you saw the Defendant

1 drive away in your car.

2 A Yes, I was.

3 Q And you didn't actually see him drive away?

4 A No, I did not.

5 Q Can you give us a time frame, how long before the Defendant left the
6 bathroom that you were in did you hear the car leave the house?

7 A Approximately 30 seconds.

8 Q Now, there was some communication or some questions about whether
9 or not you believed that the Defendant owed you money April 30th and into May 1st
10 of 2014.

11 A Yes.

12 Q And you testified that he did owe you some money.

13 A Yes.

14 Q Now, is one of the reasons that he owed you money also because you
15 were renting rooms for him?

16 A No, that's not one of the reasons although, I did rent rooms he paid for
17 them on his own.

18 Q So it was just the promissory note?

19 A The promissory note that he signed.

20 Q Now, there were also some questions about a prior incident with the
21 Defendant in this case and you said that, I believe, he choked you?

22 A He did, he choked me and banged my head up against my -- up against
23 the floor.

24 Q When was that?

25 A Sometime -- I don't recall but it was obviously prior to this incident. It

1 was sometime in the fall, the fall of 2013.

2 Q Now, you indicated also that you didn't report that first incident; is that
3 correct?

4 A I did not report it to the authorities.

5 Q But you told your doctor?

6 A I told my doctor and two of my closest friends, one of them is in the
7 courtroom today.

8 Q Now, why is it that you didn't tell the police about that?

9 A I was so embarrassed, I was completely embarrassed.

10 Q Why were you embarrassed?

11 A Because my mother had not raised me to deal with thugs and at this
12 point I had considered him kind of thuggish but yet we had a chemistry in common.
13 I also again was working with a team of attorneys and I thought that I would be
14 judged like -- it was just crazy. It was -- I was just embarrassed.

15 Q Now, did that changed the nature of your relationship at all after that
16 first incident?

17 A Somewhat and temporarily.

18 Q So what happened after that first incident where he choked you?

19 A So we didn't see each other for -- I don't know for what period of time, it
20 was off and on. We didn't see each other but he was very charming; so he would
21 still come to my office and bring coffee or ask if I needed anything. I was still
22 apprehensive of him because my circle of friends, family, coworkers and loved ones
23 unanimously hated him. They thought that he was kind of out of my character.

24 MR. SHETLER: Your Honor, I'm going to object. I believe this is beyond the
25 scope of my cross.

1 THE COURT: I'll sustain it that it was also non-responsive so, go on.

2 MR. SHETLER: Thank you, Your Honor.

3 MR. SUDANO:

4 Q So now, I believe you testified that you were kind of on and off after this
5 incident where he choked you?

6 A Yes.

7 Q Eventually did you get back together?

8 A We did.

9 Q Now, why did you take him back after he choked you?

10 A I was just the girl trying to be in love, trying to give him a chance. He
11 told me he wanted to be a pastor. He told me that -- he used to call me his first lady,
12 that I was his queen. He was very charming and I thought with a little bit of
13 grooming and counseling we could make it work somehow.

14 Q Now, you'd broken up again prior to April 30th of 2014; correct?

15 A Yes.

16 Q Now, when he came over to your house on April 30th of 2014 did you
17 give him any indication that you wanted to reconcile?

18 A No.

19 Q Had he made any statements to you about wanting to reconcile?

20 A No.

21 Q Okay. Now, you were also asked about the time period where you
22 were sitting on the couch where he was kind of in front of you with a knife; do you
23 recall that?

24 A Right.

25 Q Now, did there come a point where he asked you about or he made a

1 statement to you about your eye?

2 A Yes.

3 Q What did he say specifically?

4 A He said look at what you made me do, look at your eye.

5 MR. SHETLER: Objection again, Your Honor. Believe this is still passed the
6 scope of my cross.

7 THE COURT: Overrule.

8 MS. SUDANO: Your Honor, I have no further questions with that.

9 THE COURT: Okay. Any recross?

10 MR. SHETLER: Briefly, Your Honor.

11 **RECROSS EXAMINATION**

12 BY MR. SHETLER:

13 Q By the time these incidents allegedly went down at the condo you
14 believed he was, at that time, a thug?

15 A Are you talking about my first condo because I moved in between that
16 time --

17 Q The reason we're here today.

18 A I believed he was a thug, somewhat.

19 Q But you let him sleep in your bed.

20 A Yes.

21 Q Do you have any idea what kind of message that would give to
22 somebody who might consider themselves to be a thug?

23 MS. SUDANO: I'm going to object as to speculation on that one.

24 MR. SHETLER: I'll withdraw the question

25 THE COURT: Sustained.

1 BY MR. SHETLER:

2 Q Do you believe that that may have given him a message that the
3 relationship was not over

4 MS. SUDANO: I'm going to object as to speculation again.

5 THE COURT: Sustained.

6 BY MR. SHETLER:

7 Q When you were renting the room for him you would do the paperwork in
8 his name, correct?

9 A Yes.

10 Q And he would pay you at that time or over time?

11 A No, he would pay at that time.

12 Q And do you know what the source was of those funds he was paying
13 you with?

14 A Not -- I had speculation of where they were from but I didn't know for
15 sure.

16 Q He helped you with money to get the car; correct?

17 A No.

18 MR. SHETLER: Court's indulgence, I'm trying to be very specific, Judge.

19 THE COURT: Uh-huh.

20 MR. SHETLER: Those are all the questions I can ask you. Thank you again.

21 THE COURT: Any further direct?

22 MS. SUDANO: No, Your Honor.

23 THE COURT: I just have a quick question, I think.

24 **QUESTIONS BY THE COURT**

25 THE COURT: You had a surgery by Dr. Leibowitz who was here.

1 THE WITNESS: Yes.

2 THE COURT: And I think you said you had two other surgeries since then?

3 THE WITNESS: Yes.

4 THE COURT: They were done by a different doctor?

5 THE WITNESS: Yes.

6 THE COURT: What doctor did those other surgeries?

7 THE WITNESS: They were done by Monos Health Institute and, specifically, I

8 don't recall his name. I don't see them for pain management any more other than

9 for my eye surgeries but the doctor at Monos Health Institute, the main doctor there

10 performed the surgeries. It was stellate ganglion block was the nature of the

11 surgery, for nerve damage.

12 THE COURT: Okay. And it was pain management practice?

13 THE WITNESS: Right. And it's attached to a day surgery facility.

14 THE COURT: Okay. It's here in town?

15 THE WITNESS: Yes.

16 THE COURT: And both of those surgeries are related to nerve damage in

17 your face?

18 THE WITNESS: Yes. And I have one more scheduled.

19 THE COURT: When is that?

20 THE WITNESS: We're waiting for insurance authorization.

21 THE COURT: Okay. Any follow-up?

22 MS. SUDANO: Is it Dr. Lipshutz who was perform --

23 THE WITNESS: Yes, Dr. Lipshutz, sorry.

24 THE COURT: Okay. Any follow-up.

25 MR. SHETLER: No, thank you, Your Honor.

1 THE COURT: Okay. Thank you ma'am, I appreciate your time.

2 Okay. So for tomorrow, how many witnesses does State have?

3 MS. SUDANO: State has three witnesses tomorrow, Your Honor.

4 THE COURT: Okay. About how long do you think they'll take?

5 MS. SUDANO: They should all be fairly quick. It's the first responding officer,

6 the crime scene analyst and then the officer who found the car.

7 THE COURT: Okay.

8 MS. SUDANO: I would anticipate two hours, maybe, for all three of them.

9 MR. SHETLER: That's sounds accurate.

10 THE COURT: Okay. And are you anticipating presenting any witnesses?

11 MR. SHETLER: Mr. Perry still has to make a decision about whether he's

12 going to take the stand. I have one witness lined up, a second one possibly but we

13 may not. They may be [indiscernible] we don't need to use the Court's time for and

14 if I can avoid that I will.

15 THE COURT: Okay. Why don't you stand up for a minute, Mr. Perry.

16 THE DEFENDANT: Yes, Ma'am.

17 THE COURT: I'm going to take this opportunity to advice you of your rights

18 during this trial.

19 THE WITNESS: Yes Ma'am.

20 THE COURT: Under the Constitution of the United States and under the

21 constitution of the State of Nevada you cannot be compelled or forced to testify in

22 this case. Do you understand that?

23 THE DEFENDANT: Yes, Ma'am.

24 THE COURT: You may, at your own request, give up this right and take the

25 witness stand and testify and if you do you'll be subject to cross examination by the

1 State and anything you say whether on direct or cross would be the subject of fair
2 comment by the State when they argue at the end of the case. Do you understand
3 that?

4 THE DEFENDANT: Yes, Ma'am.

5 THE COURT: And, of course, if you choose not to testify because that is your
6 right, I, as the trier of fact, am not permitted to take that into consideration or to draw
7 any inference of guilt from the fact that you choose not to testify. Do you understand
8 that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: If you have a felony conviction in the last ten years that could
11 be raised if you testified. Do we have -- what do we got?

12 MS. SUDANO: There is one yes, Your Honor.

13 THE COURT: Okay. So what do we got?

14 MS. SUDANO: I have a certified Judgment of Conviction out of the state of
15 Illinois from 2005 for unlawful delivery for a controlled substance.

16 THE COURT: Okay. Now, so that means if you, I mean, I'm the trier of facts
17 so this is a little unusual situation, but if you take the witness stand and testify the
18 State will be allowed to ask you whether you've been convicted of a felony, what the
19 felony was, and when it happened but without going into the details regarding that
20 offense; do you understand that?

21 THE DEFENDANT: Yes, Ma'am.

22 THE COURT: So that would be part of the evidence in the case. Now, the
23 decision whether to testify is a decision that is left to you as the Defendant in this
24 case; do you understand that?

25 THE DEFENDANT: Yes, Ma'am.

1 THE COURT: Now counsel, as your counsel, gets to make a lot of decisions
2 about strategy and tactics and evidence and objections and things like that but the
3 decision whether to testify is one that is clearly your decision to make; do you
4 understand that?

5 THE DEFENDANT: Yes, Ma'am.

6 THE COURT: Now, of course, having said that, you should consult with your
7 lawyer who has education, training and experience to assist you and advice you
8 regarding that decision but ultimately the decision is yours to make. You understand
9 that?

10 THE DEFENDANT: Yes, Ma'am.

11 THE COURT: So before you make the final decision after the -- at the time
12 the State rests you should consult with him. I'm assuming you've already consulted
13 but you should consult with him so that you're prepared to make that decision when
14 the State does rest. Okay?

15 THE DEFENDANT: Yes, Ma'am.

16 THE COURT: Okay. So, we're scheduled for 10:30. I'll try to be done with
17 my calendar, you try to be done with your other matters and we'll start as soon as
18 we can at or close to 10:30, we hope.

19 MR. SHETLER: Thank you very much, Your Honor.

20 THE COURT: Okay.

21 MS. SUDANO: Thank you, Your Honor.

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THE COURT: Have a good night.

MR. TURNER: Thank you, Your Honor.

[Bench Trial, Day 1, concluded at 5:02 p.m.]

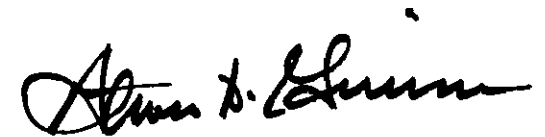
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ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.


SANDRA PRUCHNIC
Court Transcriber

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.


DALYNE EASLEY
Court Transcriber



CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

VS.

GENARO PERRY,

Defendant.

CASE#: C298879

DEPT. VI

BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE
WEDNESDAY, SEPTEMBER 30, 2015

**RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS
BENCH TRIAL - DAY 2**

APPEARANCES:

For the State:

ROBERT BRAD TURNER, ESQ.
Chief Deputy District Attorney
MICHELLE SUDANO, ESQ.
Deputy District Attorney

For the Defendant:

TRAVIS E. SHETLER, ESQ.

RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

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[None presented.]

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[None presented.]

1 WEDNESDAY, SEPTEMBER 30, 2015 1:07 P.M.

2
3 THE MARSHAL: Please rise. District Court Department Six is now in
4 session. The Honorable Judge Elissa Cadish now presiding.

5 Please be seated. Come to order.

6 THE COURT: Good afternoon.

7 MS. SUDANO: Good afternoon.

8 MR. SHETLER: Good afternoon, Your Honor.

9 THE COURT: Unfortunately, my calendar, which page wise looked like it
10 wasn't going to be that long, turned out to be really long. So, it's okay.

11 MR. SHETLER: Understood. And I was -- but I was stuck in 19, I think, so.

12 THE COURT: That's what I understand. Okay.

13 We can pick up now. I am -- thank you -- trying to reschedule the
14 appointment -- what happened to my pen?

15 THE MARSHAL: You keep taking them, Judge.

16 THE COURT: Not me; got to talk to the new law clerk.

17 THE MARSHAL: All right. I'll yell at her then.

18 THE COURT: Okay. Thank you.

19 I'm trying to reschedule the appointment I had this afternoon that has
20 me trying to leave at 3:30 because we're just starting and it's after one. So I'm
21 trying to work that out.

22 MR. SHETLER: I'm not confident it's going to pose a huge problem, Your
23 Honor.

24 THE COURT: Okay, well, we'll see. We can get going anyway.

25 MS. SUDANO: The State's case should be done --

1 THE COURT: Right.

2 MS. SUDANO: -- prior to that, so.

3 THE COURT: Okay.

4 MR. SHETLER: And I don't anticipate a great deal of cross. I need to make
5 an offer on a witness that we have standing by but I'm not confident I'm going to be
6 able to get the witness on the stand. So I think once we just make a record of that I
7 think we'll probably be ready to wrap it up. Mr. Perry and I are still talking so that he
8 may need some time tomorrow, but --

9 THE COURT: Yeah. And I don't have anything on calendar tomorrow.

10 MR. SHETLER: I do have my morning contract obligations and I will have
11 some assistance. I have a double conflict at 8:30 but we'll do whatever we can to
12 move along.

13 THE COURT: So, if we want at least to do a calendar page for tomorrow,
14 what time could you be here to start?

15 MR. SHETLER: I'm confident I'll have somebody here by 10. I might have
16 them by 9:30.

17 THE COURT: Just call it 10 tomorrow?

18 MR. SHETLER: Thank you, Your Honor, I appreciate it.

19 THE COURT: That's fine.

20 MS. SUDANO: Works for the State.

21 THE COURT: Okay. So, I mean, if we're not done today we'll plan to start at
22 10 tomorrow. We'll put it on calendar for 10.

23 Okay. So whatever proofer you're talking about that after we're done
24 with the State's case --

25 MR. SHETLER: Absolutely, Judge.

1 THE COURT: Okay. All right. Then, let's begin.

2 MS. SUDANO: State calls Justin Terry.

3 THE COURT: After the last few weeks I still keep wanting to say, you know,
4 do you stipulate to the presence of the jury, or wanting to admonish them when we
5 take a break, and like, oh yeah, they're not here.

6 MR. SHETLER: It does go a bit quicker, doesn't it?

7 THE COURT: Yeah.

8 THE MARSHAL: If you could step up in the box and remain standing.
9 Raise your right hand and face that young lady right there.

10 **JUSTIN TERRY**

11 [having been called as a witness and being first duly sworn, testified as follows:]

12 THE COURT CLERK: Please be seated.

13 Would you please state and spell your first and last name for the
14 record.

15 THE WITNESS: Name is Justin Terry, it's J-U-S-T-I-N, last name T-E-R-R-Y.

16 THE COURT CLERK: Thank you.

17 THE COURT: Go ahead.

18 MS. SUDANO: Thank you, Your Honor.

19 **DIRECT EXAMINATION OF JUSTIN TERRY**

20 BY MS. SUDANO:

21 Q Sir, how are you employed?

22 A Work for the Las Vegas Metropolitan Police Department.

23 Q In what capacity?

24 A Police officer.

25 Q How long have you been a police officer?

1 A Um, on November 5th of this year it'll be nine years.

2 Q Were you working on May 2nd of 2014?

3 A Yes.

4 Q Did you have occasion to respond to a call on Karen Court?

5 A I did.

6 Q What was the nature of that call?

7 A I believe the details of the call were that there were other officers

8 somewhere within Las Vegas area that were out with a victim who was stating that

9 her vehicle had been located by a GPS or some sort of electronic device, and that it

10 was somewhere in the vicinity of Karen Court.

11 Q Now, do you recall the specific location or the specific address where

12 you located the vehicle?

13 A Yeah, I located the vehicle at 2635 Karen Court.

14 Q Is that here in Clark County, Nevada?

15 A It is.

16 Q Do recall approximately what time you located the vehicle?

17 A Um, I'm not sure exactly what time it was when Eric located it.

18 Q What shift were you working on May 2nd of 2014?

19 A It was day shift.

20 Q Do you recall if it was -- so what time is day shift?

21 A Around 6:30 to 4:30 p.m.

22 Q 6:30 a.m. to 4:30 p.m.?

23 A Mm-hmm.

24 THE COURT: Was that a yes?

25 THE WITNESS: Yes.

1 THE COURT: Sorry, mm-hmm's don't transcribe very well.

2 THE WITNESS: Sorry.

3 MS. SUDANO:

4 Q Do you recall if it was towards the beginning or the end of your shift?

5 A Um, I believe it was near the end of my shift.

6 Q So would it be fair to say it was probably sometime in the afternoon?

7 A Yes.

8 Q Now, when you located the car was anybody in it?

9 A No.

10 Q Was it running?

11 A I don't think so, no.

12 Q Where's --

13 A I know it wasn't.

14 Q Specifically, where was it located within that 2635 Karen Court?

15 A It was parked on the north side. It would have been more towards the
16 west corner of the building.

17 Q What is 2635 Karen Court?

18 A It's an apartment complex.

19 Q Now, what was the condition of the car when you located it?

20 A Um, I didn't -- like I said, I didn't know if it was drivable since I didn't see
21 it driving but I really don't remember very -- what the condition -- I think it was keyed,
22 I think it had been keyed. It had some minor -- it had some damage, I don't
23 remember exactly what the damage was.

24 Q But it's your recollection that it would -- it had been keyed?

25 A I believe so.

1 Q Now, were you able to get inside the vehicle?

2 A No.

3 Q Why is that?

4 A The vehicle was locked.

5 Q Could you see the keys anywhere inside the vehicle?

6 A No.

7 Q While you were at that scene at 2635 Karen Court, did anybody else

8 arrive?

9 A Um, I have a vague recollection but I'm not a 100 percent sure if -- you

10 talking about other officers did arrive, yes.

11 Q Do you know if the registered owner arrived as well?

12 A I'm not real sure if I spoke to them but I think they did arrive while I was

13 there.

14 Q Now, what happened to the car after you had recovered it?

15 A I don't know exactly. I know it was returned to the owner. Actually I'm

16 pretty sure that the owner did return while I was still there and I think it returned to

17 the owner but that the owner did not have the keys at the time, if I recollect right.

18 Q Okay. So, there were no keys in the vehicle?

19 A No.

20 Q And the owner, you said, didn't have the keys either?

21 A I don't think so, no.

22 Q Now, normally when you recover a vehicle is there any sort of recovery

23 form or paperwork that you have to fill out?

24 A Yeah, there is. Yes, there is.

25 Q What is the purpose of that paperwork?

1 A It's to document the transfer of the property to the individual.

2 Q In addition to that is there any additional follow up or investigation that
3 you need to do before you return a car to an owner?

4 A Um, it all depends on the situation. Um, in some instances -- well, we --
5 typically we'll contact the owner, obviously, and in this case the owner had been
6 contacted. We possibly could process it with calling criminalistics and have them do
7 their job on the vehicle to get evidence.

8 Q Was that done in this particular case?

9 A No.

10 Q Why wasn't it not done in this case?

11 A Um, it's not -- like I say, it's not always a necessary thing. In this case I
12 would not have made that call as to whether or not it should be processed due to the
13 fact that I had been called by another officer out to the scene I was at, so I most
14 likely would have spoken to another officer and asked what they wanted me to do
15 with the vehicle.

16 Q So you weren't the one that was making the final decision --

17 A No, no.

18 Q -- on what needed to be done.

19 A No. Just because I didn't have all the details with the other side of the
20 incident.

21 Q Now, did you have any information about the relationship of the parties
22 involved in this case, as far as the registered owner and the individual who had
23 taken the vehicle?

24 A I don't remember for sure if I knew exactly what the relationship was. I
25 think I understood they had a domestic relationship.

1 Q Anything about the fact that it was a domestic relationship that would
2 have factored into the decision on whether or not to call ID out and have
3 criminalistics done?

4 A Um, if the vehicle is used within the domestic violence incident and
5 there was some type of evidence that the vehicle could provide, possibly.

6 Q Did you have any information that the vehicle was involved in the
7 domestic situation in this case?

8 A Not that I knew other than, I mean, to what I understood is that it was a
9 taking without owner's consent kind of situation, or that the vehicle possibly had
10 been used by the suspect prior. But I didn't know all the details, so.

11 Q And when you say that the vehicle had possibly been used by the
12 suspect prior, can you explain how that factored into your decision making process a
13 little bit more?

14 MR. SHETLER: Your Honor --

15 A Usually in a --

16 THE COURT: Hold on.

17 MR. SHETLER: I'm going to object to relevance. He didn't make the decision
18 whether criminalistics was going to be called. And now he said, several times, he
19 was just responding on behalf of another officer.

20 MS. SUDANO: And I'm just asking for his training experience whether or not
21 knowing if this was a domestic situation would have factored into the decision
22 making process.

23 THE COURT: Okay. So he can talk about in general how that might factor in.
24 Overrule.

25 MR. SHETLER: Thank you, Judge.

1 MS. SUDANO:

2 A So, what was the question?

3 Q So the question was, knowing that this was a domestic situation,
4 knowing that the suspect may have used the car prior, would that factor into the
5 decision of whether or not criminalistics was needed at this -- on this particular car?

6 MR. SHETLER: Your Honor, I'm sorry, I'm going to renew my objection --

7 THE COURT: Right.

8 MR. SHETLER: -- that she's referring to this situation. Not a generic, general
9 situation.

10 MS. SUDANO: I can rephrase it.

11 MS. SUDANO:

12 Q Just in general, through your training and experience, Officer.

13 A The fact that it was a domestic relationship would definitely influence
14 whether I called criminalistics because if the subject had been in the vehicle prior,
15 any evidence that we obtained such as prints, DNA evidence would be difficult to
16 determine whether it occurred prior to the incident.

17 Q So basically, there's not a lot of relevance necessarily to fingerprints or
18 DNA if somebody's been in the car before?

19 A Not to my understanding, I mean, I'm not a criminalistics specialist but it
20 only makes sense to me.

21 Q Just generally, through your training experience?

22 A Yeah.

23 Q Okay.

24 A Yes.

25 Q Now, did you inventory the car before it was returned to the registered

1 owner in this case?

2 A No, I did not.

3 Q Why is that?

4 A I -- there were no car keys to the vehicle and it was returning to the
5 owner. I don't believe the owner had keys as well.

6 Q Now, normally would you inventory a car before returning it to a
7 registered owner?

8 A Typically, yes, we would.

9 Q But again, in this case did you have any reason to believe that there
10 was anything of evidentiary value inside the car?

11 A I didn't know of any, no, otherwise I would have probably objected it --
12 to us -- probably would have tried to influence the officer that was requesting or at
13 least talk to him about it and made sure that he understands that there's evidence in
14 there. And I don't remember any evidence that was specific to the -- that was
15 relevant that I understood.

16 Q Now, if you didn't have keys to a vehicle that you're trying to inventory
17 and its locked what would you need to do in order to be able to inventory the
18 vehicle?

19 A Um, we would -- if it didn't have keys? I can't think of a time I ever
20 inventoried a vehicle if it didn't have keys. I mean, if it's a major case and I'd
21 possibly would request a hold on the vehicle and seal the vehicle, that's the only
22 other -- that's the only time I would do something like that if it was a serious enough
23 case that we would actually keep the vehicle and have it sealed and have it
24 impounded.

25 Q In this case, did you have any information that something like that was

1 required?

2 A I didn't. I had not been instructed that that was what we wanted -- what
3 they wanted me to do so it's not what I did.

4 Q Okay. Now, I'm going to show you here, Officer, State's Exhibit 1. Do
5 you recognize what's depicted there?

6 A I -- yeah, that's a -- that's the apartment complex that I located the
7 vehicle at.

8 Q The 2635 Karen Court?

9 A Yeah.

10 Q Now, do you recall the registered owner's address in this particular
11 case?

12 A I don't.

13 Q Would looking at your property return sheet refresh your recollection as
14 to registered owner's address?

15 A I mean, I could -- I probably -- I mean, I could look at it but it's not
16 gonna refresh my memory. I never was at the scene and I've never been to the
17 registered owner's house. I mean, I can look at it if you want me to.

18 Q Did you -- would you have, while you were completing this property
19 return form, would you have --

20 A I did write it down so, I mean, you want me to look at it?

21 Q Now, would it refresh your recollection -- I'm sorry -- do you recall the
22 license plate number for the vehicle that you returned?

23 A No.

24 Q Would looking at your property return sheet refresh your recollection as
25 to the license plate on the vehicle?

1 A Sure.

2 Q Did you write that one down?

3 A Yes, I did.

4 MS. SUDANO: Okay. May I approach, Your Honor?

5 THE COURT: Yes.

6 MS. SUDANO:

7 Q I'm showing you, for the record, the property return sheet for this
8 particular case, Officer.

9 A Okay.

10 Q Does that refresh your recollection as to the license plate number?

11 A 6-1-7, Lincoln, Tom, Union, so. I mean, that's what I wrote down. It's
12 not a number I would have just memorized though.

13 Q So at the time you wrote that down, how did you get it?

14 A I would have either looked on the vehicle plate or I would have looked
15 on the details of the call. I'm not sure.

16 Q And you would have written it down as you were looking at one of those
17 two things?

18 A Possibly, or else I possibly ran the plate and was looking off my
19 computer and looking at the DMV return.

20 Q And would it have been close in time when you looked at that
21 information to when you wrote it down on your property return sheet?

22 A Yeah.

23 MS. SUDANO: Your Honor, no further questions.

24 THE COURT: Cross?

25 MR. SHETLER: Briefly, Your Honor.

1 **CROSS-EXAMINATION OF JUSTIN TERRY**

2 BY MR. SHETLER:

3 Q Officer, my name is Travis Shetler and I represent the Defendant in this
4 case. I want to thank you for your nine years of service.

5 You're just here today to tell us that there was a car on Karen Court,
6 right?

7 A I'm here to answer whatever questions you have for me.

8 Q Well, but it wasn't your case, you were not the investigating officer, is
9 that correct?

10 A Well, I was dispatched to the call but there was a prior incident --

11 Q Right.

12 A -- that occurred and I was -- as far as I remember, I was being
13 requested to assist an officer who was on the scene at another call.

14 Q Right. Right. There wasn't -- you didn't generate all the other
15 paperwork in this case, you just filled out the slip transferring ownership --

16 A That's --

17 Q -- or possession is a better word.

18 A That's basically -- yes, that's true.

19 Q I appreciate that.

20 You mentioned when you first started answering questions, Ms. Sudano
21 asked you if there's anything you noticed about the vehicle; you said it was keyed?

22 A Yeah, that's true, I think it was keyed.

23 Q Was that -- do you have an independent recollection of that?

24 A Um, I'm pretty sure it was keyed. What do you mean?

25 Q Just that. I mean --

1 A I mean, this is quite a time ago but, yeah.

2 Q Not a hugely significant event for you?

3 A Not hugely significant, no.

4 Q Is it possible to tell if a car's keyed -- is it possible to tell if it's keyed
5 within the last day or the last month or the last year?

6 A I mean there's probably a way to tell, I'm not like a specialist on it, but.

7 Q Right. That's not any training that you have in particular?

8 A No.

9 Q Okay. So you're not -- when you tell the Court that the car was keyed
10 you're not saying that the fact that it was keyed has anything to do with anything
11 happening in this courtroom today?

12 A I have no idea if it was related.

13 Q I appreciate that.

14 And you testified that criminalistics was not called but that was not your
15 decision to make whether they were called or not, is that right?

16 A They were not called and I was not instructed to do that, to call them,
17 so.

18 Q I appreciate that.

19 Thank you very much, Officer. Be safe.

20 THE COURT: Any redirect?

21 MS. SUDANO: No, Your Honor.

22 THE COURT: Okay. Thanks Officer, appreciate your time.

23 Next witness?

24 MS. SUDANO: Almedia Bragg, please.

25 THE MARSHAL: Okay, make your way up into the box, remain standing.

1 Raise your right hand and face that young lady right there.

2 **ALMEDIA BRAGG**

3 [having been called as a witness and being first duly sworn, testified as follows:]

4 THE COURT CLERK: Please be seated.

5 Would you please state and spell your first and last name for the
6 record.

7 THE WITNESS: Almedia Bragg, A-L-M-E-D-I-A B-R-A-G-G.

8 THE COURT CLERK: Thank you.

9 THE COURT: Go ahead.

10 MS. SUDANO: Thank you, Your Honor.

11 **DIRECT EXAMINATION OF ALMEDIA BRAGG**

12 BY MS. SUDANO:

13 Q Ma'am, how are you employed?

14 A I'm retired.

15 Q Where did you retire from?

16 A Las Vegas Metropolitan Police Department.

17 Q When did you retire?

18 A December 31, 2014.

19 Q How long were you with the Las Vegas Metropolitan Police
20 Department?

21 A 23 years 10 months.

22 Q And what was your job title when you were with the Metropolitan Police
23 Department?

24 A Patrol officer.

25 Q Were you working on May 1st of 2014 at approximately 9:30 a.m.?

1 A Yes.

2 Q Did you have occasion to be dispatched --

3 THE COURT: I apologize, I should have -- I'm sure I should know this by

4 now. Give me the date and time again.

5 MS. SUDANO: May 1, 2014 at approximately 9:30 a.m.

6 THE COURT: Thank you. Go ahead.

7 MS. SUDANO:

8 Q Were you dispatched to 2461 Old Forge Court, apartment number 106?

9 A Yes.

10 Q Is that here in Clark County, Nevada?

11 A Yes.

12 Q What was the nature of the call when you were dispatched?

13 A Domestic violence.

14 Q Did you have any additional details about the call when you were in

15 route?

16 A No. That the female had been beaten up by her boyfriend and he was

17 gone. That was it.

18 Q Do you know -- did you have any information about how he had left the

19 scene?

20 A He had stole her car.

21 Q And that came out in your initial call?

22 A Uh, I'm not sure. I believe so.

23 Q Would looking at the catalog for this event number refresh your

24 recollection as to whether or not you were provided that detail while you were in

25 route?

1 A Yes.

2 MS. SUDANO: Your Honor, may I approach the witness?

3 THE COURT: Yes.

4 MS. SUDANO:

5 Q Officer, I'm showing you a catalog for -- can you verify for us that it's the
6 particular event number that we're talking about in this case?

7 A Yes, that's the victim, that's my P number. Yes.

8 Q Did that refresh your recollection as to whether or not you were
9 informed by dispatch on your way to the call that the victim's car had been stolen by
10 the suspect?

11 A Yes.

12 Q Okay. Now, were you the first responding officer or was anybody
13 present at the scene before you arrived?

14 A I was the first responding and no one else was there besides the victim.

15 Q Now, typically when you respond to a scene, what are your duties as
16 the first responding officer?

17 A First to make sure that the suspect doesn't come back, then to make
18 contact with the victim; which I knocked on the door and she wouldn't open the door,
19 she was afraid to open the door.

20 Q Now, what makes you say that she was afraid to open the door?

21 A I think she thought it was her ex-boyfriend coming back.

22 Q Okay. Did you know that somebody was inside the house?

23 A Yes.

24 Q What gave you that information?

25 A She had just called. It didn't take me that long to get there.

1 Q Now, does the victim eventually open the door for you?

2 A Yes.

3 Q You're able to make contact with the victim?

4 A Yes.

5 Q And is that Corla Carpenter?

6 A Yes.

7 Q What was her demeanor when you first made contact with her?

8 A She was crying, she was scared, her face was all bloody.

9 Q Now, when you say her face was all bloody --

10 A Her nose and her lips were bleeding and her hand was bleeding.

11 Q Where was her hand bleeding, if you recall?

12 A I think it was one of her fingers, I'm not sure.

13 Q Now, did you notice any other injuries to Ms. Carpenter when you

14 arrived at the scene?

15 A Her eyes were swollen.

16 Q After you made contact with Ms. Carpenter, what did you do next?

17 A I had called for another officer to take pictures cause it was -- I knew

18 right then there had been domestic violence. And then, uh, had her explain to me

19 what happened, I actually had dispatch send other units to ATL for the car which --

20 to look for the car. And then I started taking a report and then one of the other

21 officer came, we found a knife and the blood in the garage so we decided to call ID

22 cause it was gonna be a felony.

23 Q Okay. Now, when you arrive at the house you said it was just you and

24 Ms. Carpenter.

25 A Yes.

1 Q So nobody else was present, initially?

2 A I don't think so.

3 Q Do you recall the next person who showed up at the scene?

4 A I think it was one of her friends or else it was Officer -- a different

5 officer.

6 Q Who would that officer have been?

7 A Um, what's his name? I know his first name.

8 Q What is his first name?

9 A Frank.

10 Q What that be Frank Elam?

11 A Yes.

12 Q Now, who else -- did anyone else arrive at the scene?

13 A One of her friends did, the ID tech did, and then another officer, I think,

14 also came.

15 Q Now, at some point you said that you were going through the scene and

16 assessing what was going on at the house; is that correct?

17 A Yes.

18 Q Okay. So, I want to walk through that with you a little bit. I'm going to

19 show you here, State's Exhibit 2, initially. Do you recognize what's depicted in that

20 photo there?

21 A That's her apartment.

22 Q And that would be the 2461 Old Forge address?

23 A Yes.

24 Q All right. Now, do you recall how big the apartment was? Was it a one

25 bedroom apartment or were there more than one bedrooms?

1 A I'm not sure. I know it had a upstairs, there was a upstairs.

2 Q So it was a downstairs and an upstairs?

3 A Yes.

4 Q And do you recall if there was just one bathroom or multiple
5 bathrooms?

6 A I know there was one downstairs cause that's where, I think, the cell
7 phone was in the toilet.

8 Q Now, was there evidence or things that were significant to your
9 investigation located throughout the apartment?

10 A It was in disarray. You could tell a fight had taken place, basically.

11 Q Now I'm going to show you here, State's Exhibit 7. Do you recognize
12 what's depicted there in State's Exhibit 7?

13 A Yeah, there's blood on the floor.

14 Q Do -- is this from the victim's apartment?

15 A Yes.

16 Q What area of the apartment are we looking at here?

17 A That's the kitchen.

18 Q And you said that there was blood on the floor?

19 A I believe that's blood right there, or a footprint or something.

20 THE COURT: You can touch it if you want to.

21 MS. SUDANO:

22 Q And then if you'll hit either the bottom right or the bottom left of the
23 screen for me it will clear it out. There you go. Perfect. Thank you, Officer.

24 And now, I'm showing here you Exhibit 8. What is depicted there in
25 Exhibit 8?

1 A Cups thrown over, looks like a towel maybe that he tried -- looks like it
2 has blood on it a little bit.

3 Q Now, is that just a closer image of what we were looking at before in
4 State's Exhibit 7?

5 A Yes.

6 Q So can you see that same blood stain there in State's Exhibit 8?

7 A Yes.

8 Q As it's just sort of in the center of the picture?

9 A Yes.

10 Q Okay.

11 A Looks like there's blood on the refrigerator also.

12 Q And so that would be over on the left of the photo?

13 A Yes.

14 Q Now I'm going to show you next State's Exhibit 10. What's depicted
15 there in State's Exhibit 10?

16 A That's the exit door from the house to the garage.

17 Q Is there anything else of significance located in this particular photo?

18 A Blood on the door in the doorjamb.

19 Q Now, I'm going to show you next State's Exhibit 11. Do you recognize
20 what's depicted there?

21 A Yes.

22 Q Is that just a close up photo of that blood from State's Exhibit 10?

23 A Yes.

24 Q Okay, on that same doorjamb?

25 A Yes.

1 Q Now, I'm going to show you next State's Exhibit 12. Do you recognize
2 what's depicted there?

3 A Yes.

4 Q What is that?

5 A Blood on the walls in the restroom.

6 Q Now, you had said something else about something of potential
7 evidentiary value located in that bathroom. Can you walk us through that a little bit?

8 A There was a cell phone, I believe, somewhere in the toilet. I don't see
9 it, though.

10 Q Now, was the cell phone actually in the toilet when you saw it?

11 A You know, I don't remember but I know it was thrown against the wall, it
12 was against the floor and it was cracked, the whole screen was cracked, so.

13 Q So you did -- you saw the cell phone at some point?

14 A Yes.

15 Q And you said that there was a crack on the screen?

16 A Yes.

17 Q Possible it was located in the toilet, possible you saw it afterwards?

18 A Yes.

19 Q Okay. Well, next I'm going to show you State's Exhibit 13. Do you
20 recognize what's depicted there?

21 A I believe that's the living room.

22 Q Let me show you a different angle of that, Officer. I'm showing you now
23 State's Exhibit 14. Do you recognize what's depicted there?

24 A That's the bedroom.

25 Q And so is that -- I'm going to direct your attention down here to the

1 bottom right of the photo and then I'm going to take away that photo and show you
2 again State's Exhibit 13. So what -- I'm sorry, State's Exhibit 13 you testified was
3 the living room?

4 A This right here?

5 Q Yes.

6 A I think that's the bedroom.

7 Q Okay. So, and that's, basically, you can see the same corner of the
8 bed in State's 13 as in State's 14?

9 A Yes.

10 Q Okay. Was there anything of evidentiary value located in that
11 bedroom?

12 A Um, not that I remember. I believe there was blood upstairs but I think
13 it was on the walk when you go up the stairs. I know there was blood on the
14 walkway when you go up the stairs. I didn't really see any blood in the bedroom, I
15 didn't -- I came down and started really taking the report.

16 Q Okay. Now, I'm going to move on with you next to State's Exhibit 20.
17 Do you recognize what's depicted in State's Exhibit 20?

18 A That's the living room.

19 Q Anything of evidentiary value located within that living room?

20 A I don't see anything.

21 Q Do you recall anything of evidentiary value within the living room?

22 A There was -- it was in disarray.

23 Q Okay. And so, you did know -- when you say disarray, what specifically
24 do you mean by that?

25 A Stuff that's thrown over that normally wouldn't be thrown over in a

1 house like stuff on the floor, like if there was something on the table to be -- if the
2 table was thrown over or something like that. It wasn't a normal household.

3 Q Now, through your training and experience, when you see that kind of
4 disarray what, if anything, does that indicate about that living room area?

5 A A physical altercation took place.

6 Q Now, is that kind of consistent with what you learned from Ms.
7 Carpenter?

8 A Yes.

9 Q Okay. Now, next photo I'm going to show you here is State's Exhibit
10 24; and what are we looking at in 24?

11 A That's the garage.

12 Q Was there anything of evidentiary value located inside the garage?

13 A The knife was in there but I don't see it on here.

14 Q Okay. So you located a knife in the garage?

15 A Yes.

16 Q Do you recall what kind of knife it was?

17 A It was like a little steak knife.

18 Q Was there anything of significance about locating that knife in the
19 garage?

20 A It had blood on it.

21 Q Now, I'm going to show you here, State's Exhibit 25. Is that just a
22 closer up image of the corner of the garage?

23 A Okay. Yeah, there's the knife right there.

24 Q And can you mark on the screen for me, please? So, just kind of in the
25 bottom center of that photo is the knife that you were talking about?

1 A Yes.

2 Q Now, I'm going to show you here Exhibit 27. Is that an actual close up
3 shot of that knife?

4 A Yes.

5 Q And, you indicated that there was blood or apparent blood on that
6 knife?

7 A Yes.

8 Q Where was the blood located?

9 A On the end. I believe it was on the end.

10 Q And when you say the end, do you mean --

11 A The jagged edge.

12 Q Okay. So the actual blade of the knife as opposed to the handle?

13 A Yes.

14 Q Okay. Now, was there anything else of significance about the garage in
15 your investigation?

16 A The vehicle was gone.

17 Q Now, had Ms. Carpenter told you, given you information that the vehicle
18 had previously been located in the garage?

19 A Yes.

20 Q And when you arrived, there's obviously no vehicle in the garage; is that
21 fair?

22 A Yes.

23 Q What, if anything, did you do with the information that the vehicle was
24 missing?

25 A Just put it on the radio to be on the look-out. She said he'd probably be

1 going down Boulder Highway so we had units checking Boulder Highway.

2 Q Now, was the vehicle ever formally reported stolen?

3 A Yes.

4 Q What's the process for reporting a vehicle stolen, just generally?

5 A You just take a report and then you call a WVS and they enter it into the
6 system. And when somebody runs a license plate it comes back as a stolen
7 vehicle.

8 Q Now, is that the process that you followed in this particular case?

9 A Yes.

10 Q Were you actually the officer that took the report for the vehicle?

11 A Yes.

12 Q And so it was listed as stolen on May 1st of 2014?

13 A Yes.

14 Q Now, do you know if the vehicle was ultimately recovered?

15 A Yes.

16 Q Do you know when it was recovered?

17 A It was like two or three days later. Maybe two days later.

18 Q Were you actually present when it was recovered?

19 A No.

20 Q Now, I'll walk you through some additional photos here. I'm going to
21 show you now State's Exhibit 28. Do you recognize what's depicted there?

22 A Yes.

23 Q What is that?

24 A That's the victim.

25 Q That's Ms. Carpenter?

1 A Yes.

2 Q Was that taken while you were at the house at 2461 Old Forge on May

3 1st of 2014?

4 A It was taken at that time cause I was there but I didn't -- I wasn't there

5 when she took the picture.

6 Q Okay. So you didn't actually take the photo?

7 A No.

8 Q But it was taken that day?

9 A Yes.

10 Q Now, is that a fair and accurate depiction of how Ms. Carpenter looked

11 when you saw her on May 1st?

12 A Yes. I think she actually looked worse than that picture.

13 Q So you're saying the picture doesn't really do it --

14 A No, she --

15 Q -- justice?

16 A Her eyes looked like raccoons, like it was swollen and it was black

17 [indecipherable] it looks horrid, she looked worse.

18 Q Now, I'm going to show you a closer up picture here. I'm showing you

19 Exhibit 29.

20 A Yes. That's it right there.

21 Q So, can you walk us through some of the injuries that you had

22 described previously that you saw in Ms. Carpenter?

23 A Her eyes were swollen, she had the black marks like a raccoon. Her

24 nose was bleeding, her lips were bleeding, her hand was bleeding.

25 Q Can you see any sort of swelling or anything on her face?

1 A Yeah, it was -- her whole side of her face was swollen, one whole side.

2 Q Do you recall which side that would have been?

3 A I think it was her right side.

4 Q And you said at least one of her eyes was swollen shut?

5 A Oh yeah.

6 Q Was that the same, that right eye?

7 A Yes.

8 Q Now, I'm showing you again here State's Exhibit 28. What is Ms.
9 Carpenter doing in that particular photo?

10 A Looks like she's just laying down.

11 Q Is there anything significant to you about the fact that she was laying
12 down?

13 A Oh, she -- I think she said her back or her stomach hurt real bad. One
14 -- something hurt really bad and she couldn't hardly move. I couldn't remember
15 what it was cause like we couldn't mark it on the report because it was no marks but
16 it hurt really bad and she could hardly move.

17 Q Okay. And so that's why she was laying down when --

18 A Yes.

19 Q -- these photos were taken?

20 A Yes.

21 Q Now, I think we've kind of walked through this but I want to walk
22 through it a little bit more. So, there was an upstairs and a downstairs to this
23 apartment?

24 A Yes.

25 Q And we walked through -- there was -- can you walk me through where

1 there was blood located in the apartment?

2 A There was blood on the walkway, on the walls going up the stairs, in the
3 kitchen, in the bathroom, in the garage. I think that's it. And the living room, I'm
4 sorry, the living room.

5 Q Now, was there any blood in the bedroom upstairs?

6 A There was, I think there was but I didn't really pay attention to it
7 because I was trying to get the report. It was one of those calls that would take all
8 day so I was trying to get the report done and ID, I think, had came by then and was
9 upstairs.

10 Q Okay. And so you kind of left the documenting the scene upstairs to
11 ID?

12 A Yes.

13 Q Now, was there anything significant to you, through your training or
14 experience, about the fact that there was blood located in multiple areas throughout
15 the house?

16 A It seemed to me that like she was trying to get away from him.

17 Q So, did this seem like a short struggle through your training experience?

18 A No.

19 Q Okay. Seem like something that had gone on longer?

20 A Yes.

21 Q Now, was medical also called out to the scene?

22 A Yes.

23 Q Do you know if the -- if Ms. Carpenter was transported away from the
24 scene?

25 A I don't think so.

1 Q So medical did not transport --

2 A I don't think so.

3 Q -- Ms. Carpenter? Okay.

4 Now, other than this day on May 1st of 2014, was there any additional
5 follow-up that you or Officer Elam did with regards to this particular victim, Ms.
6 Carpenter?

7 A Officer Elam changed her locks; so, the Defendant took her keys, so he
8 couldn't get back in.

9 Q Now, do you know if that occurred that same day on May 1st of 2014 or
10 if it occurred a different day?

11 A I'm not sure. It may have occurred the same day, I'm not sure. I know
12 he changed her lock though because she was really scared.

13 Q And so the victim had indicated to you and Officer Elam that she was
14 frightened?

15 A Yes.

16 Q And that was because the suspect had taken the keys to her house?

17 A Yes.

18 Q Now, Officer Bragg, you had testified that there were some cuts on Ms.
19 Carpenter's hands?

20 A Mm-hmm, yes.

21 Q Through your training and experience was there anything significant
22 about the cuts on her hands?

23 A They looked like defensive wounds.

24 MS. SUDANO: Your Honor, no further questions.

25 THE COURT: Okay. Cross.

1 MR. SHETLER: Thank you, Your Honor.

2 Court's indulgence.

3 THE COURT: Uh-huh.

4 **CROSS-EXAMINATION OF ALMEDIA BRAGG**

5 BY MR. SHETLER:

6 Q I know you're retired but I've got to -- if it's okay with you I'm going to
7 refer to you as Officer Bragg.

8 A Sure.

9 Q Were you an -- what was your rank when you were an officer, 23 plus
10 years -- 23 years 10 months --

11 A Yes.

12 Q -- approximately?

13 A Yes.

14 Q Thank you for your service.

15 A Thanks.

16 Q I've got a couple -- my name's Travis Shetler, I represent Mr. Perry.
17 I've got a couple of questions. I don't think we're going to have to take a lot of your
18 time. If I misstate or I speak too quickly or I get too excited about what a great
19 question I'm asking or I get confusing, please just ask me to repeat it; okay?

20 A Yes, sir.

21 Q In 23 years -- were you in law enforcement before LVMPD?

22 A I was in Texas.

23 Q Same thing?

24 A Yes.

25 Q How many years down in Texas?

1 A Two.

2 Q And how about before that?

3 A No.

4 Q How many -- do you have an idea, I won't ask you for a number but
5 what percentage of the calls you responded to were domestic violence calls?

6 A Seventy-five to eighty percent. It's a lot.

7 Q During the course of your over a quarter of a decade as a law
8 enforcement officer, did you receive specialized training in domestic violence
9 investigations?

10 A Yes.

11 Q Can you give us just a little bit of an idea what that would involve?

12 A We get trained on special classes; everybody has to take them,
13 mandatory every year. We have to go and refresh the classes and then when
14 something else, a new law, comes up every year the domestic violence unit comes
15 in and gives a class for training. So we keep up on it every year, basically.

16 Q And was there anything in your career that resulted in you receiving
17 specialized training above and beyond an average officer on domestic violence?
18 Did you go away for any classes or any special seminars?

19 A I did go to a class, a domestic violence class that they have at the
20 academy, yes.

21 Q What type of topics, if you -- can you recall what type of topics you
22 covered in them?

23 A Just what to -- it actually covered sex trafficking and domestic violence
24 cause they were both in the same. When a victim is scared to talk always separate
25 them, you know? So, because a lot of times they're scared to talk and how they

1 appeared to be detached and you just have to read the signs because a lot of
2 suspects they'll hit the victim where you can't see it, so.

3 Q And a lot of victims try and protect the possible defendant, right?

4 A Oh, yeah. I've been attacked from a victim trying to arrest a suspect.

5 Q Is it the number one source of officer injury or is that traffic stops?

6 A I think it's domestic, probably.

7 Q I believe you're --

8 A Yes.

9 Q Yeah, that's my understanding.

10 A Yes.

11 Q Have you -- you made a couple of comments about this crime scene
12 about maybe blood on this wall going up the stairs.

13 A Yes.

14 Q And blood upstairs in the bedroom.

15 A Yes.

16 Q If there's no photographs of that would that rule that out or would the
17 photographs have nothing to do where there was blood -- and that's a clumsy
18 question, I apologize. If there was blood would you expect it to be in these
19 photographs?

20 A Could be or it couldn't be, I didn't really take the pictures.

21 Q Not your job.

22 A Yes, so. I mean there was enough blood everywhere else that it was
23 immaterial, I mean, you could just tell what happened.

24 Q Right. Officer Bragg, in the -- in your experience responding to a
25 horrific percentage of your career to domestic violence calls, do you have any idea

1 what percentage of those involve male on female violence?

2 A Probably 75 percent of them.

3 Q Do you receive any training or did you ever have any experience during
4 the course of your career where you responded to a domestic violence call and the
5 facts turned out to be opposite than what the victim relayed them to you?

6 A Yes.

7 Q Can you put any number on that, a competent number?

8 A Not too many, probably around three or four.

9 Q Okay. Pretty tiny?

10 A Yes. Yes.

11 Q Would -- in the course of investigating a domestic violence incident, I'm
12 sure any of -- let me just limit it to this, I apologize. In the course of investigating a
13 domestic violence incident does the alleged perpetrator's criminal background
14 history have any impact on your investigation? Does it have any significance to
15 you?

16 A Very little. We try to just go by the evidence at the scene.

17 Q And what about the same question for a victim's criminal background?

18 A No. We just try to go by the evidence at the scene.

19 Q But you did say that it's not unusual for a victim to be reluctant to give
20 up information?

21 A Yes.

22 Q And it does happen although, not in a ton of cases but there were cases
23 where the victim would give up incorrect information?

24 A Yes. It's very seldom that the victim ever shows up to court. They
25 hardly ever show up to court after it happens.

1 Q Unfortunately, I'm very familiar with that. I can't get over that number
2 still.

3 I believe Ms. Sudano took you back to the issue; you mentioned the cell
4 phone and the toilet downstairs?

5 A Yes.

6 Q You're not sure now if there was one in the toilet or not?

7 A No, I -- he had threw it in the toilet. He had threw it in the toilet.

8 Q You're not sure if it was there when you got there?

9 A No, I'm not sure.

10 Q You're not sure if it was downstairs or upstairs?

11 A I believe it was downstairs in the living room on the floor.

12 Q There was a photograph shown to you, this photograph number 28, and
13 on the bed with her on the mattress, the upside down mattress, there's a cell phone
14 there. Is that the same cell phone we're talking about?

15 A I don't believe so. The cell phone I seen had a cracked mirror.

16 Q Do you know if Ms. Carpenter had access to more than one cell phone
17 that day?

18 A I don't know.

19 Q But at least in your testimony here in Court is there were at least two in
20 that house within a short period of time?

21 A Yes.

22 Q I asked you the question about either the victim or the potential
23 defendant or the perpetrators criminal background. Would that -- would your answer
24 to those questions change, talking about their criminal history specifically, if there
25 were a violent criminal history would that have any impact or would it still be the

1 same answers?

2 A It's evidence at the scene.

3 Q And Ms. Sudano asked you what happened when you arrived at the
4 scene and you stated, please don't let me misquote this, you think she was afraid to
5 open the door because you're worried about her ex-boyfriend coming back?

6 A Yes, she was.

7 Q She told you that?

8 A Yes.

9 Q Okay. You also said that it seemed that she was trying to get away
10 from him; do you remember that?

11 A Yes.

12 Q And that's based on your observation of the house in disarray?

13 A Well, she also said she tried to call 9-1-1 and then he wouldn't let her
14 call and that's when he took the phone and threw it and she tried to run and he
15 wouldn't let her. He wouldn't let her get away.

16 Q I'd like to come back to this idea of disarray just a little bit. Ms.
17 Carpenter testified yesterday that she was not, I'm going to paraphrase here slightly,
18 but housekeeping was not number one on her list of stuff.

19 A Mm-hmm.

20 Q When you talk about disarray are you talking about a place with Top
21 Ramen on the bed, are you talking about the cups that were in the floor on the
22 kitchen, where do you draw -- I mean, my seven year old and my four year old make
23 disarray every minute every day but.

24 A Yeah. Well, you can tell when somebody just keeps a nasty house.

25 Q Right.

1 A Or you can tell when there's a struggle.

2 Q Thank you, that's much cleaner.

3 A Yes.

4 Q Thank you. And you're talking about the later, a struggle?

5 A Yes.

6 Q And in this case there was evidence of both present, right?

7 A Well, it wasn't the cleanest house but you could tell there was a

8 struggle.

9 Q That was a nicer way to put it, thanks for helping me out.

10 The information that you testified to about the perpetrator taking her

11 car, stealing her car, that came from Ms. Carpenter; right?

12 A Yes.

13 Q You didn't conduct any other investigation into that or talk to any other

14 witnesses about that?

15 A What witnesses?

16 Q Any.

17 A She was the only witness.

18 Q She was the only source for that information?

19 A Yes.

20 Q Ms. Carpenter testified yesterday that she took some selfies of her

21 injuries. You're familiar with what a selfie is?

22 A Yes.

23 Q Have you had a chance to look at those photographs at all?

24 A No.

25 Q Can you tell me any additional information or any -- if there's any

1 information in your report that would help you with your statement to the Court that
2 you believe she was bleeding on her hands? Is there any other basis for that than
3 other what you recollect?

4 A He snatched her keys from her. That's how -- she said she think [sic]
5 he snatched the keys from her cause she said she didn't -- she wasn't sure he cut
6 her with the knife but when he snatched the keys she thinks that's how her hand got
7 cut.

8 Q If she testified yesterday that he picked up the keys off some surface in
9 the house would that have any impact on that?

10 A It could. She could've picked up the keys up, either way her hand was
11 cut.

12 Q You saw that though?

13 A Yes.

14 Q You're here to tell us today that you saw that?

15 A Her hand was cut, yes. Maybe she tried to get the keys back from him
16 and something like that but there was a struggle over the keys.

17 Q In your experience investigating domestic violence incidents where, let
18 me keep it simple -- do you find that the victims try and get themselves -- clean up
19 their injuries as much as possible?

20 A No.

21 Q Do you, same question, in your experience investigating these types of
22 incidents -- strike that.

23 How do you, after 25 years as a police officer investigating all these
24 types of crimes, what did you do to take care of yourself and just not --

25 A That's why I'm retired at a young age cause it's just a revolving door,

1 it's a revolving door. Like I said, she's one of the very few victims who's come into
2 Court to testify. Most of them will not come in to testify and you'll just keep going to
3 their house over and over again until one day you'll go and they're dead.

4 Q And that's a huge problem in Clark County.

5 A Yes. They just won't force them to testify and, I don't know. I just think
6 they should do mandatory restraining orders like other states.

7 Q And they -- and it's a huge source of our homicides in Clark County.

8 A Yes. And I've been on several where I've been to the house several
9 times and they wouldn't come to court and then one day I go and they're dead.

10 Q Do you know what type of injuries Ms. Carpenter was later diagnosed
11 with?

12 A Later on I heard her eye socket was broken but at the time I didn't
13 know.

14 Q The decision for her to get transported or not transported, was that your
15 decision, her decision, a combination?

16 A No, she -- we were still at the scene. So I believe her friend, if I'm not
17 mistaken, I believe her friend came and took her to the hospital.

18 Q That's right. Have you had any contact with Ms. Carpenter since you
19 submitted your file on this case?

20 A No.

21 MR. SHETLER: Court's indulgence, please.

22 MR. SHETLER:

23 Q You did make a comment on direct, Ms. Sudano asked you about the
24 garage if there was anything significant. There was a knife in the garage and you
25 said the car wasn't parked in the garage. That was -- you believed the car was

1 parked there before?

2 A Yes, that's what she said.

3 Q And that was based on what Ms. Carpenter said?

4 A Yes.

5 MR. SHETLER: Your Honor, if I could just consult with my client for a second.

6 THE COURT: Sure.

7 MR. SHETLER: Officer Bragg, thank you and sincerely, thanks for your
8 service.

9 THE COURT: Any redirect?

10 MS. SUDANO: Briefly, Your Honor.

11 **REDIRECT EXAMINATION OF ALMEDIA BRAGG**

12 BY MS. SUDANO:

13 Q Now, Officer Bragg, you testified that I believe it was three or four of
14 your investigations over the course of 25 plus years investigating domestic violence
15 cases where what actually happened was different than what you thought happened
16 initially; is that correct?

17 A Yes.

18 Q And that was just based on what you were told by witnesses or --

19 A Or just going over the story or -- and noticing things when you first get
20 there and then you go outside in the car and then there's something else there that
21 wasn't there when you got there and you're like, hmmm, so.

22 Q So people kind of tampering with the scene --

23 A Yes.

24 Q -- after the fact maybe?

25 A Yes.

1 Q Now, was there anything about this particular scene that caused you
2 concern with regard to diversion of events that you heard from Ms. Carpenter?

3 A No. This was -- this was one of the -- this was a pretty bad one and her
4 eyes were like -- I've never seen eyes like that except once before and it was a girls'
5 eyes were like that where he beat up so bad her eyes were like that.

6 Q Now, so was everything that you saw at the scene consistent with the
7 version of events you heard from Ms. Carpenter?

8 A Yes.

9 MS. SUDANO: No further questions.

10 THE COURT: Any recross?

11 MR. SHETLER: Briefly, Your Honor, thank you.

12 **RECROSS EXAMINATION OF ALMEDIA BRAGG**

13 BY MR. SHETLER:

14 Q Officer Bragg, did you ever have a chance to inspect Mr. Perry after he
15 was apprehended?

16 A No. That -- this is the first time I seen him beside his on wanted [sic]
17 poster.

18 Q Did you ever hear any evidence during your investigation of mutual
19 combat or self-defense on Mr. Perry's part?

20 A No. If it was self-defense he should've stayed there at the scene.

21 MR. SHETLER: Thank you very much officer.

22 THE COURT: Any further redirect?

23 MS. SUDANO: No, Your Honor.

24 THE COURT: Thank you. We appreciate your time.

25 Next witness.

1 MS. SUDANO: The State would call Danielle Keller, please.

2 THE MARSHAL: Okay, go ahead into the box, remain standing. Raise your
3 right hand and face that young lady right there.

4 **DANIELLE KELLER**

5 [having been called as a witness and being first duly sworn, testified as follows:]

6 THE COURT CLERK: Please be seated.

7 Would you please state and spell your first and last name for the
8 record.

9 THE WITNESS: Yes, it's Danielle Keller, D-A-N-I-E-L-L-E K-E-L-L-E-R.

10 THE COURT CLERK: Thank you.

11 THE COURT: Go ahead.

12 MS. SUDANO: Thank you, Your Honor.

13 **DIRECT EXAMINATION OF DANIELLE KELLER**

14 BY MS. SUDANO:

15 Q Ma'am, how are you employed?

16 A I'm a senior crime scene analyst at the Las Vegas Metropolitan Police
17 Department.

18 Q Now, I want to talk you through a little bit. Do you have to have special
19 training and education in order to be a crime scene analyst?

20 A Yes.

21 Q Walk us through a little bit of that, if you would.

22 A I have a bachelor's degree in criminal justice and then I completed the
23 academy infill training program at Metro and subsequent training ever since I've
24 been employed.

25 Q When you say subsequent training, what are some of the things you

1 have to do for that subsequent training?

2 A Various things such as: blood stain classes, shooting reconstruction,
3 photography classes; all sorts of courses.

4 Q How often do you have to take those additional courses?

5 A We have quarterly training and then there's various classes offered
6 throughout the year.

7 Q Now, you said that you are a senior crime scene analyst; is that
8 correct?

9 A Yes.

10 Q How long have you been a crime scene analyst, total?

11 A Seven and a half years.

12 Q And how is it that you become a senior crime scene analyst as opposed
13 to when you first start out?

14 A At around your fourth year you have to test which is a written, practical,
15 and oral board exam to promote to senior.

16 Q And you were able to do that?

17 A Yes.

18 Q Now, I'm going to draw your attention to May 1st of 2014. Were you
19 working that day?

20 A Yes.

21 Q Did you have occasion to be dispatched to a scene at 2461 Old Forge
22 Lane?

23 A Yes.

24 Q Is that here in Clark County, Nevada?

25 A Yes.

1 Q What was the nature of -- well, first, let's back up. What's your typical
2 process when you respond to a scene; just in general?

3 A Typically, I meet with the officers and the victim and they walk me
4 through the scene. I then take photos and notes to document the scene and collect
5 any evidence and recover latent prints.

6 Q Now, is it different when you respond to a scene where there are patrol
7 officers as opposed to when you respond to a scene with detectives?

8 A Yes.

9 Q What are those differences?

10 A Usually the detectives take the lead role in a scene if they're there. If
11 it's just the patrol officers, patrol and myself will take the lead role.

12 Q So you have a lot more involvement when you're with patrol officers; is
13 that fair?

14 A Yeah.

15 Q And why is that; just generally?

16 A Um, I mean, just how it goes. The detectives get all the information and
17 on bigger cases on different -- on cases that are not so involved they don't need to
18 be dispatched.

19 Q So now, on this scene at 2461 Old Forge, was there a detective
20 present?

21 A No.

22 Q So, were you just working with patrol officers?

23 A Yes.

24 Q Now, what was the first thing that you did when you responded to this
25 particular scene on May 1st of 2014?

1 A I met with officers who were at the scene already.

2 Q Based on your meeting with those officers, what, if anything, did you do
3 next?

4 A Then I took notes documenting what I saw at the scene and
5 photographed it as well.

6 Q What's your process for taking the photos at a scene?

7 A We try to do a chronological if we can tell or based on the information
8 that's given to us we do overalls just to document the rooms, how the house is laid
9 out. Then we'll show close ups and comparison and relationship photos of any
10 evidence or anything that we're trying to point out in the scene.

11 Q Now, in this particular case did also you meet with the victim and
12 discuss the crime scene with the victim?

13 A Yes.

14 Q Okay. After you meet with all the parties do you always take photos of,
15 I guess, every room in a house?

16 A Not typically.

17 Q Why wouldn't you take photos of every single room?

18 A Usually we'll just focus on the rooms that have disturbance or that were
19 -- there was information given to us that there was something relevant in that room.

20 Q Now, I'll walk through with you if I can some of the photos of this scene
21 that you took here. I apologize. These are in no particular order because I messed
22 them up earlier. All right. So while I'm tracking down my photos here, oh, there we
23 go.

24 I'm going to start you here with State's Exhibit 4. What's depicted in
25 State's Exhibit 4?

1 A That's the front door to the residence.

2 Q And then State's Exhibit 5, what's depicted in State's Exhibit 5?

3 A That's showing the condominium number.

4 Q And so, is there any reason that you would take Exhibit 4 and then also

5 Exhibit 5; so the faraway shot of the door and then the close up shot?

6 A Just to show that's it's from the same door and that's the address that

7 we're about to enter.

8 Q And so, that's just the first step you take when you're kind of

9 documenting the scene?

10 A Yes.

11 Q Now, after you took the photos of the door and the residence where did

12 you go next?

13 A I believe it was the living room, the downstairs portion of the residence.

14 Q See what I can find for the living room. Showing you State's Exhibit 20;

15 is that the living room?

16 A Yes.

17 Q Now, is there anything of evidentiary value located in that living room?

18 A No.

19 Q Okay. And then same with Exhibit 21; is that a different angle of the

20 living room?

21 A Yes.

22 Q Now, is there any reason why you would have multiple shots of the

23 same living room area?

24 A It's just to show the general layout of the room.

25 Q And is that so later on when we come back for something like this you

1 can kind of remember and document the entire room?

2 A Yes.

3 Q Okay. So, after you were done in the living room, where did you go
4 next?

5 A There was -- it was kind of one big room but there was a kitchen in the
6 center and then a bathroom and then a door that led to the garage.

7 Q Okay. Now, is there anything of evidentiary value located in the
8 kitchen?

9 A There was some blood on the floor and a bloody tissue on the counter.

10 Q So, showing you State's Exhibit 7; is that the kitchen of the residence?

11 A Yes.

12 Q Now, if you mark on the screen --

13 A Okay.

14 Q -- up there we can see kind of where these items are. Can you see the
15 blood on the floor?

16 A Yeah, it's back -- oh, let me see. Oh, there -- I'm sorry, back in that
17 corner.

18 Q Okay.

19 A And then the tissue was up here.

20 Q And then if you'll hit either the bottom right or the bottom left to clear
21 that out. And now, State's Exhibit 8 is -- what is depicted there?

22 A That's a close up of the blood.

23 Q And now, State's Exhibit 9; what's depicted in State's Exhibit 9?

24 A And that's a close up of the tissue on the counter.

25 Q And a way back you testified that it was kind of one big area and there

1 was the garage and a bathroom; is that correct?

2 A Yes.

3 Q Now, showing you State's Exhibit 6. What's depicted there?

4 A So, there's the kitchen again here, and then this is the door to the
5 bathroom and this is the door leading to the garage.

6 Q Is there anything of evidentiary value located in the bathroom?

7 A Yes.

8 Q What was that?

9 A There was some blood on the doorway, right here. And then there was
10 also some in the bathroom, as well.

11 Q Showing you State's Exhibit 11; is that the blood on the doorway to the
12 bathroom?

13 A Yes.

14 Q And then State's Exhibit 12; is that inside the bathroom?

15 A Yes.

16 Q And can you indicate just where the blood is and --

17 A There some. It's right here.

18 Q And so on that bathroom wall downstairs?

19 A Yes.

20 Q Is there anything else of evidentiary value located in the bathroom?

21 A Not that I recall.

22 Q Now, I'm showing you State's Exhibit 10. What's depicted there?

23 A That is, again, the bathroom door here and then the door leading to the
24 garage.

25 Q Is there anything of evidentiary value found outside in the garage?

1 A In the garage, yes; there was.

2 Q What was located in the garage?

3 A There was a steak knife on the floor.

4 Q Let me show you this one. State's Exhibit 26; is that the steak knife you

5 were talking about?

6 A Yes.

7 Q Now, was there anything additional of significance with that steak knife?

8 A There was some apparent blood on the steak knife.

9 Q Based on that apparent blood what, if anything, did you do with the

10 steak knife?

11 A I recovered it and impounded it.

12 Q Now, after you were done documenting the garage where did you go

13 after that?

14 A I believe upstairs to the master bedroom.

15 Q Now, was there anything of evidentiary value located inside the master

16 bedroom?

17 A There was apparent blood on the bedding of the bed in the room.

18 Q Okay. Showing you State's Exhibit 13; is that a photo of the master

19 bedroom with the bed in it?

20 A Yes.

21 Q Okay. Now, showing you State's Exhibit 19; is that a close up shot of

22 that bedspread and bed?

23 A Yes.

24 Q Now, can you see any of the apparent blood you were talking about?

25 A Yes, there's some right here and then I think a little bit on the floor as

1 well.

2 Q So that's just kind of to the center bottom right of that photo?

3 A Yes.

4 Q I'm also going to show you State's Exhibit 16. What's depicted in
5 State's Exhibit 16?

6 A That's more apparent blood on the bedding; down here and up here,
7 kind of all over.

8 Q Is there anything else of evidentiary value located inside the master
9 bedroom?

10 A No.

11 Q Okay. Now, after you went into the master bedroom did you go
12 anywhere else in the house?

13 A I photographed the victim back in the living room.

14 Q Did you ever photograph any of the bathrooms upstairs?

15 A No.

16 Q Did you photograph -- was there another bedroom upstairs?

17 A I don't recall if there was.

18 Q Did you take any photos of any additional bedrooms upstairs?

19 A No.

20 Q Okay. So after you documented this master bedroom upstairs you just
21 went back downstairs?

22 A Yes.

23 Q Now, was there anything else of evidentiary value located on the stairs
24 or anywhere else?

25 A Not that I had -- was -- not that I saw or that I recall.

1 Q Now, you said that you documented the victim back downstairs. Where
2 was the victim when you documented her injuries?

3 A She was lying on a mattress in the living room.

4 Q Now, is there any particular reason that she was lying on the mattress?

5 A She was not feeling well and seemed out of it, so I just let her stay on
6 the mattress to take pictures of her.

7 Q Normally, would you document somebody lying down on a mattress?

8 A Not typically, no.

9 Q How would you normally document somebody?

10 A We usually do standups, what's what we call standups where we'll
11 shoot vic pictures of all four sides and then a close up of their face.

12 Q Okay. Now, so I'm showing you Exhibit 28 there. Is that the victim
13 lying on that mattress?

14 A Yes.

15 Q Okay. And again, there -- are there are any, I guess, angles of her
16 back or anything?

17 A No.

18 Q And that was just due to her discomfort?

19 A Yes.

20 Q Okay. So I'm going to show you State's Exhibit 30. What's depicted in
21 State's Exhibit 30?

22 A That's just a close up of her face.

23 Q Are there any injuries that you can see on her face?

24 A She had injuries to her eyes and to her mouth.

25 Q Now are those depicted in that photo?

1 A Yes, and there should be some close ups as well of those.

2 Q Let's start with Exhibit 31. Is that one of the close up photos you took?

3 A Yes.

4 Q And, specifically, what area are you focusing on in 31?

5 A It was her right eye.

6 Q And then how about State's Exhibit 32; what area are you focusing on

7 in 32?

8 A That's the same photo. I will take a picture both with a scale and

9 without just to show that there's nothing that was covered up by the scale.

10 Q So same area of that right eye area?

11 A Yes.

12 Q Was there anything significant as far as injuries on that right eye?

13 A It just looked swollen and maybe starting to bruise.

14 Q Now, showing you Exhibit 33. What's depicted in Exhibit 33?

15 A That's her left eye.

16 Q Is there anything significant as far injuries in Exhibit 33?

17 A Same thing, swollen and just getting discolored from bruising.

18 Q And now State's Exhibit 34. What's depicted there?

19 A Her mouth.

20 Q Anything significant about the victim's mouth?

21 A There was some apparent blood and then also swelling and discoloring.

22 Q Is there apparent blood anywhere other than her mouth in that photo?

23 A It looks like closer to her nose there.

24 Q Now, after you took your notes and documented the scene with photos

25 did you do anything else to process this particular scene?

1 A I recovered some blood samples from the scene.

2 Q Do you recall specifically where you took those blood samples from?

3 A From the master bedroom, the bedding in the bedroom as well as the

4 doorway to that bathroom downstairs.

5 Q Now, when you recover potential blood from a scene do you do any

6 testing at the scene or does that all just happen at the lab?

7 A We'll do some presumptive testing at the scene but as far as looking for

8 DNA or anything like that, that's done at the lab.

9 Q So what kind of presumptive testing do you do?

10 A In this case I performed a test called phenolphthalein kit on the

11 samples, well, on a sample from the same area that I recovered the samples.

12 Q And can you just walk through, very briefly, what the phenolphthalein

13 sample is?

14 A You have two parts and you just apply a couple drops to the sample of

15 each and if it's positive for blood it will turn pink.

16 Q And you said you did that presumptive test on the presumptive blood

17 from the master bedroom?

18 A Yes.

19 Q Do you recall whether or not that was positive for presumptive blood?

20 A Yes, it was positive.

21 Q And you also tested for presumptive blood on the doorway of the

22 bathroom?

23 A Yes.

24 Q Was that test positive?

25 A Yes.

1 Q Now, in addition to the presumptive blood testing did you do anything
2 else at the scene?

3 A I recovered the knife.

4 Q What did you do with the knife when you recovered it?

5 A I put it in a package so that it could, if they wanted to later test it for
6 DNA, fingerprints, whatever they wanted to.

7 Q And so you impounded it into evidence?

8 A Yes.

9 Q But then as far as any sort of testing that would later be done on that is
10 that something you would do?

11 A Sometimes we will, but in this case I did not.

12 Q So you just booked it into evidence, essentially?

13 A Yes.

14 Q Did you have any additional involvement at the scene?

15 A No.

16 MS. SUDANO: Your Honor, I have no further questions.

17 THE COURT: Okay. Cross?

18 MR. SHETLER: Thank you, Your Honor.

19 **CROSS-EXAMINATION OF DANIELLE KELLER**

20 BY MR. SHETLER:

21 Q Ms. Keller, my name is Travis Shetler and I represent Mr. Perry.

22 A Okay.

23 Q I've got just a couple questions for you. Are you okay comfort-wise?

24 A Yes, I'm okay.

25 Q You, take a break?

1 A No, I'm okay, thank you.

2 Q It's a lot of stuff.

3 Ms. Sudano asked you if you recalled any blood going up the stairway.

4 A No, I don't.

5 Q If there was blood there would you have photographed it or

6 documented it?

7 A Yes.

8 Q If there was something there and you thought it was blood would you

9 have photographed it and documented it?

10 A Yes.

11 Q Right. You're not testing it at that point, you're just --

12 A No.

13 Q And when you took photographs of Ms. Carpenter's injuries you're

14 trying to document any injury that she has --

15 A Yes.

16 Q -- that you -- that would come out on a photo?

17 A Yes.

18 Q You didn't take any photographs of her hands, is that correct?

19 A No.

20 Q Did she tell you that she had cuts on her hands?

21 A No.

22 Q Do you rely on the victim to let you know what injuries there are or do

23 you make your own determination about that?

24 A Yeah, typically unless it's something really obvious we'll just ask them,

25 you know, where they're injured and try to look and see if there's anything visible to

1 document.

2 Q So if, and if I get this confused, please stop me. If there's no
3 photographs that you took of cuts on her hands does that mean there were no cuts
4 on her hands or does that mean you just didn't notice them, it didn't come up --

5 A I didn't notice them and wasn't told about them if there's no
6 documentation of that.

7 Q Well, it may be significant or it may not be significant.

8 A Correct.

9 Q Did you ever have an opportunity to view some -- you know what a
10 selfie is?

11 A A selfie?

12 Q Yes.

13 A Yes.

14 Q Have you ever had an opportunity to review any of Ms. Carpenter's
15 selfies of her injuries?

16 A No.

17 Q She told the Court that she took some photographs some number of
18 days later and then maybe the same day, it's not clear; so I'm going to show you a
19 photograph she took. It's Exhibit 37. Can you see that okay?

20 A Yes.

21 Q She testified in the lower photograph there two marks on what I'm --
22 would you agree that it seems possible to be her left pinkie?

23 A It could be, yes.

24 Q You see the two marks; there's a very dark small mark and then a
25 slightly bigger, not as dark mark?

1 A Yes.

2 Q Did either of those marks look significant to you from your experience
3 and training?

4 A If I had seen them at the time I probably would have photographed
5 them but I don't recall seeing them or her telling me about them.

6 Q I'm going to show you photograph 36 or -- Exhibit 36, excuse me.
7 Those are two photographs she took of her face.

8 A Uh-huh.

9 Q Again, she wasn't -- it was unclear when these were taken.

10 A Correct.

11 Q Those injuries seem consistent with what you saw?

12 A Yes, I mean, they appear darker but that can happen as time goes on.
13 Bruises can darken.

14 Q Right. And as you look at these today its -- do you have any ability to
15 tell how much later they were taken if it was --

16 A No.

17 Q -- the same day or different days?

18 A Everybody kind of goes differently as far as injuries.

19 Q Right. I mean, that would be as subjective as the quality of the camera
20 or the phone that was used, everything.

21 A Correct.

22 Q Yeah. Once you, and Ms. Sudano may have asked you this and if she
23 did, please excuse me; once you documented everything, recorded everything,
24 bagged up everything, have you had a chance to revisit this file for any reason?

25 A No, just for Court purposes.

1 Q Right, right. Okay.
2 Court's indulgence, please.
3 THE COURT: Mm-hmm.
4 MR. SHETLER: Officer Keller, thank you and I hope you get out of here
5 quick.
6 THE WITNESS: Thank you.
7 THE COURT: Is there any redirect?
8 MS. SUDANO: No, Your Honor.
9 THE COURT: Thank you, ma'am.
10 THE WITNESS: Thank you.
11 THE COURT: Appreciate your time.
12 Does State have any other witnesses?
13 MS. SUDANO: The State does not have any additional witnesses and I
14 believe all the Exhibits 1 through 37 have previously been admitted. So with that the
15 State --
16 THE COURT: Okay. Can the Court Clerk confirm that 1 through 37 is
17 admitted?
18 THE COURT CLERK: Yes, they are.
19 THE COURT: Okay.
20 MS. SUDANO: With that, the State would rest, Your Honor.
21 THE COURT: Thank you.
22 Defense?
23 MR. SHETLER: Your Honor, I would like to consult with my client to make a
24 final determination whether he will be testifying or not testifying.
25 THE COURT: Okay.

1 MR. SHETLER: I do have -- again, I believe it's just going to be an offer of
2 proof. I don't believe I have a good basis to have another witness in so we may just
3 have Mr. Perry or nobody.

4 THE COURT: Okay. So, we'll take a short break and come back in and see
5 what we're going to do.

6 MR. SHETLER: Thank you, Your Honor.

7 THE COURT: And, you know what; before we take a break let me just ask.
8 Did you -- have you gone through the State's proposed Instructions?

9 MR. SHETLER: I have.

10 THE COURT: Okay. Are you -- are we going to need to talk about objections
11 or additional proposed Instructions?

12 MR. SHETLER: There's one question, I will try and address that with Ms.
13 Sudano and see if we can avoid wasting the Court's time. I don't think -- because
14 we went through them last time, so.

15 THE COURT: Okay.

16 MR. SHETLER: Thank you, Your Honor.

17 THE COURT: Thank you.

18 [Recess taken at 2:27 p.m.]

19 [Proceedings resumed at 2:37 p.m.]

20 THE COURT: Okay. Mr. Shetler.

21 MR. SHETLER: Your Honor, I've spoken with my client, Mr. Perry does not
22 care to testify.

23 THE COURT: Okay.

24 MR. SHETLER: We -- the only other witness that we intended to possibly call
25 would have been the security guard. I can make an offer of proof. I think the Court

1 really, and I've spoken about this with Ms. Sudano, I think the Court's ruling on the
2 previous motion regarding -- would be just through *Gideon* testimony about more of
3 the details of what took place at T.J. Maxx --

4 THE COURT: So --

5 MR. SHETLER: -- and I don't --

6 THE COURT: Okay. The security guard --

7 MR. SHETLER: -- and I think based on the Court's ruling --

8 THE COURT: -- from T.J. Maxx.

9 MR. SHETLER: I'm sorry, Your Honor, I apologize.

10 THE COURT: Okay.

11 MR. SHETLER: I understand you may not be exactly where my little head's
12 at. It would be brought in to color up and give some more details as to her activities
13 that day.

14 THE COURT: Right.

15 MR. SHETLER: To try and establish a slightly more of what we would
16 consider a fuller picture of Ms. Carpenter. I think the Court's previous ruling on the
17 motion is sufficient for the record. I don't -- I'll do whatever the Court would like.
18 We've talked about it and we think that your ruling on that motion, you made it clear
19 in the evidence offer that would come if we would try to offer for that, but.

20 THE COURT: So, I was only allowing information about that incident to the
21 extent that it affected your client's --

22 MR. SHETLER: Right.

23 THE COURT: -- state of mind --

24 MR. SHETLER: Right.

25 THE COURT: -- that day. So unless he talked to the security guard I don't

1 see how that would be pertinent to that issue.

2 MR. SHETLER: Right. And I did speak about this with Mr. Perry. He
3 understands what's going on. I just wanted to make sure we talked about it.

4 THE COURT: Okay.

5 MR. SHETLER: The only other request we'd have at that time, and I'm
6 slightly ahead of the scheduling here, is I would like the opportunity to speak with
7 Mr. Perry and prepare for closing, if it would be possible to do our closings
8 tomorrow. I don't know if the Court's amenable to that.

9 THE COURT: Okay.

10 MS. SUDANO: And, Your Honor, I'm not going to belabor the point with the
11 security guard, I do think that Your Honor's prior ruling is sufficient there.

12 As far as Mr. Shetler's request on closings, I'm prepared to go forward
13 today or we can do it tomorrow, whatever Your Honor's preference, and whatever's
14 most convenient for Mr. Shetler, I'm fine with.

15 THE COURT: Right. I mean, I could, you know, we could do them now. I
16 don't mind if you want to do them tomorrow, but are you prepared to talk about the
17 Instructions?

18 MS. SUDANO: Oh, that's right.

19 MR. SHETLER: No. I spent my time back in the luxurious confines of the
20 little room. Maybe if -- I don't think we're going to have an issue there. I just -- it
21 would probably make sense to take a second and do that. In an hour we could put
22 that on right before closing, whatever you're comfortable with, Your Honor.

23 I'm not. The short answer is no, I'm not.

24 THE COURT: Right. Okay. Well, on the good side we won't have to make
25 14 copies of the Instructions, so. I guess we'll deal with that first when you come

1 back at 10 in the morning.

2 So, to be clear, Defense is resting then at this point, right?

3 MR. SHETLER: Yes. I didn't say that either. Yes, Your Honor.

4 THE COURT: Okay. I just wanted to be clear.

5 MR. SHETLER: And if I do come across something I will make sure that I do
6 that before the afternoon is over and send an email to the Court and everybody on
7 the issue.

8 THE COURT: Right. So, we can address the Instructions first and then I will
9 read the Instructions to myself before we proceed. I don't need to read them out
10 loud in Court and then have closings, I guess, tomorrow and then I'll probably just
11 vacate for some time to contemplate, review the Exhibits and my notes and come
12 back with a verdict.

13 Okay. So, with the evidence being complete, we'll come back at 10
14 tomorrow. We'll first address Instructions and then do closings, okay?

15 MR. SHETLER: Thank you, Your Honor.

16 THE COURT: Great.

17 MS. SUDANO: Thank you, Your Honor.

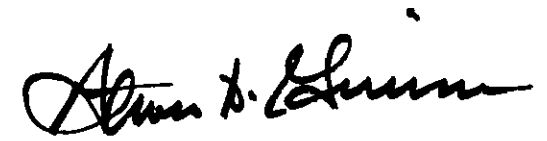
18 THE COURT: Thank you.

19 [Bench Trial, Day 2, concluded at 2:41 p.m.]

20
21 * * * * *

22 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
23 acknowledge that this is a rough draft transcript, expeditiously prepared, not
24 proofread, corrected, or certified to be an accurate transcript.

25 
DALYNE EASLEY
Court Transcriber


CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

VS.

GENARO PERRY,

Defendant.

CASE#: C298879

DEPT. VI

BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE
THURSDAY, OCTOBER 1, 2015

**RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS
BENCH TRIAL - DAY 3**

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For the Defendant:

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RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER