

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

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CHRISTOPHER E. PIGEON,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Case No. 83232

**RESPONDENT'S APPENDIX  
Volume 1**

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CLERK OF THE COURT

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DISTRICT COURT  
CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

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Plaintiff,

8

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VS.

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CHRISTOPHER EDWARD PIGEON,

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Defendant.

12

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE

13

14

MONDAY, AUGUST 4, 2014

**TRANSCRIPT OF PROCEEDINGS**

15

**JURY TRIAL**

16

**DAY 1 - VOLUME I**

17

18

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25

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MONDAY, AUGUST 4, 2014 AT 9:45 A.M.

[Outside the presence of the prospective jury]

THE COURT: This is Case C290261, State of Nevada versus Christopher Pigeon.

State's ready?

MR. SCHIFALACQUA: Yes, Your Honor.

THE COURT: Mr. Pigeon, you're ready?

THE DEFENDANT: I have a couple questions before we start.

THE COURT: Okay. Before we get started, are you ready?

THE DEFENDANT: I am ready for the jury.

THE COURT: All right. Before you can ask questions, I want to read something to you.

Mr. Pigeon, under the Constitution of the United States and under the Constitution of the State of Nevada, you cannot be compelled to testify in this case.

Do you understand that?

THE DEFENDANT: I cannot be compelled to testify?

THE COURT: Cannot be compelled to testify.

THE DEFENDANT: That's not a requirement in the Constitution.

THE COURT: You cannot be forced to testify.

THE DEFENDANT: Oh. Can't be forced. Yes, I understand that.

THE COURT: That's what compel means.

THE DEFENDANT: I do understand that.

THE COURT: You may, at your own request, give up that right and take the witness stand and testify. If you do, you'll be subject to cross-examination by the

1 deputy District Attorneys. And anything that you say may be -- may it be on direct or  
2 cross-examination will be subject to fair comment when the deputy District Attorneys  
3 speak to the jury in their final argument.

4 Do you understand that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: If you choose not to testify, the Court will not permit the deputy  
7 District Attorneys to make any comments to the jury because you have not testified.

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: If you elect not to testify, I will give a jury instruction that reads  
11 something to the effect -- it'll probably read exactly to the effect.

12 Quote: The law does not compel a Defendant in a criminal case to take  
13 the stand and testify. And no presumption may be raised and no inference of any  
14 kind may be drawn from the failure of the Defendant to testify.

15 Do you have any questions about your rights?

16 THE DEFENDANT: No, sir

17 THE COURT: All right. And you had two questions before the State -- the  
18 State wants to put something on the record. What were your two questions?

19 THE DEFENDANT: Can we -- do we need to talk about the instructions now  
20 or can that wait until after the jury?

21 THE COURT: Oh. You can give me what you think the instructions are. I will  
22 ask the jury to give me a copy; you give me a copy, what you think the instructions  
23 are and we'll deal with it later.

24 THE DEFENDANT: Okay. It concerns some of the charges. *Carl versus*  
25 *State and Larson versus State* both --

1 THE COURT: Okay. You're arguing the jury instructions. I said, give me a  
2 copy of them and we'll look at them.

3 THE DEFENDANT: The cop --

4 THE COURT: Do you have a --

5 THE DEFENDANT: -- copy of my --

6 THE COURT: -- copy of the jury --

7 THE DEFENDANT: -- concerns.

8 THE COURT: -- of the jury instructions? Do you have a copy of the jury  
9 instructions?

10 THE DEFENDANT: No, I do not.

11 THE COURT: All right. You'll get me a copy --

12 THE DEFENDANT: Sure.

13 THE COURT: -- before we go into it. Then you'll be able to look at theirs and  
14 give me any jury instruction you wish to give me.

15 THE DEFENDANT: Okay.

16 THE COURT: What other questions did you have?

17 THE DEFENDANT: Well it was all related to that. I wanted to talk about the  
18 list of crimes. I mean, there are eight charges for only, essentially three --

19 THE COURT: Let me see the indictment.

20 THE DEFENDANT: -- three conditions or three situations. I'd like to reduce  
21 that to three crimes, rather than eight crimes for three circumstances.

22 THE COURT: Well --

23 THE DEFENDANT: Or maybe four -- at least four because there's two --

24 THE COURT: Is this the one you're reading?

25 THE DEFENDANT: -- prohibited acts by a sex offender, which are both the

1 same -- for the same incident.

2 THE COURT: Okay. That will -- we'll have to bifurcate that. They don't get to  
3 hear that at the first because they have -- once -- that would be prejudicial if they  
4 heard that you had a prior sexual conviction. So, what we'll do -- do you have a  
5 copy of the -- of this one -- that she's going to read?

6 MR. SCHIFALACQUA: Yeah. I put it on his desk.

7 THE COURT: Okay. And it will be -- six counts will be read to them.

8 THE DEFENDANT: This is reduced to six counts?

9 THE COURT: It's not reduced, it's just bifurcated. If they find you guilty of a  
10 sex crime, then the other crimes will then have to be decided by the jury.

11 MR. SCHIFALACQUA: That's right, Judge. And we have Defendant's  
12 statement that we intend to play. We've redacted anything that talks about him  
13 being a prior sex offender. So the first portion of the trial, jury will not know that he  
14 is a convicted sex offender. It would just be on the counts one through six. And  
15 then after the verdict on those counts would be the -- likely, a little bit of additional  
16 evidence and then the deliberations on the other two.

17 THE COURT: All right.

18 THE DEFENDANT: What --

19 THE COURT: And I will instruct the jury, when they come in, that you have  
20 the right -- under the Constitution you have the right to an attorney, but you waived  
21 that -- or gave that right up in representing yourself.

22 THE DEFENDANT: That's correct.

23 THE COURT: All right.

24 THE DEFENDANT: I'm concerned about gross lewdness -- are you bringing  
25 up the old gross lewdness charges?

1 MR. SCHIFALACQUA: Not in the first portion. The first portion is really just  
2 going to deal with the incident between Mr. Pigeon and the named victim. So, we're  
3 not going to get into that --

4 THE COURT: And C [REDACTED] C [REDACTED]

5 MR. SCHIFALACQUA: Yes. We're not going to get into any of that  
6 conviction during the first presentation of the evidence here. So that won't be  
7 something we bring up.

8 THE COURT: Do you have any questions you wish me to ask the jury in voir  
9 dire?

10 THE DEFENDANT: No.

11 THE COURT: Okay.

12 MR. SCHIFALACQUA: Judge, I had a couple other very brief things if that's  
13 okay.

14 THE COURT: Okay.

15 MR. SCHIFALACQUA: We provided the Defendant on Friday all the photos  
16 in the case. We gave that to him so he does have the photographs. There was a  
17 still photo from the video taken in this case. There's no actual video that's going to  
18 be played, just the still photograph, but I did provide that to Mr. Pigeon. So, he's got  
19 all the visual evidence.

20 As far as -- we did file a notice of habitual treatment and I just wanted to  
21 make a record of the potential punishments, make sure Mr. Pigeon understands that  
22 as well. Again, this would only be in case of a conviction. And certainly it's  
23 discretionary on the Court whether or not to sentence Mr. Pigeon. He does have  
24 three prior felony convictions from 2000, 2006, and 2012.

25 The penalties under the small habitual are between 5 and 20. And the

1 large habitual could be life without parole, 10 to life, or 10 to 25. Those could be  
2 things that we could ask for. Again, it's discretionary on the Court.

3 THE DEFENDANT: That's incorrect.

4 MR. SCHIFALACQUA: It -- well, what I mean --

5 THE DEFENDANT: Both those were incorrect.

6 MR. SCHIFALACQUA: Okay. I'm just --

7 THE DEFENDANT: I have the statute.

8 THE COURT: Okay. Shh, shh, shh.

9 MR. SCHIFALACQUA: Okay. This is with the 207.010 and this was filed that  
10 we do seek intent to ask for this. But, again, that's only in the case of conviction.  
11 And those are penalty ranges that the State could ask.

12 THE COURT: And you have certified copies of the convictions.

13 MR. SCHIFALACQUA: Yes, Your Honor.

14 THE COURT: All right.

15 MR. SCHIFALACQUA: I just want to -- the case law says that Mr. -- or  
16 anyone representing themselves has to know all the punishments and that could be  
17 a potential. So I want to make a record and make sure he understands that before  
18 we start.

19 THE COURT: That's the range of punishments. That doesn't mean that's  
20 what you're getting if you're convicted.

21 THE DEFENDANT: No. But that's incorrect because it's attempted  
22 kidnapping, which bumps it down to a Class B felony. So it can't be more than 15  
23 years.

24 MR. SCHIFALACQUA: That is --

25 MS. MERCER: She's not --



1 MR. SCHIFALACQUA: That would be true, Mr. Pigeon, if you're just, you  
2 know, sentenced under the statute itself. This would be the habitual.

3 THE COURT: If they find --

4 MR. SCHIFALACQUA: Because of the priors.

5 THE COURT: If they fall --

6 THE DEFENDANT: I don't have any priors. There's no connection there for  
7 Class D felony to a Class B felony, which is originally a misdemeanor.

8 MR. SCHIFALACQUA: Okay, Judge.

9 THE DEFENDANT: So there's no habitual there.

10 MR. SCHIFALACQUA: I'm just saying we do have certified priors -- of three  
11 prior convictions that's --

12 THE DEFENDANT: I have a problem with that, Your Honor.

13 THE COURT: Let me see them.

14 MR. SCHIFALACQUA: Okay, Judge.

15 THE COURT: I don't know what your background is, Mr. Pigeon.

16 THE DEFENDANT: They're all misdemeanor charges and they -- he illegally,  
17 automatically enhanced them by a statute to Class B felonies. They're gross  
18 misdemeanor -- I mean, open and gross lewdness charges. There's a total of four.

19 THE COURT: I'll look at the certified.

20 THE DEFENDANT: But I will say this one was for having my hand in my  
21 pocket. And the other one was for touching a waitress in the lower back. And that  
22 was it. That's for two of them. So they're not that serious of crime. The other one  
23 was a plea bargain on which I wasn't convicted. I just selected the plea bargain.

24 THE COURT: Well they -- your -- that's a conviction, sir.

25 THE DEFENDANT: Yes, it is --

1 THE COURT: If you pled bargain --

2 THE DEFENDANT: -- a conviction, but I would say it qualifies as habitual.

3 And certainly not for a Class B felony.

4 THE COURT: Well, if they -- if you have two prior felony convictions, you're  
5 subject --

6 THE DEFENDANT: They're misdemeanors, originally.

7 MR. SCHIFALACQUA: Judge, can I --

8 THE COURT: Okay. Don't interrupt me, please.

9 MR. SCHIFALACQUA: This wasn't provided --

10 THE COURT: I'm going to try to be as calm as I can. Don't interrupt me.  
11 Don't interrupt them. I won't let them interrupt you.

12 If you have two prior felony convictions, and they have certified copies,  
13 you're subject to the small habitual. If they have three, you're subject to the large  
14 habitual. That's what they were trying to notify you. The small habitual is 2 to 20.

15 MR. SCHIFALACQUA: Or 5 to 20. I'm sorry, Judge.

16 THE COURT: Yeah. 5 to 20. And the large you could get -- the maximum,  
17 it'd be life without the possibility of parole. That's what the range of punishment is.

18 MR. SCHIFALACQUA: And just so we're clear --

19 THE DEFENDANT: Well, I'm saying those were originally misdemeanor  
20 charges. If they had been my first conviction [sic] that -- conviction, they would have  
21 all had been --

22 THE COURT: Okay.

23 THE DEFENDANT: -- misdemeanor charges.

24 THE COURT: Okay. Here is a conviction, C269318, open or gross lewdness,  
25 Category D felony, occurring October 31<sup>st</sup>, 2012. Your sent -- your attorney was

1 Ryan Bashor. You pled guilty. You were sentenced to 36 to 14 months -- 14 to 36  
2 months in the Nevada Department of Corrections. With 720 days -- 28 days. It is  
3 certified raised. Probably should staple that, please.

4 Okay. The second one they handed me is C216699, entered a plea --  
5 you had pled guilty to that one, I assume, because then you had gone to trial having  
6 been found guilty of the crime of open or gross lewdness, a Category D felony.  
7 Mark Cichoski was your public defender.

8 THE DEFENDANT: That's correct.

9 THE COURT: And --

10 THE DEFENDANT: Yes. I remember those charges.

11 THE COURT: And you were sentenced to 19 to 48 months in the Nevada  
12 Department of Corrections. And that's a felony raised. That's a certified copy. So  
13 there's two felonies.

14 THE DEFENDANT: Yes. Both of those were raised from misdemeanors.

15 THE COURT: And then a Texas case, October 3<sup>rd</sup>, 2000. Bill Cox was your  
16 attorney.

17 THE DEFENDANT: It was Craig Davis also.

18 THE COURT: Okay. Hold on, hold on.

19 THE DEFENDANT: And I represented myself.

20 THE COURT: Okay. You keep interrupting me. I'm trying to read.

21 You pled guilty to the charge agreed to by Counsel and the State.  
22 Thereupon Defendant was admonished by the Court of the consequences of his  
23 plea and you persisted in pleading guilty. And this is a certified copy of a district  
24 court. It is a forgery.

25 THE DEFENDANT: Those are forgeries of my parent's checks.

1 THE COURT: It doesn't matter what they are. If it's a felony, then they can  
2 enhance it. They can use it as an enhancement.

3 You waived a jury trial. And your attorney was Stuart Leeds. Forgery,  
4 financial, concurrent to the other one. That appears to be a felony. So that  
5 appears -- that there appears to be three felonies. Is that correct to the State?

6 THE DEFENDANT: That's correct.

7 MR. SCHIFALACQUA: It is correct, Judge. And --

8 THE COURT: Okay. Financial and two open and gross lewdness.

9 THE DEFENDANT: That's correct. But they are originally misdemeanor,  
10 open and gross lewdness's.

11 THE COURT: Okay. You were convicted of felonies.

12 THE DEFENDANT: Right.

13 THE COURT: Does that affect whether you want to represent yourself? Or  
14 whether you want to go forward with this trial?

15 THE DEFENDANT: No, it does not.

16 THE COURT: Are you sure?

17 THE DEFENDANT: I'm positive. I just --

18 THE COURT: We have a jury out here and if you want a lawyer after hearing  
19 that the -- possibility of life without is there, if you want an attorney, I will stop the  
20 trial, I'll send the jury home, I'll get you an attorney.

21 THE DEFENDANT: No. I have no problem. But I'd like to readdress one  
22 thing.

23 THE COURT: Okay. Before we get to that I just want to make sure that you  
24 understand, if you're convicted of a felony here and they enhance it that they have  
25 three prior convictions. Do you understand that?

1 THE DEFENDANT: Yeah. But there's really no crime. I haven't committed a  
2 crime.

3 THE COURT: Do you understand the ramifications?

4 THE DEFENDANT: Yes, I do understand it. But I --

5 THE COURT: Okay. Just --

6 THE DEFENDANT: I have no crime.

7 THE COURT: Okay. Stop. Do you understand the ramifications of three  
8 prior convictions?

9 THE DEFENDANT: Yes, I do.

10 THE COURT: And what is that? That -- what is the possibility of the penalty  
11 that the Court could get you -- give you?

12 THE DEFENDANT: Well, Schifalacqua here --

13 THE COURT: If --

14 THE DEFENDANT: -- claimed that it was 2 to 20 -- or 5 to 20 and then 10 to  
15 25.

16 THE COURT: And if they find -- if they are able to prove the large habitual,  
17 what could the Court sentence you to?

18 THE DEFENDANT: Life. However, that's --

19 THE COURT: Life, without the possibility of parole.

20 THE DEFENDANT: Yes, but --

21 THE COURT: Do you understand?

22 THE DEFENDANT: I --

23 THE COURT: I want you to fully understand the ramifications?

24 THE DEFENDANT: I understand, but I'd like to say something when we're  
25 done.

1 THE COURT: Okay. But do you understand the ramifications?

2 THE DEFENDANT: I do understand.

3 THE COURT: And if you're convicted, that's the range of punishments. I  
4 mean, the Court could find -- not find the habitual, or -- and then you would be  
5 sentenced on whatever you were found guilty of. Or the Court could find you of the  
6 small habitual and sentence you as a small habitual, from 5 to 20. Or the large  
7 habitual, which is -- the maximum would be life without. Do you understand that?

8 THE DEFENDANT: I do understand that. But I'd like to comment when  
9 you're finished, Your Honor.

10 THE COURT: All right. All right. But I just want you to tell me that you  
11 understand and you want to go forward anyway.

12 THE DEFENDANT: I understand and I'd like to go forward representing  
13 myself.

14 THE COURT: All right. So now what do you want to say?

15 THE DEFENDANT: What I was trying to say before is he says there's not --  
16 there's not -- there are eight charges on here. And -- not counting the open and  
17 gross lewdness, and not counting the prohibited acts by a sex offender, there are  
18 five charges all for the same incident.

19 THE COURT: Uh-huh.

20 THE DEFENDANT: I think that's ridiculous when four of them are Class -- or  
21 are Category B felonies. I think we can reduce that to two Category B felonies.

22 THE COURT: Okay. They are charging you with first degree kidnapping, a  
23 Category B felony; aggravated stalking, Category B felony; luring children with intent  
24 to engage in sexual conduct, Category B felony; burglary, Category B felony; and  
25 open or gross lewdness --

1 THE DEFENDANT: Yeah. I said outside of the open and gross lewdness --  
2 the outside of the prohibited acts, the only other one is unlawful contact with a child.

3 THE COURT: A gross misdemeanor.

4 THE DEFENDANT: Right. Now that's five charges all for the same incident.  
5 And four of them are Class B felonies. I think we could --

6 THE COURT: Okay.

7 THE DEFENDANT: -- reduce that to one misdemeanor and a one Class B  
8 felony, perhaps luring children with the intent to engage in sexual conduct.

9 THE COURT: Well, they have to prove their case to the jury.

10 THE DEFENDANT: Yes, but I don't -- I don't think that should even be --

11 THE COURT: This is not a time --

12 THE DEFENDANT: I don't think that should even be legal. That should be  
13 illegal to have --

14 THE COURT: Well, you should have filed a motion earlier.

15 THE DEFENDANT: I've filed five motions. You --

16 THE COURT: I don't --

17 THE DEFENDANT: You didn't hear any of them.

18 THE COURT: I don't have any motions. I don't have any motions you've  
19 filed.

20 THE DEFENDANT: Yes, you do. They're on the record.

21 THE COURT: Okay. I don't have it.

22 THE DEFENDANT: I have four motions to di -- drop charges --

23 THE COURT: Give me a copy of them. Didn't we --

24 THE DEFENDANT: And I have one motion --

25 THE COURT: Didn't we decide these?

1 MR. SCHIFALACQUA: Judge, there was a motion that I think he entitled:  
2 Motion to Drop Charges. It was an -- essentially a pretrial petition for writ of habeas  
3 corpus.

4 THE COURT: Right.

5 MR. SCHIFALACQUA: It was filed late so we couldn't -- you wouldn't have  
6 jurisdiction to hear that.

7 THE COURT: Right.

8 MR. SCHIFALACQUA: You know, certainly we went to the Grand Jury, we  
9 indicted on these charges. You know, whether or not the Court, you know, runs  
10 these concurrently or consecutively, certainly the Court could look at that. But we  
11 certainly have proved the elements we did at the Grand Jury.

12 THE COURT: Sure.

13 MR. SCHIFALACQUA: You know, and we --

14 THE COURT: Well, no. You have to prove beyond a reasonable doubt.

15 MR. SCHIFALACQUA: Exactly. And we -- and that's up to the, you know, up  
16 to the jury, but --

17 THE COURT: Right.

18 MR. SCHIFALACQUA: -- as of now, we can't just dismiss counts, certainly.

19 THE COURT: No. We're not in that position.

20 THE DEFENDANT: Well, I think it's extreme due process to have five -- or  
21 four Class B felonies for a single incident.

22 THE COURT: Okay. All right.

23 THE DEFENDANT: They don't have any of the components.

24 THE COURT: Well, they're going to have to prove those components.

25 THE DEFENDANT: Yeah. But does it need to be all four charges.



1 THE COURT: If they can -- the Grand Jury returned it and if -- they have to  
2 prove it to the jury.

3 THE DEFENDANT: All right. But the whole motion I wrote to drop the  
4 charges was based upon the fact the charges were not even discussed at the Grand  
5 Jury.

6 THE COURT: Right.

7 THE DEFENDANT: They just mentioned them as being there and then didn't  
8 discuss -- they primarily discussed --

9 THE COURT: Do you want me to appoint an attorney to represent you?

10 THE DEFENDANT: No, I don't. I just want to make clear for the Court and  
11 for the record --

12 THE COURT: Okay.

13 THE DEFENDANT: -- this is being recorded, is it not?

14 THE COURT: Oh yeah. Absolutely.

15 THE DEFENDANT: I just want to make sure, for the record, that it's being  
16 heard.

17 THE COURT: And you're not to make standing objections and vocal  
18 objections. If you make an objection, I will release the jury and then you can put  
19 things on the record. Don't talk in front of the jury. We can't have talking objections.  
20 All right? I'll let you put anything on the record when they jury's not here.

21 THE DEFENDANT: No. That's illegal.

22 THE COURT: No. No, it's not.

23 THE DEFENDANT: Yes, it is illegal.

24 THE COURT: No. I'm following the order --

25 THE DEFENDANT: You can ask me to approach the desk.

1 THE COURT: No, I'm not -- I'm not having you approach to the bench. We  
2 don't do that.

3 THE DEFENDANT: That's prejudicial --

4 THE COURT: If you object --

5 THE DEFENDANT: -- on your part, Your Honor.

6 THE COURT: No, it's not. If you object --

7 THE DEFENDANT: Yes, it is.

8 THE COURT: -- to something, I will release the jury and then we'll discuss it.

9 THE DEFENDANT: All right. I think that's unfair, but I say all right.

10 THE COURT: It's not unfair because we're not talking in front of the jury. The  
11 problem would be you're testifying in front of the jury sometimes when you object --  
12 make objections. And I won't have that. The Nevada Supreme Court doesn't allow  
13 that; talking objections.

14 THE DEFENDANT: That's not true.

15 THE COURT: Well it is.

16 THE DEFENDANT: No, it's not.

17 THE COURT: Okay.

18 THE DEFENDANT: I'm not going to agree with you on that.

19 THE COURT: You don't have to.

20 All right. Again, do you have any questions you wish me to ask the jury  
21 in voir dire?

22 MR. SCHIFALACQUA: Yes, Judge. We -- I wrote out a few.

23 THE COURT: Do you have any questions you wish me to ask the jury in voir  
24 dire, Mr. Pigeon?

25 THE DEFENDANT: No, I do not. I think I can handle it myself.

1 THE COURT: No. I'm going to be asking the questions on voir dire. Do you  
2 have any questions you wish to ask -- me to ask the jury?

3 THE DEFENDANT: Well, in that case, I'd like to know their occupation.

4 THE COURT: Okay.

5 THE DEFENDANT: We'll say religion, education level.

6 THE COURT: Education.

7 THE DEFENDANT: And whether or not they have children.

8 THE COURT: Children.

9 THE DEFENDANT: That'll be good enough for me.

10 THE COURT: Okay. Bring the jury in, Tom.

11 [Colloquy between the Court and the Law Clerk]

12 THE MARSHAL: And you're ready for the jury?

13 THE COURT: Yeah. Go get the jury.

14 [In the presence of the prospective jury]

15 THE MARSHAL: All rise, please.

16 And be seated.

17 THE COURT: Good morning, ladies and gentleman. Thank you for being her  
18 today. We're on the record in Case C290261; State of Nevada versus Christopher  
19 Pigeon. This -- the record will reflect the presence of two attorneys for the State,  
20 Mr. Pigeon, as well as all officers of the Court.

21 My name is Judge Doug Smith. I'm the District Court Judge in  
22 Department VIII that you've been subpoenaed here as jurors -- or possible jurors. I  
23 need to inform you that under the Sixth Amendment of the United States, every  
24 person charged with a crime -- felony crime has the right to an attorney. Mr. Pigeon  
25 has that right. He has waived that right and has asked to represent himself. And

1 you should have -- you should take no offense to that; to the State or to Mr. Pigeon.

2 I'll -- again, my name is Doug Smith. The marshal is Tom Lemke.

3 Louisa Garcia and Jill Jacoby. Louisa is my court clerk. You'll see a young man  
4 come in. His name is Alan. He is my law clerk, Alan Miller. Does anyone know me  
5 or my staff? No hands.

6 There are a couple questions that I need to ask and then we'll shortly  
7 begin the process of selecting a jury to sit and decide this case. It'll probably go  
8 until Wednesday. Before we do that, speak up because the court recorder records  
9 everything that takes place in this courtroom. Please don't say uh-huh or uh-uh. It's  
10 yes or no. Because you can't -- it's hard to transcribe the uh-uh and the uh-huh's.

11 If we ask you to identify yourself, you can use the last three numbers of  
12 your badge and your name. If you need to communicate with the Court, you'll do  
13 that through the marshal, Tom. There may be other marshals that come or go if  
14 Tom has other assignments that he must do. They'll be in uniform. You'll be able to  
15 identify them.

16 You'll come to know the court personnel a little bit through coming and  
17 going every day. They are under orders not to talk to you, to say good morning, to  
18 speak to the jury at all. It's not that they are anti-social, but if we talk to someone,  
19 even saying could you push 16 to come up to this floor, please don't do that. Just  
20 reach over and push it. That's not going to be considered rude by them. But if you  
21 see us, don't -- please don't talk to us because it would have the appearance that  
22 maybe you could be unduly being influenced by one of the court staff.

23 I need to ask a couple questions. They'll -- some of our questions  
24 seem to be personal. I don't intend it to be personal, but I have to ask a couple  
25 questions. First of all, if anyone is not a citizen of the United States, I need to know

1 that. You cannot sit as a juror. If you're not a citizen, please raise your hand.  
2 Seeing no hands. Or if you're a convicted felon that have not had their civil rights  
3 restored, I need you to raise your hand because you can't sit as a juror. Thank you.

4 I'll ask the State then to identify themselves, and their potential  
5 witnesses, and tell a little bit about the case.

6 MR. SCHIFALACQUA: Thank you, Your Honor.

7 Good morning, everyone. My name is Marc Schifalacqua and this is  
8 Elizabeth Mercer. We're Chief Deputy DA's here in Clark County and we represent  
9 the people of the State of Nevada in this criminal prosecution. In this case Mr.  
10 Pigeon is being charged with some acts that occurred in May of 2013. And to be  
11 very brief, it involves stalking a 12 year old girl, trying to lure her away from her  
12 parents for sexual purposes, and then also masturbating while he was watching her.  
13 So that is in 2013 -- May 2013.

14 The charges are attempt first degree kidnapping, aggravated stalking,  
15 luring children with the intent to engage in sexual conduct, burglary, open and gross  
16 lewdness, and unlawful contact with the child. Below -- I'm just going to read off the  
17 witness list in this case. We very well may not call all of these witnesses. I just --  
18 they're on the list just in case you know somebody, I'll read that off. Okay. I  
19 appreciate that.

20 Some members of the Metropolitan Police Department, including Brian  
21 Wyche, Randall McPhail, Roberto Juarez, Cheryl Hooten, Ryan Jaeger, Troy  
22 Givens, David Prichard, and Jason Lafreniere. The minor, who's the alleged victim  
23 in this case, her name is C [REDACTED] C [REDACTED] Kathryn Hernandez, John Bryant.  
24 Some custodian of records or manager folks from the Bargain Motel, Edwards Mini  
25 Storage, Ten Dollar Fitness, and Mona Lisa Carillo. So those are the witnesses --

1 potential witnesses in this case. Thank you very much.

2 THE COURT: Thank you. Do any of the jurors know those witnesses? Or  
3 any of the names from the DA's? Thank you. Mr. Pigeon, if you'll identify yourself  
4 and identify any witnesses that you may call.

5 THE DEFENDANT: My name is Christopher Pigeon. I'd like to remind you  
6 that these acts by --

7 THE COURT: No, no, no, no. Identify any witnesses you may call. It's not  
8 time to do an opening statement.

9 THE DEFENDANT: All right. I just have myself as a witness.

10 THE COURT: Okay. All right. Go ahead and have a seat, Mr. Pigeon.

11 All right. Tom, get the --

12 We have to select 12 jurors that'll be -- will be fair and impartial both to  
13 the Defendant and the State of Nevada. As the Defendant sits here right now, he's  
14 innocent of all charges because no one has heard any evidence. Does that bother  
15 anyone that they have to hear the evidence? Not that the evidence is ugly. It's that  
16 you'll hear the evidence before you'll make a decision. In the back. Thomas.

17 THE COURT: Identify yourself and your last three numbers of your badge,  
18 please.

19 PROSPECTIVE JUROR NUMBER 518: Brianna Maldonado, 518.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 518: Because of a past experience, I  
22 would be biased towards this case.

23 THE COURT: Okay. We'll have to ask some questions in a little bit. Okay?

24 PROSPECTIVE JUROR NUMBER 518: Okay.

25 THE COURT: I appreciate you -- we don't mean to be prying, but we have a

1 right to ask you some questions and we have to ask questions.

2 PROSPECTIVE JUROR NUMBER 518: Okay.

3 THE COURT: I understand.

4 PROSPECTIVE JUROR NUMBER 614: I have a family member that have  
5 a -- some -- a familiar case open that we can --

6 THE COURT: Okay. Your name and your badge number, please.

7 PROSPECTIVE JUROR NUMBER 614: Landaro.

8 THE COURT: And your badge number.

9 PROSPECTIVE JUROR NUMBER 614: 614.

10 THE COURT: Okay. You have a family member that has similar charges --

11 PROSPECTIVE JUROR NUMBER 614: Is a victim.

12 THE COURT: Is the victim?

13 PROSPECTIVE JUROR NUMBER 614: Uh-huh.

14 THE COURT: Okay. Just remind me if we call you. Actually it'll go this way  
15 down that line. So --

16 PROSPECTIVE JUROR NUMBER 678: Lilia Espinosa.

17 THE COURT: -- just remind me.

18 PROSPECTIVE JUROR NUMBER 678: Badge 7 -- 678.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NUMBER 678: Personal -- I've gone through similar  
21 stuff like that. So --

22 THE COURT: Okay. Just remind me when -- if we call you up into the jury  
23 box. All right.

24 THE DEFENDANT: Was that the same juror?

25 THE COURT: No.

1 THE DEFENDANT: Land -- what was the name?

2 THE COURT: Did you identify -- I'm sorry. What's your name and your  
3 badge number, ma'am?

4 PROSPECTIVE JUROR NUMBER 614: 614.

5 THE COURT: Okay.

6 THE DEFENDANT: Name?

7 PROSPECTIVE JUROR NUMBER 614: Landaro.

8 THE DEFENDANT: Oh.

9 THE COURT: Landaro.

10 THE DEFENDANT: That was the same person. Thank you. Appreciate that.

11 THE COURT: All right. Tell me your name. You can stay seated.

12 PROSPECTIVE JUROR NUMBER 313: Amber Floyd, Badge Number 313.

13 THE COURT: Do you work?

14 PROSPECTIVE JUROR NUMBER 313: Yes, I do.

15 THE COURT: What do you do?

16 PROSPECTIVE JUROR NUMBER 313: I'm a custodian.

17 THE COURT: Where?

18 PROSPECTIVE JUROR NUMBER 313: Courtney Junior High School.

19 THE COURT: Are you married?

20 PROSPECTIVE JUROR NUMBER 313: No.

21 THE COURT: Do you have children?

22 PROSPECTIVE JUROR NUMBER 313: Yes.

23 THE COURT: Their ages?

24 PROSPECTIVE JUROR NUMBER 313: Ten.

25 THE COURT: And -- one child?



1 PROSPECTIVE JUROR NUMBER 313: Yes, sir.

2 THE COURT: Boy or girl?

3 PROSPECTIVE JUROR NUMBER 313: Girl.

4 THE COURT: Do you have any background in law or law enforcement?

5 PROSPECTIVE JUROR NUMBER 313: No.

6 THE COURT: Have you ever sat as a juror before?

7 PROSPECTIVE JUROR NUMBER 313: No.

8 THE COURT: How far did you go in school?

9 PROSPECTIVE JUROR NUMBER 313: Technical. I'm a licensed  
10 cosmetologist, just -- as well.

11 THE COURT: Do you have any problem sitting in judgment of others?

12 PROSPECTIVE JUROR NUMBER 313: No.

13 THE COURT: You'll be the judge of the facts. What the jury is, is the judge of  
14 facts. I'll tell you what the law is. You have to follow the law. Does anybody have a  
15 problem with that? Okay.

16 Do you -- or have you ever -- do you use -- ever use the city busses?

17 PROSPECTIVE JUROR NUMBER 313: Yes.

18 THE COURT: How often?

19 PROSPECTIVE JUROR NUMBER 313: Once out of the blue moon. So --

20 THE COURT: Has anybody in the panel ever -- in this 14 ever been followed  
21 before? Okay. All right. Pass that mic over to that lady next to you. Tell me your  
22 name and your badge number.

23 PROSPECTIVE JUROR NUMBER 337: Dorothy Shuler, 337.

24 THE COURT: How did that make you feel?

25 PROSPECTIVE JUROR NUMBER 337: Upset, because I was mugged.

1 THE COURT: Okay. When did that happen?

2 PROSPECTIVE JUROR NUMBER 337: It happened about ten years ago in  
3 Los Angeles.

4 THE COURT: Not here in Las Vegas.

5 PROSPECTIVE JUROR NUMBER 337: No.

6 THE COURT: Police called?

7 PROSPECTIVE JUROR NUMBER 337: Yes, they were.

8 THE COURT: And did they come?

9 PROSPECTIVE JUROR NUMBER 337: Yes, they did.

10 THE COURT: Was there anything about that that would prejudice you against  
11 the State or the Defendant in this case?

12 PROSPECTIVE JUROR NUMBER 337: No, because totally unrelated type  
13 cases.

14 THE DEFENDANT: What was your name again, ma'am?

15 PROSPECTIVE JUROR NUMBER 337: Dorothy Shuler.

16 THE DEFENDANT: Thank you. I appreciate that.

17 THE COURT: Okay. You'll address the Court, please, Mr. Pigeon as we've  
18 ins -- I've instructed you.

19 THE DEFENDANT: All right, Your Honor.

20 [Colloquy between the Court and the Marshal]

21 THE COURT: All right. Then pass that down. Who else raised their hand?  
22 Okay.

23 PROSPECTIVE JUROR NUMBER 356: It's Sheri Harris, Badge Number 356.

24 [Colloquy between the Court and the Clerk]

25 THE COURT: Tell me about the incident.

1 PROSPECTIVE JUROR NUMBER 356: The incident was when I was in fifth  
2 grade and I was followed by a man for several days. He had waited at my bus stop  
3 and there was masturbation involved and the police were called.

4 THE COURT: And did you go to trial and testify?

5 PROSPECTIVE JUROR NUMBER 356: Yes.

6 THE COURT: And where did that happen?

7 PROSPECTIVE JUROR NUMBER 356: Pennsylvania.

8 THE COURT: Okay. Thank you. I may ask you some more questions in a  
9 minute. If you'll pass that mic back.

10 Do you have any feeling one way or another -- no. All the way back.  
11 All the way. On whether a grown male or female would have a dating relationship or  
12 intimate relationship with a teenager.

13 PROSPECTIVE JUROR NUMBER 313: Can you repeat that again? I'm  
14 sorry.

15 THE COURT: Do you have any feeling one way or the other if a male or a  
16 female -- if it's appropriate for a grown male or female to have a dating or an  
17 intimate relationship with a teenager?

18 PROSPECTIVE JUROR NUMBER 313: No. It's not appropriate. And I  
19 wouldn't feel that way for the fact that I am around pre-teens. So, I would feel that  
20 that's not, you know, comfortable or -- what's the word I'm looking for?

21 THE COURT: Now, you bring your everyday, common sense --

22 PROSPECTIVE JUROR NUMBER 313: Yeah.

23 THE COURT: -- to the courtroom. We're not asking that. You won't hold  
24 anything against the Defendant or the State because you have a daughter.

25 PROSPECTIVE JUROR NUMBER 313: No, I wouldn't.

1 THE COURT: Okay. You'll listen to the evidence -- what we want is  
2 everyone to listen to the testimony, look at the exhibits, and make a decision from  
3 these four walls. Can you do that?

4 PROSPECTIVE JUROR NUMBER 313: Yes.

5 THE COURT: All right. And you'll be fair and impartial to both parties in this  
6 case?

7 PROSPECTIVE JUROR NUMBER 313: Yes.

8 THE COURT: Have you ever been the victim of a crime?

9 PROSPECTIVE JUROR NUMBER 313: No.

10 THE COURT: Accused of a crime?

11 PROSPECTIVE JUROR NUMBER 313: No.

12 THE COURT: Do you have any bias based on race, religion, or gender,  
13 ethnicity?

14 PROSPECTIVE JUROR NUMBER 313: No.

15 THE COURT: You promise to be truthful to all of your responses here in court  
16 and you're telling us the truth today?

17 PROSPECTIVE JUROR NUMBER 313: Yes.

18 THE COURT: And you'll listen to all of the evidence before you make up your  
19 mind.

20 PROSPECTIVE JUROR NUMBER 313: Yes.

21 THE COURT: If you'll pass that mic over. All right. Tell me your name again.

22 PROSPECTIVE JUROR NUMBER 337: Dorothy Shuler.

23 THE COURT: Do you work?

24 PROSPECTIVE JUROR NUMBER 337: Badge 337. Shuler, like the Garden  
25 Grove minister.

1 THE COURT: Okay. Do you work? Do you work?

2 PROSPECTIVE JUROR NUMBER 337: No. I'm on disability.

3 THE COURT: And what did you do before you were put on disability?

4 PROSPECTIVE JUROR NUMBER 337: The last job I had, I was a janitor in a  
5 homeless shelter.

6 THE COURT: Do you have a background in law or law enforcement?

7 PROSPECTIVE JUROR NUMBER 337: No, I do not.

8 THE COURT: Are you married?

9 PROSPECTIVE JUROR NUMBER 337: No.

10 THE COURT: Have you or anyone closely associated with you ever been the  
11 victim of a crime? Other than what you've talked to us.

12 PROSPECTIVE JUROR NUMBER 337: As I mentioned before I was mugged  
13 and a --

14 THE COURT: Other than that?

15 PROSPECTIVE JUROR NUMBER 337: And my aunt was murdered.

16 THE COURT: Okay. You wouldn't hold that against the Defendant.

17 PROSPECTIVE JUROR NUMBER 337: No.

18 THE COURT: You'll listen to all of the evidence --

19 PROSPECTIVE JUROR NUMBER 337: Yes.

20 THE COURT: -- before you make a decision?

21 PROSPECTIVE JUROR NUMBER 337: Yes.

22 THE COURT: Any way -- you or anyone closely associated with you been  
23 accused of a crime?

24 PROSPECTIVE JUROR NUMBER 337: When -- during the time when I was  
25 homeless, I was accused of shoplifting.

1 THE COURT: Was that here in Las Vegas or in Los Angeles?

2 PROSPECTIVE JUROR NUMBER 337: No. That was in San Diego,  
3 California.

4 THE COURT: Okay. Do you have any biases based on race, religion, or  
5 gender, or ethnicity?

6 PROSPECTIVE JUROR NUMBER 337: No.

7 THE COURT: Do you ride the city bus?

8 PROSPECTIVE JUROR NUMBER 337: Yes, I do, for almost all of my  
9 transportation.

10 THE COURT: Okay. What is your feeling about the appropriateness of a  
11 grown male or female to have a dating or an intimate relationship with a teenager?

12 PROSPECTIVE JUROR NUMBER 337: I do not feel it is appropriate.

13 THE COURT: You can set that -- well, in all fairness, you -- you'll listen to the  
14 evidence here in the court and the testimony and -- before you make your mind  
15 up -- guilt or innocence of the Defendant?

16 PROSPECTIVE JUROR NUMBER 337: Exactly. Yes.

17 THE COURT: You'll be fair and impartial to both parties

18 PROSPECTIVE JUROR NUMBER 337: Yes.

19 THE COURT: Okay. Pass that to the [indiscernible].

20 Tell me your name.

21 PROSPECTIVE JUROR NUMBER 349: Bette Johnson.

22 THE COURT: Do you work?

23 PROSPECTIVE JUROR NUMBER 349: No.

24 THE COURT: Are you married?

25 PROSPECTIVE JUROR NUMBER 349: No.

1 THE COURT: Can you tell me your education background?

2 PROSPECTIVE JUROR NUMBER 349: 14 years.

3 THE COURT: Do you have children?

4 PROSPECTIVE JUROR NUMBER 349: No.

5 THE COURT: Have you or anyone closely associated with you been the  
6 victim of a crime?

7 PROSPECTIVE JUROR NUMBER 349: No.

8 THE COURT: Accused of a crime?

9 PROSPECTIVE JUROR NUMBER 349: No.

10 THE COURT: Do you have any bias based on race, religion, or gender, or  
11 ethnicity?

12 PROSPECTIVE JUROR NUMBER 349: No.

13 THE COURT: Can you fair and impartial to both parties in this case?

14 PROSPECTIVE JUROR NUMBER 349: Yes.

15 THE COURT: Do you ride the city bus?

16 PROSPECTIVE JUROR NUMBER 349: No.

17 THE COURT: You'll listen to all of the evidence before you make up your  
18 mind in this case?

19 PROSPECTIVE JUROR NUMBER 349: Yes.

20 THE COURT: And you'll be fair and impartial to both parties?

21 PROSPECTIVE JUROR NUMBER 349: Yes.

22 THE COURT: Next. Pass that over. All right. Tell me your name again. I'm  
23 sorry.

24 PROSPECTIVE JUROR NUMBER 356: It's Sherri Harris, Juror --

25 THE COURT: Do --

1 PROSPECTIVE JUROR NUMBER 356: -- 356.  
2 THE COURT: Do you work?  
3 PROSPECTIVE JUROR NUMBER 356: Yes.  
4 THE COURT: What do you do?  
5 PROSPECTIVE JUROR NUMBER 356: Bartender.  
6 THE COURT: Where?  
7 PROSPECTIVE JUROR NUMBER 356: Paris Hotel.  
8 THE COURT: Are you married?  
9 PROSPECTIVE JUROR NUMBER 356: Single.  
10 THE COURT: Do you have children?  
11 PROSPECTIVE JUROR NUMBER 356: No.  
12 THE COURT: Have you or someone close to you ever been the victim of a  
13 crime? Other than what you've told us.  
14 PROSPECTIVE JUROR NUMBER 356: No.  
15 THE COURT: Accused of a crime?  
16 PROSPECTIVE JUROR NUMBER 356: No.  
17 THE COURT: Do you have any bias based on race, religion, or gender, or  
18 ethnicity?  
19 PROSPECTIVE JUROR NUMBER 356: No.  
20 THE COURT: You'll be fair and impartial to both parties in this case?  
21 PROSPECTIVE JUROR NUMBER 356: Yes.  
22 THE COURT: Do you ride the city bus?  
23 PROSPECTIVE JUROR NUMBER 356: No.  
24 THE COURT: All right. If you'll pass that mic over. Tell me your name.  
25 PROSPECTIVE JUROR NUMBER 361: Susan Purcell.



1 THE COURT: Do you work?  
2 PROSPECTIVE JUROR NUMBER 361: Yes.  
3 THE COURT: What do you do?  
4 PROSPECTIVE JUROR NUMBER 361: I work for the State of Nevada.  
5 THE COURT: What -- in what --  
6 PROSPECTIVE JUROR NUMBER 361: Office of Consumer Health  
7 Assistance.  
8 THE COURT: Are you married?  
9 PROSPECTIVE JUROR NUMBER 361: No.  
10 THE COURT: Do you have children?  
11 PROSPECTIVE JUROR NUMBER 361: Yes.  
12 THE COURT: How -- ages and how many?  
13 PROSPECTIVE JUROR NUMBER 361: Two; 29 and 27.  
14 THE COURT: What is their gender?  
15 PROSPECTIVE JUROR NUMBER 361: Male, 29. Female, 27.  
16 THE COURT: Do you have any bias based on race, religion, or gender, or  
17 ethnicity?  
18 PROSPECTIVE JUROR NUMBER 361: No.  
19 THE COURT: You'll listen to all of the evidence before you make up your  
20 mind in this case?  
21 PROSPECTIVE JUROR NUMBER 361: Yes.  
22 THE COURT: Do you ever ride the city bus?  
23 PROSPECTIVE JUROR NUMBER 361: No.  
24 THE COURT: If you'll pass that. Tell me your name.  
25 PROSPECTIVE JUROR NUMBER 364: Gigi Kennamer, Badge Number 364.

1 THE COURT: Do you work?

2 PROSPECTIVE JUROR NUMBER 364: Yes.

3 THE COURT: What do you do?

4 PROSPECTIVE JUROR NUMBER 364: Make-up artist.

5 THE COURT: Where?

6 PROSPECTIVE JUROR NUMBER 364: MAC.

7 THE COURT: MAC. What's that?

8 PROSPECTIVE JUROR NUMBER 364: It's a cosmetics company. I'm sure  
9 every woman in here probably knows what it is. No offense.

10 THE COURT: All right. Sorry. Are you married?

11 PROSPECTIVE JUROR NUMBER 364: Yes.

12 THE COURT: Spouse work?

13 PROSPECTIVE JUROR NUMBER 364: Yes.

14 THE COURT: What does your spouse do?

15 PROSPECTIVE JUROR NUMBER 364: He's IT for Caesar's Corporation.

16 THE COURT: Educational background.

17 PROSPECTIVE JUROR NUMBER 364: High school and make-up artist  
18 school.

19 THE COURT: Do you have children?

20 PROSPECTIVE JUROR NUMBER 364: No.

21 THE COURT: You or anyone closely associated with you been the victim of a  
22 crime?

23 PROSPECTIVE JUROR NUMBER 364: No.

24 THE COURT: Accused of a crime?

25 PROSPECTIVE JUROR NUMBER 364: No.

1 THE COURT: Have you ever sat as a juror before?  
2 PROSPECTIVE JUROR NUMBER 364: Yes.  
3 THE COURT: I forgot to ask these -- anybody have been that we've already  
4 asked?  
5 PREVIOUS PROSPECTIVE JURORS: No.  
6 THE COURT: Okay. Where?  
7 PROSPECTIVE JUROR NUMBER 364: Here. Las Vegas  
8 THE COURT: Civil or criminal?  
9 PROSPECTIVE JUROR NUMBER 364: It was a coroner's inquest.  
10 THE COURT: Okay. So it wasn't a jury like this?  
11 PROSPECTIVE JUROR NUMBER 364: It was a jury.  
12 THE COURT: But it -- but it was a coroner's inquest rather than a trial --  
13 PROSPECTIVE JUROR NUMBER 364: Yes.  
14 THE COURT: It's a bit different. 12 of you go back in. All 12 of you have to  
15 be convinced beyond a reasonable doubt of the charges.  
16 PROSPECTIVE JUROR NUMBER 364: Yes.  
17 THE COURT: Do you understand that?  
18 How long ago were you on that coroner's inquest?  
19 PROSPECTIVE JUROR NUMBER 364: I believe four years ago.  
20 THE COURT: Okay. And that was here in Las Vegas?  
21 PROSPECTIVE JUROR NUMBER 364: Yes.  
22 THE COURT: Do you have any bias based on race, religion, or gender, or  
23 ethnicity?  
24 PROSPECTIVE JUROR NUMBER 364: No.  
25 THE COURT: Do you ever ride the city bus?

1 PROSPECTIVE JUROR NUMBER 364: No.  
2 THE COURT: All right. If you'd pass that mic over. Tell me your name.  
3 PROSPECTIVE JUROR NUMBER 372: Karen Socha-Smith, 372.  
4 THE COURT: Do you work?  
5 PROSPECTIVE JUROR NUMBER 372: I'm a landlord.  
6 THE COURT: Are you married?  
7 PROSPECTIVE JUROR NUMBER 372: Yes.  
8 THE COURT: Spouse work?  
9 PROSPECTIVE JUROR NUMBER 372: Yes.  
10 THE COURT: What does your spouse do?  
11 PROSPECTIVE JUROR NUMBER 372: Pharmacist.  
12 THE COURT: What's your educational background?  
13 PROSPECTIVE JUROR NUMBER 372: Post-graduate.  
14 THE COURT: Do you have children?  
15 PROSPECTIVE JUROR NUMBER 372: Two.  
16 THE COURT: Ages and gender?  
17 PROSPECTIVE JUROR NUMBER 372: 30 and 28.  
18 THE COURT: Gender?  
19 PROSPECTIVE JUROR NUMBER 372: Female. Both.  
20 THE COURT: Okay. Have you or anyone close to you been the victim of a  
21 crime?  
22 PROSPECTIVE JUROR NUMBER 372: Yes.  
23 THE COURT: What kind?  
24 PROSPECTIVE JUROR NUMBER 372: Assault and battery.  
25 THE COURT: Who?

1 PROSPECTIVE JUROR NUMBER 372: Grandmother.

2 THE COURT: Where at?

3 PROSPECTIVE JUROR NUMBER 372: Michigan.

4 THE COURT: And were you -- did you follow that crime? I mean, were you  
5 there and go to court with her?

6 PROSPECTIVE JUROR NUMBER 372: No.

7 THE COURT: Okay. Are you generally satisfied how it was handled?

8 PROSPECTIVE JUROR NUMBER 372: Yes.

9 THE COURT: Okay. Is there any bias with that against the State or the  
10 Defendant?

11 PROSPECTIVE JUROR NUMBER 372: No.

12 THE COURT: Do you have any bias of -- on race, religion, or gender, or  
13 ethnicity?

14 PROSPECTIVE JUROR NUMBER 372: No.

15 THE COURT: And do you ever ride the city bus?

16 PROSPECTIVE JUROR NUMBER 372: No.

17 THE COURT: Okay. You could just tell me your name. You don't need to  
18 give me your badge number yet.

19 PROSPECTIVE JUROR NUMBER 373: Shirley Shaffer.

20 THE COURT: Okay. Do you work?

21 PROSPECTIVE JUROR NUMBER 373: No. I'm retired.

22 THE COURT: Retired from what?

23 PROSPECTIVE JUROR NUMBER 373: Purchasing at the hotels.

24 THE COURT: Okay. Are you married?

25 PROSPECTIVE JUROR NUMBER 373: No.

1 THE COURT: Do you have children?

2 PROSPECTIVE JUROR NUMBER 373: Yes.

3 THE COURT: Ages and gender.

4 PROSPECTIVE JUROR NUMBER 373: The boy is a man, 45 and the  
5 daughter is 42.

6 THE COURT: Have you ever been the victim of -- or anyone closely  
7 associated with you been a victim of a crime?

8 PROSPECTIVE JUROR NUMBER 373: Yes.

9 THE COURT: Okay. What crime?

10 PROSPECTIVE JUROR NUMBER 373: Stalking.

11 THE COURT: Who?

12 PROSPECTIVE JUROR NUMBER 373: And the boyfriend's -- the girlfriend  
13 of my husband.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NUMBER 373: And her boyfriend.

16 THE COURT: Stalked whom? You?

17 PROSPECTIVE JUROR NUMBER 373: Stalked me.

18 THE COURT: And did you call the police on that?

19 PROSPECTIVE JUROR NUMBER 373: Yes.

20 THE COURT: And did they respond?

21 PROSPECTIVE JUROR NUMBER 373: Yes.

22 THE COURT: And how did you feel about that?

23 PROSPECTIVE JUROR NUMBER 373: That it was handled well.

24 THE COURT: Okay. You don't have any bias to the Defendant or the State  
25 with that?

1 PROSPECTIVE JUROR NUMBER 373: No.

2 THE COURT: You'll be fair and impartial and listen to the testimony and look  
3 at the exhibits here to make a decision?

4 PROSPECTIVE JUROR NUMBER 373: Yes.

5 THE COURT: Has any -- have you or anyone closely associated with you  
6 been accused of a crime?

7 PROSPECTIVE JUROR NUMBER 373: No.

8 THE COURT: Do you have any bias based on race, religion, or gender, or  
9 ethnicity?

10 PROSPECTIVE JUROR NUMBER 373: No.

11 THE COURT: What's your educational background?

12 PROSPECTIVE JUROR NUMBER 373: 14 years.

13 THE COURT: Do you ever ride the city bus?

14 PROSPECTIVE JUROR NUMBER 373: Yes.

15 THE COURT: How often?

16 PROSPECTIVE JUROR NUMBER 373: Weekly.

17 THE COURT: Okay. If you'll pass that mic over. Tell me your name.

18 PROSPECTIVE JUROR NUMBER 378: Loretta Coffey, 378.

19 THE COURT: Do you work?

20 PROSPECTIVE JUROR NUMBER 378: I do.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR NUMBER 378: I'm a nurse at North Vista.

23 THE COURT: Are you married?

24 PROSPECTIVE JUROR NUMBER 378: I am.

25 THE COURT: Your spouse work?

1 PROSPECTIVE JUROR NUMBER 378: Yes.

2 THE COURT: What does your spouse do?

3 PROSPECTIVE JUROR NUMBER 378: He works at a casino as a part-time  
4 floor manager.

5 THE COURT: Do you have children?

6 PROSPECTIVE JUROR NUMBER 378: I do.

7 THE COURT: Ages and gender.

8 PROSPECTIVE JUROR NUMBER 378: My daughter's 36.

9 THE COURT: Have you or anyone closely associated with you been a victim  
10 of a crime?

11 PROSPECTIVE JUROR NUMBER 378: No.

12 THE COURT: Accused of a crime?

13 PROSPECTIVE JUROR NUMBER 378: No.

14 THE COURT: I forgot to ask too -- about jury service. Have you ever sat on a  
15 jury before?

16 PROSPECTIVE JUROR NUMBER 378: I have actually.

17 THE COURT: Where?

18 PROSPECTIVE JUROR NUMBER 378: Federal court, here in Las Vegas.

19 THE COURT: Civil or criminal?

20 PROSPECTIVE JUROR NUMBER 378: Criminal.

21 THE COURT: Without telling us a verdict, were you able to reach a verdict?

22 PROSPECTIVE JUROR NUMBER 378: A verdict was reached. I was the  
23 alternate. Therefore, on the last day I did not participate.

24 THE COURT: Okay. I was going to ask -- and the next question were you  
25 the jury foreperson. Do you have any bias based on race, religion, or gender, or



1 ethnicity?

2 PROSPECTIVE JUROR NUMBER 378: No.

3 THE COURT: Do you ride the city bus?

4 PROSPECTIVE JUROR NUMBER 378: I did today for the first time in six  
5 years.

6 THE COURT: Okay. Can you think of any reason you would not be fair and  
7 impartial?

8 PROSPECTIVE JUROR NUMBER 378: No.

9 THE COURT: Have you ever sat as a juror before?

10 UNKNOWN PROSPECTIVE JUROR: No.

11 THE COURT: Okay. Pass that to the gentleman. Tell me your name.

12 PROSPECTIVE JUROR NUMBER 382: Kent Bates.

13 THE COURT: Do you work?

14 PROSPECTIVE JUROR NUMBER 382: No.

15 THE COURT: You retired?

16 PROSPECTIVE JUROR NUMBER 382: Retired.

17 THE COURT: From what?

18 PROSPECTIVE JUROR NUMBER 382: Pipe fitter.

19 THE COURT: Are you married?

20 PROSPECTIVE JUROR NUMBER 382: Yes.

21 THE COURT: Spouse work?

22 PROSPECTIVE JUROR NUMBER 382: No. She's retired.

23 THE COURT: Retired from what?

24 PROSPECTIVE JUROR NUMBER 382: An accountant.

25 THE COURT: Where?

1 PROSPECTIVE JUROR NUMBER 382: Through temp agencies here and in  
2 Michigan.

3 THE COURT: Have you -- your educational background is?

4 PROSPECTIVE JUROR NUMBER 382: A BBA.

5 THE COURT: Do you have children?

6 PROSPECTIVE JUROR NUMBER 382: One stepson.

7 THE COURT: How old?

8 PROSPECTIVE JUROR NUMBER 382: 46.

9 THE COURT: Have you or anyone closely associated with you been the  
10 victim of a crime?

11 PROSPECTIVE JUROR NUMBER 382: No.

12 THE COURT: Accused of a crime?

13 PROSPECTIVE JUROR NUMBER 382: Accused. But the accusations were  
14 later dropped. So I don't know if that counts.

15 THE COURT: Who?

16 PROSPECTIVE JUROR NUMBER 382: By Las Vegas Metro.

17 THE COURT: Who was accused? You?

18 PROSPECTIVE JUROR NUMBER 382: I was. Yes.

19 THE COURT: Of what kind of crime?

20 PROSPECTIVE JUROR NUMBER 382: Domestic battery.

21 THE COURT: All right. Is there anything about that that would prejudice you  
22 against the State or the Defendant?

23 PROSPECTIVE JUROR NUMBER 382: No.

24 THE COURT: Have you ever ridden the city bus?

25 PROSPECTIVE JUROR NUMBER 382: No.

1 THE COURT: Can you fair and impartial to both parties in this case?  
2 PROSPECTIVE JUROR NUMBER 382: Yes.  
3 THE COURT: If you'll pass that to the gentleman. Tell me your name.  
4 PROSPECTIVE JUROR NUMBER 385: Justin.  
5 THE COURT: Do you work?  
6 PROSPECTIVE JUROR NUMBER 385: Yes.  
7 THE COURT: What do you do?  
8 PROSPECTIVE JUROR NUMBER 385: U.S. Army National Guard. But I'm  
9 mostly a college student.  
10 THE COURT: Where at?  
11 PROSPECTIVE JUROR NUMBER 385: UNLV.  
12 THE COURT: What are you studying?  
13 PROSPECTIVE JUROR NUMBER 385: Computer engineering.  
14 THE COURT: Are you married?  
15 PROSPECTIVE JUROR NUMBER 385: No.  
16 THE COURT: Do you have children?  
17 PROSPECTIVE JUROR NUMBER 385: No.  
18 THE COURT: Have you or anyone closely associated with you been the  
19 victim of a crime?  
20 PROSPECTIVE JUROR NUMBER 385: I have a cousin who was kidnapped  
21 and murdered. I have another cousin who was murdered. And then I have my  
22 daughter's neighbor was sexually assaulted.  
23 THE COURT: When? Where and about how long ago?  
24 PROSPECTIVE JUROR NUMBER 385: All of them.  
25 THE COURT: All -- yeah. Were they here in Las Vegas?

1 PROSPECTIVE JUROR NUMBER 385: No. One of them was overseas.  
2 Another one was here in America. I forgot. They never found him so. And my  
3 neighbor's daughter lives next to me. So.

4 THE COURT: Were there any -- anything about those cases that would  
5 prejudice you against the State or the Defendant in this case?

6 PROSPECTIVE JUROR NUMBER 385: I do have -- let me say that that  
7 her -- their daughter, she was a close friend of the family so like she would be over  
8 for dinner and stuff like that. I don't know if that's like bias or whatever, but she  
9 meant something, if that's what you're asking.

10 THE COURT: Whose daughter?

11 PROSPECTIVE JUROR NUMBER 385: My neighbor's daughter. Like  
12 she --

13 THE COURT: Oh, okay.

14 PROSPECTIVE JUROR NUMBER 385: She would come out and hang out  
15 with our --

16 THE COURT: But you wouldn't hold that -- the crime against -- the person  
17 that committed the crime against the Defendant?

18 PROSPECTIVE JUROR NUMBER 385: I'd try not to.

19 THE COURT: You would listen to the evidence.

20 PROSPECTIVE JUROR NUMBER 385: Yeah. I'd try -- I'd try not --

21 THE COURT: And look at the exhibits and make a decision.

22 PROSPECTIVE JUROR NUMBER 385: Right. I'd try not to.

23 THE COURT: And you'll be fair and impartial?

24 PROSPECTIVE JUROR NUMBER 385: Yes.

25 THE COURT: Okay. Do you have any bias based on race, religion, or

1 gender, or ethnicity?

2 PROSPECTIVE JUROR NUMBER 385: No.

3 THE COURT: Have you ever ridden the city bus?

4 PROSPECTIVE JUROR NUMBER 385: Yes, as a kid.

5 THE COURT: Pardon?

6 PROSPECTIVE JUROR NUMBER 385: As a kid, yes.

7 THE COURT: But you don't now?

8 PROSPECTIVE JUROR NUMBER 385: No.

9 THE COURT: How old are you again?

10 PROSPECTIVE JUROR NUMBER 385: 22.

11 THE COURT: Okay. Can you think of any reason you wouldn't fair and

12 impartial to both parties in this case?

13 PROSPECTIVE JUROR NUMBER 385: Other than --

14 THE COURT: Other than what you've already told us.

15 PROSPECTIVE JUROR NUMBER 385: No.

16 THE COURT: Have you ever sat as a juror before?

17 PROSPECTIVE JUROR NUMBER 385: No.

18 THE COURT: If you'll pass that to the young lady. Tell me your name.

19 PROSPECTIVE JUROR NUMBER 411: My name is Susan Black.

20 THE COURT: Do you work?

21 PROSPECTIVE JUROR NUMBER 411: I'm retired.

22 THE COURT: From what?

23 PROSPECTIVE JUROR NUMBER 411: I worked in education and for most

24 of it I counseled children from the ages of 5 to 12 years of age.

25 THE COURT: What's your educational background?

1 PROSPECTIVE JUROR NUMBER 411: I have a master's degree.

2 THE COURT: In what?

3 PROSPECTIVE JUROR NUMBER 411: Counseling.

4 THE COURT: Are you married?

5 PROSPECTIVE JUROR NUMBER 411: I'm divorced.

6 THE COURT: And what did your husband do when he worked?

7 PROSPECTIVE JUROR NUMBER 411: He was a superintendent of schools.

8 THE COURT: And were you here in Las Vegas?

9 PROSPECTIVE JUROR NUMBER 411: No, we were not.

10 THE COURT: Okay. Where did you counsel children at?

11 PROSPECTIVE JUROR NUMBER 411: I guess you can't tell from my  
12 accent. I'm from New York.

13 THE COURT: I have to ask the question the tape sometimes can't. Do you  
14 have children?

15 PROSPECTIVE JUROR NUMBER 411: No, I don't.

16 THE COURT: Have you or anyone closely associated with you been the  
17 victim of a crime?

18 PROSPECTIVE JUROR NUMBER 411: When I was a child, our apartment  
19 was robbed.

20 THE COURT: That was a couple years ago.

21 PROSPECTIVE JUROR NUMBER 411: More than a couple.

22 THE COURT: Is there anything about that that would prejudice you at all in  
23 this case?

24 PROSPECTIVE JUROR NUMBER 411: Not at all.

25 THE COURT: Either you or anyone closely associated with you been

1 accused of a crime?

2 PROSPECTIVE JUROR NUMBER 411: No.

3 THE COURT: Do you have any bias based on race, religion, or gender, or  
4 ethnicity?

5 PROSPECTIVE JUROR NUMBER 411: No.

6 THE COURT: Ever ridden the city bus?

7 PROSPECTIVE JUROR NUMBER 411: No.

8 THE COURT: Have you ever sat as a juror before?

9 PROSPECTIVE JUROR NUMBER 411: No.

10 THE COURT: Can you think of any reason you wouldn't be fair and impartial  
11 to both parties in this case?

12 PROSPECTIVE JUROR NUMBER 411: I think I could be fair and impartial,  
13 but in light of what this case is about, I did work with children that were sexually  
14 abused and did work with the police and CPS. And so I have some background in  
15 it.

16 THE COURT: Okay. Well, we expect our jurors to come in with their  
17 common, everyday understanding and training. But you can set that aside and you  
18 wouldn't hold that against the State or you wouldn't hold that against Mr. Pigeon?

19 PROSPECTIVE JUROR NUMBER 411: I believe I could.

20 THE COURT: You could be fair?

21 PROSPECTIVE JUROR NUMBER 411: I believe I could be.

22 THE COURT: Okay. If you'll pass that mic over.

23 PROSPECTIVE JUROR NUMBER 412: Sharlene Balingit.

24 THE COURT: Do you work?

25 PROSPECTIVE JUROR NUMBER 412: Yes.

1 THE COURT: What do you do?

2 PROSPECTIVE JUROR NUMBER 412: I'm a registered nurse at a clinical  
3 research facility.

4 THE COURT: Background then in education?

5 PROSPECTIVE JUROR NUMBER 412: Bachelors.

6 THE COURT: Are you married?

7 PROSPECTIVE JUROR NUMBER 412: No.

8 THE COURT: Do you have children?

9 PROSPECTIVE JUROR NUMBER 412: No.

10 THE COURT: Have you ever sat as a juror before?

11 PROSPECTIVE JUROR NUMBER 412: Yes.

12 THE COURT: Where?

13 PROSPECTIVE JUROR NUMBER 412: Here.

14 THE COURT: Civil or criminal.

15 PROSPECTIVE JUROR NUMBER 412: I think it was civil.

16 THE COURT: How long ago?

17 PROSPECTIVE JUROR NUMBER 412: Two to three years ago.

18 THE COURT: Without telling us the verdict, were you able to reach a verdict?

19 PROSPECTIVE JUROR NUMBER 412: Yes.

20 THE COURT: Were you the jury foreperson?

21 PROSPECTIVE JUROR NUMBER 412: No.

22 THE COURT: Now the difference between civil and criminal, civil is three  
23 quarters decide the issue. So if you have eight jurors, only six have to decide it. But  
24 in a criminal case, all twelve have to decide it beyond a reasonable doubt. Do you  
25 understand?



1 PROSPECTIVE JUROR NUMBER 412: Yes.

2 THE COURT: Have you or anyone closely associated with you been the  
3 victim of a crime?

4 PROSPECTIVE JUROR NUMBER 412: No.

5 THE COURT: Accused of a crime?

6 PROSPECTIVE JUROR NUMBER 412: No.

7 THE COURT: Do you have any bias based on race, religion, or gender, or  
8 ethnicity?

9 PROSPECTIVE JUROR NUMBER 412: No.

10 THE COURT: Ever ride the city bus?

11 PROSPECTIVE JUROR NUMBER 412: When I was younger. Not anymore.

12 THE COURT: All right. Thanks. If you'll pass that to the gentleman. Your  
13 name?

14 PROSPECTIVE JUROR NUMBER 416: Christopher Eason, 416.

15 THE COURT: Do you work?

16 PROSPECTIVE JUROR NUMBER 416: Yes, I do.

17 THE COURT: What do you do?

18 PROSPECTIVE JUROR NUMBER 416: I work at the VA Hospital as a  
19 supervisor in cleaning the hospital. I'm also a naval reservist, 13 years.

20 THE COURT: Are you married?

21 PROSPECTIVE JUROR NUMBER 416: No.

22 THE COURT: Have you ever sat as a juror before?

23 PROSPECTIVE JUROR NUMBER 416: No.

24 THE COURT: What's your educational background?

25 PROSPECTIVE JUROR NUMBER 416: 15 plus years, child education.

1 THE COURT: Do you have children?

2 PROSPECTIVE JUROR NUMBER 416: No.

3 THE COURT: Have you or anyone closely associated with you been the  
4 victim of a crime?

5 PROSPECTIVE JUROR NUMBER 416: No.

6 THE COURT: Accused of a crime?

7 PROSPECTIVE JUROR NUMBER 416: No.

8 THE COURT: Do you have any bias based on race, religion, or gender, or  
9 ethnicity?

10 PROSPECTIVE JUROR NUMBER 416: No.

11 THE COURT: Do you ever ride the city bus?

12 PROSPECTIVE JUROR NUMBER 416: 14 years ago.

13 THE COURT: Can you think of any reason you wouldn't be fair and impartial  
14 to both parties in this case?

15 PROSPECTIVE JUROR NUMBER 416: No.

16 THE COURT: Why don't you guys write your challenges for cause down on a  
17 piece of paper right now, if you have any.

18 MR. SCHIFALACQUA: Sure, Judge.

19 THE COURT: Mr. Pigeon, if you have any challenges for cause, if you'll write  
20 it down on that paper.

21 [Colloquy between the Court and the Clerk]

22 All right. Justin Black. Where's Justin Black?

23 PROSPECTIVE JUROR NUMBER 385: That's Susan Black. I'm Justin.

24 THE COURT: Okay.

25 THE DEFENDANT: Oh. I'm sorry. I meant Justin Cox.

1 THE COURT: All right. Your last name is --

2 PROSPECTIVE JUROR NUMBER 385: Cox, C-O-X.

3 THE COURT: -- Cox. All right.

4 Mr. Cox, you're excused. If you'll go down to the Jury Commissioner on  
5 the third floor and let her know.

6 And Dorothy Shuler, you're excused as well. Thank you.

7 Mark this is as Defense's -- Defendant's. And then fill those two spots.

8 THE CLERK: Badge Number 418, William Tipton.

9 THE MARSHAL: William, right up here, please.

10 THE CLERK: Badge Number 431, Bryan Kneiding.

11 THE COURT: All right. Mr. Tipton, is that right?

12 PROSPECTIVE JUROR NUMBER 418: Yes.

13 THE COURT: Do you work?

14 PROSPECTIVE JUROR NUMBER 418: I do.

15 THE COURT: What do you do?

16 PROSPECTIVE JUROR NUMBER 418: I'm a part-time dealer at the Golden  
17 Nugget.

18 THE COURT: Are you married?

19 PROSPECTIVE JUROR NUMBER 418: I am.

20 THE COURT: Your spouse work?

21 PROSPECTIVE JUROR NUMBER 418: She does.

22 THE COURT: What does your spouse do?

23 PROSPECTIVE JUROR NUMBER 418: She's a dealer also.

24 THE COURT: What is your educational background?

25 PROSPECTIVE JUROR NUMBER 418: I graduated high school and the

1 military.

2 THE COURT: What did you do in the military?

3 PROSPECTIVE JUROR NUMBER 418: I was in the Navy.

4 THE COURT: What's your ed -- have you or anybody closely associated with  
5 you been the victim of a crime?

6 PROSPECTIVE JUROR NUMBER 418: No.

7 THE COURT: Accused of a crime?

8 PROSPECTIVE JUROR NUMBER 418: No.

9 THE COURT: Do you have any bias based on race, religion, or gender, or  
10 ethnicity?

11 PROSPECTIVE JUROR NUMBER 418: No.

12 THE COURT: You will listen to the evidence and make a decision from what  
13 you see and hear in this courtroom?

14 PROSPECTIVE JUROR NUMBER 418: Yeah.

15 THE COURT: Do you have children?

16 PROSPECTIVE JUROR NUMBER 418: Yes.

17 THE COURT: Ages and gender?

18 PROSPECTIVE JUROR NUMBER 418: Male, 37. Female, 31.

19 THE COURT: Do you have a background in law or law enforcement?

20 PROSPECTIVE JUROR NUMBER 418: No.

21 THE COURT: Do you ever ride the city bus?

22 PROSPECTIVE JUROR NUMBER 418: No.

23 THE COURT: Have you ever been followed?

24 PROSPECTIVE JUROR NUMBER 418: No.

25 THE COURT: Could you be fair and impartial to both parties in this case?

1 PROSPECTIVE JUROR NUMBER 418: There was an incident with a family  
2 member, my wife --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NUMBER 418: -- growing up, as a kid, almost into  
5 here teenage years where she was molested and sexually abused by a family  
6 member.

7 THE COURT: Can you set that aside and be fair and impartial? You wouldn't  
8 hold that against the Defendant or the State?

9 PROSPECTIVE JUROR NUMBER 418: I would do my best.

10 THE COURT: All right. If you'll hand this to this gentleman down here. Oh.  
11 Have you ever sat as a juror before?

12 PROSPECTIVE JUROR NUMBER 418: No.

13 THE COURT: Okay. I'm going to write that down so I don't forget that  
14 question. All right. Your name.

15 PROSPECTIVE JUROR NUMBER 431: Bryan Kneiding.

16 THE COURT: Do you work?

17 PROSPECTIVE JUROR NUMBER 431: Yes, sir.

18 THE COURT: What do you do?

19 PROSPECTIVE JUROR NUMBER 431: I'm a real estate agent and I also sell  
20 cars. And I'm working my way back into being a photo journalist.

21 THE COURT: And what's your educational background?

22 PROSPECTIVE JUROR NUMBER 431: Political Science major.

23 THE COURT: You've graduated?

24 PROSPECTIVE JUROR NUMBER 431: Yes, sir.

25 THE COURT: Have you -- Are you married?

1 PROSPECTIVE JUROR NUMBER 431: No, sir.

2 THE COURT: Do you have any children?

3 PROSPECTIVE JUROR NUMBER 431: No, sir

4 THE COURT: Been a victim -- anyone -- you or anyone closely associated  
5 with you been the victim of a crime?

6 PROSPECTIVE JUROR NUMBER 431: Yes, sir.

7 THE COURT: Who?

8 PROSPECTIVE JUROR NUMBER 431: My grandparents were murdered.

9 THE COURT: Where?

10 PROSPECTIVE JUROR NUMBER 431: Southern California.

11 THE COURT: Nothing about that will prejudice you against the State or the  
12 Defendant?

13 PROSPECTIVE JUROR NUMBER 431: I'll do my best. Yes, sir.

14 THE COURT: How about accused of a crime? Anybody --

15 PROSPECTIVE JUROR NUMBER 431: No, sir.

16 THE COURT: Have you ever sat as a juror before?

17 PROSPECTIVE JUROR NUMBER 431: Yeah. It's been 20 plus years.

18 THE COURT: Where?

19 PROSPECTIVE JUROR NUMBER 431: Southern California.

20 THE COURT: Civil or criminal?

21 PROSPECTIVE JUROR NUMBER 431: I don't remember.

22 THE COURT: You understand the difference. I've kind of explained it.

23 PROSPECTIVE JUROR NUMBER 431: Yes, sir.

24 THE COURT: Three-quarters have to decide the civil. But, beyond a  
25 reasonable doubt to the 12 jurors. Do you understand that?

1 PROSPECTIVE JUROR NUMBER 431: Yes, sir.

2 THE COURT: You will listen to all of the testimony and look at the exhibits to  
3 make a decision?

4 PROSPECTIVE JUROR NUMBER 431: Yes, sir.

5 THE COURT: Okay. Do you ever ride the city bus?

6 PROSPECTIVE JUROR NUMBER 431: No.

7 THE COURT: You ever been followed before?

8 PROSPECTIVE JUROR NUMBER 431: Yeah. But it wasn't anything  
9 serious.

10 THE COURT: Any challenges for cause, write them down, please.

11 Okay. We're going to start now what they -- we call peremptory  
12 challenges. That means that -- you guys have five?

13 MR. SCHIFALACQUA: Yes, Your Honor.

14 THE COURT: Each have five peremptory challenges. They could not like  
15 your shirt. Once, when I was a trial judge, I didn't -- or a trial attorney, I didn't like  
16 the books someone came in with. Of course, I had it -- I had one incident where I  
17 thought this young man would be very liberal. He came in on a skateboard, real  
18 long hair. All right. I was passing judgment. He turned out -- and I didn't like other  
19 people more than I didn't like him. He ended up being my foreperson and the most  
20 conservative on the jury.

21 So, there are reasons we think that we don't want somebody on a jury.  
22 Mr. Pigeon will have five. The State will have five. There'll be a paper passed back  
23 and forth between them and we'll do that one at a time.

24 [Peremptory Challenges]

25 THE COURT: While they're marking that, I'll read you some instructions.

1           If any juror discovers during the trial, or after the jury has retired to  
2 deliberate that they have personal knowledge of any fact or controversy in this case,  
3 you'll disclose that situation to myself in the absence of other jurors. That means  
4 that if you learn during the course of the trial that you are acquainted with the facts  
5 of this case, or the witnesses that you have not previously told me of that  
6 relationship, you must, as a juror, declare that fact to me. And you communicate  
7 that through the marshal.

8           We would thank and excuse juror -- or Kent Bates. Thank you so much  
9 for your time. If you'll check in with the Jury Commissioner.

10       THE CLERK: Badge Number 432, Hong Li.

11       THE MARSHAL: Right up here, please.

12       THE COURT: All right. Mr. Li, do you work?

13       PROSPECTIVE JUROR NUMBER 432: Yes.

14       THE COURT: Where do you work?

15       PROSPECTIVE JUROR NUMBER 432: Dealer.

16       THE COURT: Is English your first language?

17       PROSPECTIVE JUROR NUMBER 432: Casino dealer.

18       THE COURT: Why don't you go -- does either party have a problem -- he's  
19 going to have a problem understanding what's going on here. Either party have a  
20 problem with me releasing him.

21       THE DEFENDANT: No.

22       MR. SCHIFALACQUA: No, Judge.

23       THE COURT: All right. Why don't you check in with the Jury Commissioner?

24       THE CLERK: Badge Number 434, Dwayne Harper.

25       THE MARSHAL: Okay, Dwayne, right over here, please.



1 THE COURT: Harper, do you work?  
2 PROSPECTIVE JUROR NUMBER 434: Yes, sir.  
3 THE COURT: What do you do?  
4 PROSPECTIVE JUROR NUMBER 434: Retail for Albertsons.  
5 THE COURT: Are you married?  
6 PROSPECTIVE JUROR NUMBER 434: Yes, sir.  
7 THE COURT: Spouse work?  
8 PROSPECTIVE JUROR NUMBER 434: Same. Retail for Albertsons.  
9 THE COURT: What's your educational background?  
10 PROSPECTIVE JUROR NUMBER 434: Just high school -- through high  
11 school.  
12 THE COURT: Do you have children?  
13 PROSPECTIVE JUROR NUMBER 434: Yes, sir.  
14 THE COURT: How many? And what's their gender?  
15 PROSPECTIVE JUROR NUMBER 434: Two; ten -- or nine, boy. And then a  
16 7-month old little girl.  
17 THE COURT: Have you or anyone closely associated with you been the  
18 victim of a crime?  
19 PROSPECTIVE JUROR NUMBER 434: No.  
20 THE COURT: Accused of a crime?  
21 PROSPECTIVE JUROR NUMBER 434: No.  
22 THE COURT: Have you ever sat as a juror before?  
23 PROSPECTIVE JUROR NUMBER 434: No.  
24 THE COURT: Do you have any bias based on race, religion, or gender, or  
25 ethnicity?

1 PROSPECTIVE JUROR NUMBER 434: No.

2 THE COURT: You'll be -- you'll listen to all of the evidence, make a decision  
3 from what you see and hear in this courtroom?

4 PROSPECTIVE JUROR NUMBER 434: Yes, sir.

5 THE COURT: You'll be fair and impartial to both parties?

6 PROSPECTIVE JUROR NUMBER 434: Yes, sir.

7 THE COURT: Do you ever ride the city bus?

8 PROSPECTIVE JUROR NUMBER 434: No, sir.

9 THE COURT: Have you ever been followed?

10 PROSPECTIVE JUROR NUMBER 434: No.

11 THE COURT: Okay.

12 [Peremptory Challenges]

13 The way you communicate with the Court will be through the marshal.  
14 You'll notify the marshal, write it down -- you'll have a jury packet and you'll write  
15 down any questions you have. I'll bring it up with the parties outside of your  
16 presence. Additionally, if the -- you're admonished if something should arise, you're  
17 not to relate to any fellow jurors any of the facts relating to the case that are within  
18 your own knowledge. Likewise, if you discover that any juror has personal  
19 knowledge of any fact in controversy in this case, you'll disclose that situation to  
20 myself in the absence of other jurors

21 Once again, you communicate with the Court through the marshal.  
22 Don't talk to other jurors about any of the facts that you tell the marshal and write it  
23 down and the marshal will bring it to me. You will also recall that during the course  
24 of the trial, the attorneys for both sides, the parties, the witnesses, and court  
25 personnel, other than the marshal are not permitted to talk to you. As I previously

1 stated, these individuals are not being anti-social, they're just bound by ethics and  
2 the law not to talk to you. To do so might contaminate your verdict.

3 So, if you talk to anyone in the courthouse, talk to somebody that has a  
4 blue badge on. You'll have a blue badge if you're selected as a juror. Only talk to  
5 them because then you know they're not a witness in another case, they're only  
6 jurors. You're admonished that you're not to visit the scene of any of the acts or  
7 occurrences made mention of during this trial, unless specifically directed to do so  
8 by the Court. Please don't investigate this case, or anyone who has anything to do  
9 with it on your own. Don't undertake any legal or factual research on your own.

10 Okay. We have a jury. And if the rest of you will go down to the third  
11 floor.

12 [In the presence of the jury]

13 THE COURT: Okay. If the jury will stand and raise your right hand. Swear or  
14 affirm.

15 [The Clerk swears in the jury]

16 THE COURT: Do you guys need a -- you can be seated. Do you guys need  
17 a break or anything yet?

18 PROSPECTIVE JUROR NUMBER 411: I -- yes.

19 THE COURT: Okay. Let's take a five-minute recess.

20 During this recess you're not to talk or discuss the case with anybody.  
21 Okay? Go with Tom.

22 [Outside the presence of the jury]

23 THE COURT: You guys will -- we'll read the indictment. Are you ready for  
24 your opening statement?

25 MR. SCHIFALACQUA: We could -- yes, we could probably do that before

1 lunch.

2 THE COURT: All right.

3 MS. MERCER: We don't have witnesses.

4 THE COURT: And are you ready for your opening statement?

5 THE DEFENDANT: Yes. We haven't discussed the instructions yet though.

6 THE COURT: We won't do instructions until afterwards, but tell me what  
7 you're talking about. You keep asking me about that. Because you don't argue  
8 those in opening statement. Do you understand?

9 THE DEFENDANT: Yes. I'll probably just mention that there are five charges  
10 for one act of commission. And then there are two separate issues, open and gross  
11 lewdness and prohibited acts.

12 THE COURT: All right.

13 THE DEFENDANT: And I might just say -- I mean, what I say will probably  
14 depend on what --

15 THE COURT: Okay. That's fine.

16 THE DEFENDANT: -- Mr. Schifalacqua says.

17 THE COURT: Well --

18 THE DEFENDANT: I'll keep it simple though.

19 THE COURT: Okay. Opening state --

20 THE DEFENDANT: You don't want me --

21 THE COURT: An opening statement is what you expect to prove to the jury.  
22 Their opening statement will be what they believe is they're going to prove to the  
23 jury. At closing argument, then you can react to theirs. I'll give you some leeway,  
24 but --

25 THE DEFENDANT: Okay. Thank you, Your Honor.

1 MR. SCHIFALACQUA: Just so we're clear. I know you said the prohibited  
2 acts, Mr. Pigeon. We're not getting into that during this opening statement so  
3 the --

4 THE COURT: Right.

5 MR. SCHIFALACQUA: So don't -- I'm not bringing it up. You know, we're not  
6 bringing it up during this portion. The jury can't know that right now.

7 THE COURT: Use the restrooms --

8 MR. SCHIFALACQUA: Okay.

9 THE COURT: -- if you need to use the restroom.

10 MR. SCHIFALACQUA: Thank you, Your Honor.

11 MS. MERCER: Thank you, Your Honor.

12 THE DEFENDANT: It's only on prohibited acts then?

13 MS. MERCER: No. We're not talking about prohibited acts in this part of the  
14 trial.

15 THE DEFENDANT: Okay.

16 MS. MERCER: He's warning you not to bring it up because then you're going  
17 to cause a mistrial.

18 THE DEFENDANT: All right.

19 [Recess taken at 11:06 a.m.]

20 [Trial resumed at 11:13 a.m.]

21 [Outside the presence of the jury]

22 THE COURT: Your jury ready?

23 THE MARSHAL: They're all back now. I already told them about the  
24 notepads, and the pens, and the [indiscernible].

25 THE COURT: Okay. I'm going to finish reading them the law. Then we'll

1 read the instructions and do -- go into opening statements. Do you have anything  
2 you'd like to put on the record, Mr. Pigeon?

3 THE DEFENDANT: Yes. Mr. Schifalacqua just said that we're not talking  
4 about prohibited acts by a sex offender; however, this list of indictments still has  
5 prohibited acts on it.

6 MR. SCHIFALACQUA: Right. We're not going to read that portion right now.

7 THE DEFENDANT: Okay.

8 MR. SCHIFALACQUA: I know it has it, but we're only going to stop at count  
9 six.

10 THE DEFENDANT: So, they won't see that at all in --

11 THE COURT: No.

12 MR. SCHIFALACQUA: Not right now.

13 THE COURT: Not until --

14 THE DEFENDANT: -- deliberation.

15 THE COURT: Not unless there is a -- no, they will not.

16 THE DEFENDANT: So, how are we deciding those issues? You said you'd  
17 drop them.

18 MR. SCHIFALACQUA: I did. It's a bifurcated process. What we do is we  
19 don't want to prejudice you on the first six charges by them knowing that you're a  
20 registered sex offender. So, what'll happen is we'll just have a portion of a trial with  
21 those, the jury will deliberate, come back with a verdict. We'll present some extra  
22 evidence on just those last couple of counts. Okay. So they're not going to know  
23 about those counts up front.

24 THE DEFENDANT: So, they're going to actually decide on my guilt or  
25 innocence on the first six charges before we even talk about the prohibited acts?

1 MR. SCHIFALACQUA: That's correct.

2 THE COURT: Yes.

3 MR. SCHIFALACQUA: That's correct.

4 THE DEFENDANT: All right.

5 THE COURT: It's too prejudicial to do that. Otherwise -- you don't want that  
6 to happen first of all. It always happens that way in this type of case.

7 THE DEFENDANT: All right.

8 THE COURT: All right. Bring the jury in.

9 [In the presence of the jury]

10 THE MARSHAL: All rise, please.

11 And be seated.

12 THE COURT: Stipulate to the presence of the jury.

13 MR. SCHIFALACQUA: Yes, Your Honor.

14 THE COURT: Jury is seated. All right. Let me read these general  
15 instructions to you on the law. I'll finish reading that. I will give you written  
16 instructions at the conclusion. You must base your decision on the law as I state it.  
17 It would be a violation of your oath to base it on anything other than what I tell you.

18 You are the deciders of the facts. Both parties in this case are entitled  
19 to the same fair and impartial consideration from the jury. What I tell you now is not  
20 a substitute for a detailed instructions on the law, it's to give you a general  
21 instruction on the law. This is a criminal case commenced by the State of Nevada,  
22 which I may sometimes refer to as the State, against Christopher Pigeon. The case  
23 is based upon an indictment. The Clerk will read that to you in just a minute. In fact,  
24 she can read it to you right now.

25 Go ahead. Sorry.

1 [The Clerk reads the Indictment]

2 THE COURT: This case is based on that indictment, which has been read to  
3 you. You should distinctly understand the indictment is simply a charge and that it is  
4 not, in any sense, evidence of the allegation that it contains.

5 The Defendant has pled not guilty to the indictment. The State,  
6 therefore, has the burden of proving each of the essential elements of the charges  
7 beyond a reasonable doubt. As the Defendant sits here now, he is not guilty. He  
8 could sit there and read Sports Illustrated and not do a thing, not ask a question, not  
9 admit any evidence, and if the State can't meet the burden, it would be your  
10 responsibility to come back with a not guilty verdict. Does everybody understand  
11 that? All right.

12 The purpose of this trial is to determine whether the State will meet that  
13 burden. It is your primary responsibility as jurors to find and determine the facts.  
14 Under our system of criminal procedure, you are the sole judge of the facts. You  
15 are to determine the facts from the testimony you hear and other evidence including  
16 exhibits introduced in court. It is up to you to determine the inferences which you  
17 feel may be properly drawn from the evidence.

18 The trial will begin with opening statements. The District Attorneys will  
19 make an opening statement if they so desire, which is an outline to help you  
20 understand what the State expects to prove. Next, the Defendant, if he desires,  
21 may make an opening statement. But he is not in -- required to. Opening  
22 statements are -- serve as an introduction to the evidence which the party making  
23 the statement intends to prove, but they are not evidence.

24 Next, the State will commence its case in chief. This is the State's  
25 opportunity to present its evidence. It consists of calling a witnesses and production



1 of physical items of evidence, such as documents or photographs, and the like.  
2 Counsel for the Defendant may cross-examine -- excuse me. The Defendant may  
3 cross-examine the State's witnesses. Following the State's case in chief, the  
4 Defendant may present evidence and the District Attorneys may cross-examine the  
5 Defense witnesses. However, as I said, the Defendant is not obligated to present  
6 any evidence.

7           There are two kinds of evidence; direct and circumstantial. Direct  
8 evidence is testimony by a witness about what that witness personally saw or heard  
9 or did. Circumstantial evidence is testimony or exhibits which are proof. If you  
10 prove a particular fact, which, if proven, you may infer the existence of a second  
11 fact. If we came in today and there's no snow on the ground and we go out at the  
12 end of the trial and there's three feet of snow across the valley you didn't see it  
13 snow, but you can infer the fact that it snowed. That's circumstantial evidence.

14           But if we were out there and the snow fell on us, and we saw the snow  
15 come down, we know it's snowing. That is direct evidence. But you can use the  
16 same -- then the same. You may consider both direct and circumstantial evidence  
17 in deciding this case. The law permits you to give equal weight to both. But it is for  
18 you to decide how much weight to be -- given any evidence. Anything you may  
19 have seen or heard or -- outside the courtroom is not evidence and must be  
20 disregarded.

21           It is the duty of the attorney to object to any evidence which they may  
22 feel may not properly be brought before the jury. At times I may sustain the  
23 objections or direct that you disregard certain testimony or exhibits. You must not  
24 consider any evidence to which an objection has been sustained or which I have  
25 instructed you to disregard.

1           When witnesses are testifying and consider the weight and the value of  
2 the testimony of the witness, you may take into consideration the appearance,  
3 attitude, and behavior of the witness; the interest of the witness in the outcome of  
4 the case, if any; the relation of the witness to the Defendant or the State; the  
5 inclination of the witness to speak truthfully or not; and the probability or  
6 improbability of the witness's statements and all the facts and circumstances in  
7 evidence. Thus, she may give the testimony of any witness just such weight and  
8 value as you believe the testimony of the witness is entitled.

9           If the Defendant presents evidence, the State will have the opportunity  
10 to present rebuttal evidence. And the Defendant may have an opportunity to  
11 present surrebuttal evidence. After all the evidence has been presented to you, I  
12 will instruct you on the law. After the instructions on the law have been read to you,  
13 each side will have an opportunity to present closing arguments. What is said in  
14 closing argument is not evidence, just like opening statements are not evidence.  
15 The arguments are designed to summarize and interpret the evidence, while  
16 discussing with you how to apply the law to the particular facts of the case.

17           Since the State has the burden of proof, the Defendant -- proving the  
18 Defendant guilty beyond a reasonable doubt, the State has the right to open and  
19 close arguments. It means that the State will make a closing argument, followed by  
20 a closing argument from the Defense, and then a -- the State may make a rebuttal  
21 closing argument. After the arguments have been completed, you will deliberate  
22 your verdict.

23           Again, let me remind you, do not talk to each other about the case or  
24 anyone else who has anything to do with the case until the case is finally submitted  
25 to you and you're in the jury room. Likewise, do not talk to anyone else about the

1 case or anyone who has anything to do with the case until the trial has ended and  
2 you have been discharged as jurors.

3           Anyone else includes members of your family and your friends. You  
4 may tell them that you're a juror in a criminal case. Please don't tell them anything  
5 about the case until after you've been discharged by myself. Do not let anyone talk  
6 to you about the case or anyone who has anything to do with it. If someone should  
7 try to talk to you, tell the marshal and I'll deal with it.

8           Do not read any newspapers, stories, articles, or listen to any radio or  
9 television or reports about the case or anyone who has anything to do with it.  
10 Especially don't AskJeeves. Don't get on the computer and say, well, I want to  
11 know this. You may know somebody that you think is an expert in the area. You  
12 can't call them and say, hey, you're the expert in this area, what really happened at  
13 this in case -- in court. Just listen to the evidence, testimony, look at the exhibits,  
14 make a decision. Do not visit the scene of any of the events mentioned during the  
15 trial or undertake an investigation on your own.

16           Now, after each witness, I will ask you if you have any questions of this  
17 witness. That's a little different than normal. Write your questions down with your  
18 seat number. One is in the very back. There will be 14 of you and put your seat  
19 number and your name and the question. I'll read it, I may review it with the parties,  
20 or I may ask the question, or may not. If I ask the question or if I don't ask the  
21 question don't take any -- don't say, oh, that must have been a great question  
22 because I asked it. Or oh, that's a terrible question, he didn't ask it. It may ask for  
23 evidence that is not admissible in court. So -- but, I'll give you that opportunity.

24           State ready?

25           MR. SCHIFALACQUA: Yes, Your Honor.

1 THE COURT: Go.

2 MR. SCHIFALACQUA: Thank you.

3 **OPENING STATEMENT BY THE STATE**

4 BY MR. SCHIFALACQUA:

5 Ladies and gentleman, this case is about a 12 year old named C [REDACTED]  
6 C [REDACTED] C [REDACTED] last May, was a student at Hyde Park Middle School. Hyde  
7 Park is pretty much close to the intersections of Charleston and Valley View if you're  
8 familiar with that area of town. It's a middle school and she was in seventh grade at  
9 the time. And C [REDACTED] lives with her grandmother. She's raised her since really an  
10 infant. She refers to her as her mom. They live together.

11 And the way C [REDACTED] gets to school is via the bus, the public bus. And  
12 she gets on near her house and it routes her through the downtown terminal. You  
13 may know right around here, a few blocks from here, there's kind of a major bus  
14 terminal that opened not too long ago, a few years back. Routes her through that  
15 bus terminal, as a lot of busses do, and then she gets a transfer bus to her school at  
16 Hyde Park. And that was her routine. She would wake up in the morning, get on  
17 her bus, get her transfer, and then go to school. And she did that in May of last year  
18 on a daily basis.

19 Now, when she's at the bus terminal -- the one right downtown here a  
20 few blocks away, a man sees her there. And C [REDACTED] is by herself. She  
21 doesn't -- she's not with her grandma, she's just by herself. And the man who sees  
22 her there you'll learn is Christopher Pigeon. Christopher Pigeon immediately takes  
23 interest in this girl. Christopher Pigeon, you'll learn, is approximately 50 years old at  
24 the time of this offense. And he gets on the bus after her and follows her to her  
25 school.

1 Now, she gets off the bus right on that intersection of Valley View and  
2 Charleston. There's a bus stop right there and then she just walks a block or so to  
3 her school, Hyde Park. There's -- it's a Sinclair gas station there. And a lot of the  
4 kids, you'll hear, from Hyde Park, they go in there to buy soda or chips on their way  
5 to and from school and C [REDACTED] is no different. C [REDACTED] stops into CJ's -- it's  
6 called CJ's Mini Mart -- gas station, mini mart, to buy some things. And the  
7 Defendant, you'll learn, in the middle of May, follows her in there and starts -- has  
8 his gaze completely fixed upon her.

9 You'll learn on May 15<sup>th</sup> that kind of under his -- and through his pants  
10 and underneath his clothing he's masturbating his penis while he's looking at her  
11 and you'll hear about that. And this continues. This wasn't the only day this  
12 occurred. You'll hear about the following day where C [REDACTED], again, does the same  
13 routine. She wakes up, goes to school, takes the bus. He gets on the bus again at  
14 that bus terminal downtown here and follows her to her school. And goes into CJ's  
15 Mini Mart again, his gaze completely fixed upon her.

16 You'll hear about on a day where he actually corners C [REDACTED]. There's  
17 a Sonio's Café, it's a restaurant that's open just very close to this, and corners her.  
18 Tells her that she looks nice, she looks pretty, reaches out for her, makes contact  
19 with her arm or her hand. C [REDACTED] is afraid. She does not know this person,  
20 clearly, and runs away to the mini mart. The Defendant then you'll hear enters in  
21 the mini mart after her. Again, watches her. She leaves and then he follows her out  
22 to her school.

23 You'll learn on the -- another following day, it's the same routine.  
24 Getting on the bus after C [REDACTED], going into the mini mart. Now on this day -- this  
25 is May 17<sup>th</sup>. There is a clerk who works there, his name is John Bryant. And he

1 knows a lot of the middle school kids who go in there and he knows C [REDACTED]. And  
2 the Defendant goes up to C [REDACTED] and states something that he -- you know, she  
3 looks pretty today and John overhears this and thinks it's strange. C [REDACTED] doesn't  
4 say anything in return.

5 And then the Defendant goes to the back of the store and again just  
6 watches her kind of from where the slot machines are. You'll hear about that. John  
7 thinks this is strange. C [REDACTED] then leaves the store rather quickly and the  
8 Defendant immediately bolts out of the store and begins to run after C [REDACTED].  
9 C [REDACTED] is going as fast as she can to her school, to Hyde Park, and is able to get  
10 there without the Defendant getting ahold of her at that point. But he does chase  
11 her out of the store.

12 John Bryant -- this doesn't feel right to him. He feels like something  
13 could be going on here. He certainly knows who C [REDACTED] is and doesn't know this  
14 person. And knows that they are in no way affiliated with each other. These aren't  
15 relatives or friends or anything like that. And he -- there's a police officer you'll hear,  
16 Troy Givens. He's a patrol officer in the neighborhood and he goes into the mini  
17 mart sometimes for a soda or a water or whatever on his shift. And Mr. Bryant  
18 brings it up to him. You know, this doesn't feel right to me. Could you look into this?  
19 So they start to look into this.

20 A detective from the sex assault unit, Jason Lafreniere begins to  
21 investigate. They look at the different video showing the Defendant in the acts that I  
22 talked about. And so they thought that he would take a look, Jason Lafreniere, the  
23 detective, at Hyde Park and perhaps the Defendant, Mr. Pigeon, would be there.  
24 And he was. Right around the time school was letting out around 2:30 there's a little  
25 park right across the street from Hyde Park Middle School and the Defendant is

1 seen by the detective sitting on one of the benches, his gaze just fixed upon the  
2 school, rocking back and forth, and bouncing his legs, clearly waiting for C [REDACTED]  
3 you'll hear.

4 He then tries to go on to school property, the Defendant, and he's  
5 ultimately taken into custody by the police detective at that point. In interviews  
6 conducted with Mr. Pigeon -- you'll hear some of that interview. He corroborates a  
7 lot of things that C [REDACTED] said as far as that he does get on this bus with -- when  
8 she does, and follows her to the school. He says that sometime -- that he was  
9 sexually interested in her and that he would like to marry her with her parent's  
10 permission.

11 He admits that he does -- that his penis has been erect while he stares  
12 at her on the bus and that she is interested in him based upon her body language.  
13 He does talk again about -- you'll hear about -- with her parent's permission what he  
14 would like to do with her sexually. He does say that he did run after her on the 17<sup>th</sup>,  
15 kind of like how C [REDACTED] and John Bryant said. He does admit on the day with  
16 Sonio's, stopping her, reaching out for her, telling her he loves her, and wants to be  
17 with her. There's ultimately a search warrant done at where the Defendant is  
18 staying at a storage facility -- or a storage unit.

19 Well, ladies and gentleman, that's generally the facts of the case as  
20 you'll hear them. We'll be presenting to you the Defendant stalked a 12 year old girl,  
21 tried to make contact with her for sexual reasons. And at the end of this we'll ask  
22 that you find him guilty of the counts that were just read to you a moment ago. We  
23 want to thank you very much and we'll present the evidence a little bit this afternoon  
24 to you.

25 THE COURT: Mr. Pigeon.

1 THE DEFENDANT: Yes, Your Honor.

2 **OPENING STATEMENT BY DEFENDANT**

3 BY THE DEFENDANT:

4 Hi.

5 THE COURT: Stay at the podium, please.

6 THE MARSHAL: It's so we have you on the mic.

7 THE COURT: Thank you. We have to have the microphone.

8 BY THE DEFENDANT:

9 I've been in Las Vegas for 15 years. I do have some prior lewdness  
10 charges, but they are very minor I thought. Mostly good-natured. The State had a  
11 Grand Jury back in June of 2013, a month after the arrests -- or less than a month  
12 after the arrests. And I was originally indicted for three charges. Primarily just two.  
13 That would be open or gross lewdness and unlawful contact with a minor, which is a  
14 misdemeanor crime. The open and gross lewdness charge is technically a  
15 misdemeanor, but the State automatically enhances it to a lesser felony.

16 I would like to mention that there were four charges added at the Grand  
17 Jury hearing without proper discussion of those charges being highlighted in terms  
18 of the elements of the crimes necessary for them to be a crime -- or necessary for  
19 them to even be valid crimes at the Grand Jury. So they're, in my opinion, improper  
20 indictments. But what I have to do for the jury is prove that there are no elements of  
21 those crimes even in existence. Those crimes are the burglary charge, the luring  
22 children charge, the aggravated stalking charge, and the attempted kidnapping  
23 charge; all Class B felonies, which can carry up to 15 years each.

24 I think this is all just a simple misunderstanding in that sense. I had no  
25 intention of kidnapping anyone and that's what I hope to prove by the end of the



1 trial. *Carl versus State* says that every single element of a --

2 THE COURT: Okay. Mr. Pigeon, you're arguing the case. Tell us what you  
3 think your evidence is going to prove.

4 THE DEFENDANT: All right.

5 BY THE DEFENDANT:

6 I will try to prove that they didn't have all the elements of any of these  
7 crimes, actually. Except for perhaps a misdemeanor, unlawful contact with the child.  
8 If C [REDACTED] Carpenter actually says she was scared -- I didn't really think she was  
9 scared. However, I'll -- I will also add this that there are no -- for the open and gross  
10 lewdness charge, there are witnesses for that charge. It was only a police officer  
11 who subsequently viewed the tape, who claims he saw masturbation there.  
12 However, there is no film for that. They don't have a copy of it. So.

13 Although that was an original charge, I think you'll find that that's  
14 hearsay. There is no witnesses claiming that there is any masturbation at all.  
15 That's what I hope to prove as well. Thank you. I appreciate it.

16 THE DEFENDANT: Thank you, Your Honor.

17 THE COURT: All right. We're going to take a break for lunch. My staff has  
18 been doing this -- I've been here since 5:30 so -- my staff has been here since about  
19 6:00. Why don't we come back here at 1:00? That'll give you some time to have  
20 lunch. And Tom will help you find places.

21 Now, I have to read this to you every time you leave now. We're going  
22 to take a -- our noon recess. During this recess you're admonished not to talk or  
23 converse among yourselves or with anyone else on any subject connected with this  
24 trial. Or read or watch or listen to any report of or commentary on the trial or any  
25 person connected with this trial by any medium of information including, without

1 limitation, newspapers, television, radio, or the internet. Or form or express an  
2 opinion on any subject connected with the trial until the case is finally submitted to  
3 you.

4 See you back here at 1:00.

5 [Outside the presence of the jury]

6 THE COURT: All right.

7 MR. SCHIFALACQUA: Thank you, Judge.

8 THE COURT: Okay. See you guys at 1:00. Or -- I think the jury will take a  
9 little bit longer, but if you can get the witnesses here at 1:00 that would be good. I  
10 told you 1:15, but --

11 MR. SCHIFALACQUA: We'll call everybody.

12 [Recess taken at 11:43 a.m.]

13 [Trial resumed at 1:07 p.m.]

14 [Outside the presence of the jury]

15 MR. SCHIFALACQUA: We have one thing, Judge.

16 THE COURT: Okay. Just -- are we on the record?

17 THE COURT RECORDER: Yes.

18 THE COURT: Okay. Go ahead, State.

19 MR. SCHIFALACQUA: We have Can -- the named victim testify this  
20 afternoon. You know, it's a little unusual in cases for Defendant obviously cross-  
21 examining her, but we can't get around that.

22 THE COURT: Right.

23 MR. SCHIFALACQUA: However, are there going to be any rules with  
24 approaching, perhaps, the --

25 THE COURT: No. He can sit -- I want you to do your examination sitting right

1 where you are. That's fine. I used to try cases from where I sat. Mel Harmon, who  
2 is the number one attorney in the DA's office always sat where -- in those seats.

3 MR. SCHIFALACQUA: And --

4 THE COURT: So when the victim's up, you can ask her questions, but you  
5 can't approach her. And you just stay right where you are. Okay?

6 THE DEFENDANT: All right.

7 THE COURT: It will be okay.

8 MR. SCHIFALACQUA: The named victim's grandmother will be a witness  
9 too. What we'll do is we'll put her on the stand first so she can stay in for the  
10 testimony of the named victim. That's the rule. She has to go first. So --

11 THE COURT: All right.

12 MR. SCHIFALACQUA: -- we'll do that so she can stay.

13 THE COURT: All right. If you're -- you guys ready for the jury to come in?  
14 Mr. Pigeon?

15 THE DEFENDANT: I'm ready.

16 THE COURT: All right. Bring them in, Tom.

17 I will say stipulate to the presence of the jury, Mr. Pigeon. If you heard,  
18 the State did. If -- and that just means that the jury's here. So, you can say yes. If  
19 you don't, I'll stipulate on your behalf.

20 THE DEFENDANT: That I'm ready?

21 THE COURT: That the jury is in.

22 THE DEFENDANT: Okay.

23 THE COURT: I'll say stipulate to the presence of the jury. The State says  
24 yes. You didn't say anything the last time.

25 THE DEFENDANT: I'd say yes.

1 THE COURT: Yeah. You can look over and make sure they're there.

2 THE DEFENDANT: They're not there.

3 THE COURT: No. Not right now.

4 [In the presence of the jury]

5 THE MARSHAL: All rise, please.

6 And be seated.

7 THE COURT: All right. Stipulate to the presence of the jury.

8 MR. SCHIFALACQUA: Yes, Your Honor.

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. Call your first witness, State.

11 MS. MERCER: Your Honor, the State calls John Bryant.

12 **JOHN BRYANT**

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

14 THE CLERK: Please be seated. Please state and spell your full name for the  
15 record.

16 THE WITNESS: It's John Bryant. J-O-H-N, B-R-Y-A-N-T.

17 THE DEFENDANT: This is not the same gentleman that was in the store.

18 THE COURT: Okay. Just have a seat.

19 THE DEFENDANT: I just wanted to point that out.

20 THE COURT: Okay. But you're testifying now. You can ask questions. You  
21 can't testify. Okay?

22 MS. MERCER: May I proceed, Your Honor?

23 THE COURT: Yes.

24 **DIRECT EXAMINATION BY THE STATE**

25 **BY MS. MERCER:**

1 Q Sir, I want to direct your attention to May 15<sup>th</sup>, 16<sup>th</sup>, and 17<sup>th</sup> of 2013. At  
2 that time, where were you employed?

3 A I was in the CJ's Mini Mart.

4 Q And where is that located?

5 A 4030 West Charleston.

6 Q What is the closest major cross street to that location?

7 A Valley View.

8 Q Valley View? And it is a gas station as well as a mini mart?

9 A Yes.

10 Q How were you employed there at the time?

11 A Self-employed. Just, you know, walked in, asked for an application,  
12 and I was employed.

13 Q Okay. Were you in a managerial position or were you a cashier?

14 A Cashier.

15 Q The week of May 15<sup>th</sup>, 16<sup>th</sup>, and 17<sup>th</sup>, what shift were you working?

16 A The morning shift. I --

17 Q The morning shift.

18 A It was 7:00 a.m. to 3:00 p.m.

19 Q Okay. With respect to May 15<sup>th</sup> of 2013, a Wednesday, did you go in  
20 later that day?

21 A No.

22 Q You went in at 7:30 as well?

23 A [Nods head].

24 Q Okay. Do you frequently see school children come into the store prior  
25 to the bell ringing?

1           A     When school is out or released? Yeah.

2           Q     What about in the morning? Do they come in and get snacks on their  
3 way to school?

4           A     Yes.

5           Q     Was there one child in particular that you noticed on Wednesday,  
6 Thursday, and Friday, May 15<sup>th</sup>, 16<sup>th</sup>, and 17<sup>th</sup> that caused you some concern?

7           A     Yes.

8           Q     And can you describe that little girl for us?

9           A     Her name was C [REDACTED]. She was a little school girl. Came in just like  
10 every other kid, but the only thing I noticed was, you know, another man that had  
11 followed her for the past two days in a row.

12          Q     Okay. When you say the past two days, did something happen on May  
13 17<sup>th</sup> that at that point made you take some action because of things you observed  
14 on the two prior dates?

15          A     Yeah. Some weird I would say gestures maybe that kind of clicked in  
16 my mind that this picture doesn't look like.

17          Q     Okay. This little girl that you've described, C [REDACTED], was she a  
18 frequent customer at the store?

19          A     Uh-huh. Yes.

20          Q     And how old did she appear to you?

21          A     Twelve.

22          Q     With regards to May 15<sup>th</sup> -- or let me back up for a second. When she  
23 would come into your store, was she by herself or was she usually with someone  
24 else?

25          A     On those dates, she was by herself.

1 Q You indicated that you saw a male that came in around the same that  
2 she did.

3 A Yes.

4 Q Do you see that male in the courtroom today?

5 A Yes.

6 Q Could you please point to him and identify an article of clothing that he's  
7 wearing today?

8 A Him [pointing at the Defendant] with a flannel dress shirt.

9 THE COURT: Let the record reflect he's identified the Defendant.

10 MS. MERCER: Thank you.

11 BY MS. MERCER:

12 Q Let's start with May 15<sup>th</sup>, that Wednesday. When C [REDACTED] entered the  
13 store that morning before school, how soon after she entered the store did this man  
14 come in?

15 A Ten, fifteen seconds later.

16 Q Okay. Did it appear as if he was following her?

17 A On the first day, no. I did -- it didn't inquire to me that she -- he was.  
18 But then the following day he -- you know, I noticed the same situation.

19 Q Okay. And the following day would have been Thursday --

20 A Yes.

21 Q -- the 16<sup>th</sup>. Did he behave in a manner towards her that caused you to  
22 have concerns about her safety?

23 A Yes.

24 Q And how?

25 A Well, when he walked in after ten, fifteen seconds later, you know,

1 he -- the only thing he was walking around and looking for was her. So he goes to  
2 the end of the chip aisle, only to the chip aisle. He does not -- you know, he doesn't  
3 look at the chips, doesn't browse through, nothing at all. He's just watching her and  
4 every move that she's making.

5 Q Okay. When you say that he went to the end of the chip aisle, would  
6 that be towards the back of the store --

7 A Yes.

8 Q -- or the front of the store?

9 A The back of the store.

10 Q And where is the chip aisle in relation to the front door to the CJ's Mini  
11 Mart?

12 A It would be the first -- it'd be like the second aisle. Because the first  
13 aisle is slot machines and then the second one would be the chip aisle.

14 Q Okay. So, the second as you're walking in from the front door?

15 A Yeah.

16 Q What was C [REDACTED] doing while he was standing at the end of the chip  
17 aisle?

18 A She was minding her own business, just getting her dailies -- you know,  
19 snacks.

20 Q Did you ever see her trying to carry on a conversation with him or  
21 engage him in anyway?

22 A No.

23 Q Okay. Going to the following day. On that Friday, May 17<sup>th</sup> of 2013, did  
24 you see those two people come into the store around the same time again?

25 A Yes.



1 Q What happened when they entered the store together on that date?

2 A Nothing. There was no confrontation between them. She just was  
3 quiet and didn't say any word to him and he just went about his business.

4 Q Okay. Was he still just staring at her? Or was he browsing the  
5 merchandise? What was he doing?

6 A He was just staring at her.

7 Q And was she kind of meandering through the store, trying to find --  
8 figure out what she wanted to purchase? Or what was she doing?

9 A She was meandering around -- looking around at what she wanted.

10 Q At some point, did she make a selection?

11 A Yes.

12 Q And did she go up to your cashier --

13 A Yes.

14 Q -- cash register to pay for it?

15 A Yes.

16 Q When she came up to the cash register to pay for it, how long had the  
17 two of them been inside the store at that point?

18 A About five, ten minutes so far.

19 Q So, for five or ten minutes the Defendant was just staring at her the  
20 entire time.

21 A Exactly.

22 Q Did -- when she approached the cash register to pay for her  
23 merchandise, did you inquire of her as to whether or not she knew this gentleman?

24 A Yes.

25 Q After recent -- don't tell me what she said because that would be

1 hearsay, but based upon her response, did you have more concern for her at that  
2 point?

3 A I did.

4 Q Okay. At some point did he make a selection and make a purchase?

5 A He did.

6 Q Did you ask him -- him being the Defendant, did you ask him whether or  
7 not he knew this young lady?

8 A Yes.

9 Q What was his response to you?

10 A We're acquaintances.

11 Q And did you still have concerns for her safety at that point?

12 A Yes.

13 Q What did you do at that point?

14 A Well at that point I was in process of you know, getting ready to dial  
15 9-1-1, but it just so happened that Officer Troy, he just show -- just had walked into  
16 my store and, you know, I let him get whatever he had to get throughout the store, I  
17 waited for him to come to my counter, and I explained my situation, what happened.  
18 And he said --

19 Q Is the officer in uniform at this point?

20 A Yes.

21 Q Okay. You tell him what happened and then what?

22 A And then after that I told him what happened, he asked me if I had  
23 videotape. I had say yes. And it just so happened the owner of the store just  
24 happened to be walking in as I was talking to him.

25 Q Who's the owner?

1 A Jeri.

2 Q Do you know her last name by any chance?

3 A Fischer.

4 Q Is that F-I-S-C-H-E-R?

5 A Correct.

6 Q Okay. And she comes into the store and then what happened?

7 A He had asked her, ma'am, may I use -- see your videotapes and -- her  
8 videotapes. She said absolutely. Took him back to the back room.

9 Q Okay. At the time that that officer entered the CJ's Mini Mart, were  
10 C [REDACTED] and the Defendant still inside the store?

11 A No.

12 Q At what point did the Defendant and C [REDACTED] leave the store?

13 A About -- around 8:30, 8:45 they had left.

14 Q Okay.

15 A I mean, not 8:30. I mean, 7:30 through 7:45. That's when school  
16 starts.

17 Q Okay. After the Defendant made his purchase that day on May 17<sup>th</sup>,  
18 2013, did he immediately leave the store or did he go someplace else in the store?

19 A He left the store immediately.

20 Q Okay. On either May 15<sup>th</sup>, 16<sup>th</sup>, or 17<sup>th</sup>, did he have occasion to sit at  
21 some slot machines?

22 A Yes. On the 16<sup>th</sup>, I believe, he sat -- he was on the slot machines.

23 Q You believe it was the 16<sup>th</sup>. And what was he doing at the slot  
24 machines?

25 A Pretending to play. He had no money in there. Nothing, whatsoever.

1 Q Could you see where he was looking?

2 A Yes.

3 Q Where was he looking?

4 A At her.

5 Q Each time that C [REDACTED] and the Defendant entered the store on  
6 May 15<sup>th</sup>, May 16<sup>th</sup>, and May 17<sup>th</sup>, how long did the two of them spend inside of the  
7 store?

8 A Not more than ten minutes.

9 Q And each time the Defendant's attention was fixed solely on C [REDACTED]?

10 A Yes.

11 THE COURT: Did they come in together or did one come in and then the  
12 other one?

13 THE WITNESS: She came in by herself and then about 15 seconds later, he  
14 came in.

15 THE COURT: Okay.

16 BY MS. MERCER:

17 Q Okay. You indicated that on the last day, May 17<sup>th</sup> of 2013, Officer  
18 Givens -- Troy Givens reviewed some surveillance footage. Is that accurate?

19 A Yes.

20 Q How many cameras are in the store?

21 A 16.

22 Q Do you recall what the Defendant was wearing on that last day, May  
23 17<sup>th</sup>?

24 A He was wearing a white t-shirt with either a American stamp on it or  
25 some type of print design on there. But I know it was a white t-shirt.

1 Q Okay. Was it an American flag?

2 A I believe so.

3 Q Okay. On May 17<sup>th</sup>, 2013 when they were towards the front of the  
4 store --

5 A Uh-huh.

6 Q -- did you ever hear any interaction between the Defendant and the  
7 victim? Anything he might have said to her?

8 A The only thing he said to her after he was done with his purchase, and  
9 she was off to the left of him, is that he -- you look pretty today, miss.

10 Q When he told C [REDACTED] that she looked pretty today, how did she  
11 respond to that?

12 A Didn't say anything. Kept quiet.

13 Q Could you -- what kind of facial expression did she have on her face?

14 A Like she was, you know, kind of startled and a little scared at the  
15 moment.

16 Q When he said that to her was it just prior to her leaving the store?

17 A Yes.

18 Q When she left the store, how quickly did she leave the store?

19 A She just -- you know, she got her stuff, put it in a bag, and she left. Not,  
20 you know, really fast, but she just went about her business and took it.

21 Q Okay. Is this store right around the corner of Hyde Park Middle  
22 School?

23 A Yes.

24 MS. MERCER: Your Honor, may I approach the witness, please?

25 [Colloquy between Counsel and Defendant]

1 BY MS. MERCER:

2 Q Mr. Bryant, can you take a look at State's Proposed Exhibit 1 and tell  
3 me whether you recognize what's depicted in this exhibit?

4 A Say that again.

5 Q Can you tell me whether you recognize what's depicted in State's  
6 Proposed Exhibit 1?

7 A Right here.

8 Q Does this appear to be an aerial of that area of town?

9 A Yes.

10 Q And does it appear to fairly and accurately --

11 A Yes.

12 Q -- depict that area of town?

13 A Yes.

14 MS. MERCER: Your Honor, I would move for the admission of State's  
15 Proposed Exhibit 1.

16 THE COURT: Objection? Hearing no objection. It'll be admitted.

17 **[STATE'S EXHIBIT 1 ADMITTED]**

18 MS. MERCER: Thank you, Your Honor. May I publish?

19 THE COURT: Yes.

20 MS. MERCER: Is it on?

21 THE COURT: Lights aren't on the side, Tom.

22 MS. MERCER: It's working.

23 There we go. Okay. And if you need me to zoom in, Mr. Bryant, just let  
24 me know.

25 THE COURT: And if you touch -- if she needs to show you, you can touch

1 that screen. Let me make sure it's the right -- yes, it is.

2 MS. MERCER: And if you need me to --

3 THE COURT: You can draw on that screen and it'll appear on the --

4 MS. MERCER: If you want me to turn it, just tell me.

5 BY MS. MERCER:

6 Q On this diagram, can you put an "X" where your store would be  
7 located?

8 Okay. And where is Hyde Park Middle School in relation to that? If you  
9 could place another "X" there.

10 THE COURT: Mr. Pigeon, you can see it right on your computer screen.

11 BY MS. MERCER:

12 Q Okay. After you had contact with Officer Givens, were you at some  
13 point later that day taken to do what's referred to as a one-on-one with someone  
14 that they had in custody? Were you asked to identify the suspect --

15 A Yes.

16 Q -- later on that day?

17 A Yes.

18 Q And that was the same day, May 17<sup>th</sup> of 2013?

19 A Yes.

20 Q Who took you there?

21 A That was --

22 Q Was it a Detective Prichard?

23 A Yes.

24 Q Where did he take you?

25 A He took me to the front -- he drove me into the front of the middle

1 school.

2 Q Of Hyde Park Middle School?

3 A Yes.

4 Q And were you able to make an identification?

5 A Yes.

6 Q And did you identify the suspect -- the Defendant?

7 A Yes.

8 MS. MERCER: Court's indulgence.

9 BY MS. MERCER:

10 Q When C [REDACTED] left May 17<sup>th</sup>, 2013 after the Defendant told her she  
11 looked pretty, how quickly after she walked out of the store did the Defendant  
12 follow?

13 A No more than three steps behind her.

14 Q And how quickly was he walking when he exited the store?

15 A Rapidly.

16 Q Rapidly?

17 A Yeah. Like he -- like fast walking.

18 Q As if chasing her?

19 A Almost.

20 MS. MERCER: No further questions.

21 THE COURT: Do you have any questions of the witness, sir?

22 THE DEFENDANT: Yes. I do have a couple.

23 Give me one minute, Your Honor.

24 THE COURT: You can stay sit -- sat right there.

25 THE DEFENDANT: All right.



1 THE COURT: Unless you need to use the drawing. You can use that -- point  
2 out on your computer screen.

3 THE DEFENDANT: I think I have a [indiscernible].

4 **CROSS-EXAMINATION**

5 BY THE DEFENDANT:

6 Q Okay. I just want to read your statement here. This is the written  
7 statement when he was first arrested.

8 MS. MERCER: Your Honor, I would object.

9 THE COURT: Okay. Hold on. That's a hearsay document. You can ask him  
10 a --

11 THE DEFENDANT: Can I have him approve it?

12 THE COURT: You can ask him questions. It's inadmissible.

13 THE DEFENDANT: No. It shouldn't be inadmissible. Your Honor.

14 THE COURT: I appreciate your position. It's inadmissible. You can ask him  
15 questions.

16 BY THE DEFENDANT:

17 Q On the two days that you were there, John, did I purchase anything?

18 A Yes, you did.

19 Q What did I purchase?

20 A You purchased a bottle of Déjà Vu water. 20 ounce.

21 Q Well, actually it was probably an RC Cola, but that's okay. So, I  
22 couldn't have been staring at her the entire time. Is that correct?

23 A Not the entire time.

24 Q All right. Thank you. As far as you are concerned the only thing you  
25 noticed is that I was in there two days in a row following a young girl and I told her

1 she looked beautiful. I told you that I -- that she was an acquaintance of mine -- or  
2 that we were acquaintances, and I bought one item from you. And other than that I  
3 didn't touch her or I didn't do anything unusual. Is that correct?

4 A Yes.

5 Q All right. So the only thing we're looking at here, I'd like to say to the  
6 jury --

7 THE COURT: No, no, no. You have to ask questions. That's testifying. You  
8 have a questions of this witness.

9 BY THE DEFENDANT:

10 Q I'll just say the only thing that C [REDACTED] may have felt is maybe she was  
11 a little scared. That's all I'd like to say. Do you agree?

12 A Yes.

13 Q All right. Thank you. I appreciate that.

14 THE DEFENDANT: That's it.

15 THE COURT: Any further questions?

16 MS. MERCER: Just one.

17 **REDIRECT EXAMINATION BY THE STATE**

18 BY MS. MERCER:

19 Q Mr. Bryant, when the Defendant was in the store on the 15<sup>th</sup>, 16<sup>th</sup>, and  
20 17<sup>th</sup> with C [REDACTED], could you tell where his hands were primarily?

21 A In his pockets.

22 Q In his pockets. Did that strike you as odd?

23 A Yeah.

24 Q Could you tell what he was doing with his hands?

25 A Well, where I was standing from -- I mean, he was kind of at a blocking

1 position where I couldn't fully see where his hands are, but I knew his hands were  
2 on his pockets.

3 MS. MERCER: No further questions.

4 THE COURT: Any further questions, Mr. Pigeon.

5 THE DEFENDANT: Nope. That should do it, Your Honor.

6 THE COURT: Thank you, sir. You can go.

7 Oh, wait. Jury, do you have any questions of this witness? Not seeing  
8 any hands. Thank you. You can go.

9 Call your next witness, State.

10 MR. SCHIFALACQUA: Jeri Fischer.

11 **JERI FISCHER**

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

13 THE CLERK: Please state and spell your full name.

14 THE WITNESS: Jeri Fischer. It's J-E-R-I. Last name is F-I-S-C-H-E-R.

15 **DIRECT EXAMINATION BY THE STATE**

16 BY MR. SCHIFALACQUA:

17 Q Ma'am, how are you employed?

18 A I own a CJ's Mini Mart and Sinclair station.

19 Q Okay. And you're the actual owner of that business?

20 A Yes, I am.

21 Q Where's that located?

22 A We're at 4030 West Charleston.

23 Q Okay.

24 THE COURT: Las Vegas, Clark County, Nevada?

25 THE WITNESS: Las Vegas -- Yes. Las Vegas, Nevada.

1 BY MR. SCHIFALACQUA:

2 Q So, for instance, if I were just to go west on Charleston, would I run into  
3 your store?

4 A Yes.

5 Q Okay. What type of business is this?

6 A We have a mini mart and a gas station. Mini mart with convenience  
7 food and you know, snacks and such.

8 Q Are you like located near Hyde Park Middle School?

9 A Yes, we are. We're only like a block and a half away.

10 Q Okay.

11 A It's to the north.

12 Q Do you actually get a lot of students who come into your store to  
13 purchase items?

14 A Before and after school. Yes.

15 Q Do you have any policy of when the kids come in as far as they have a  
16 book bag or anything like that? What they -- what kind of a policy is at your store?

17 A Yes. The book bag has to stay by the front counter until they leave.

18 Q And do you have video surveillance at your location?

19 A Yes, we do. Inside and out.

20 Q And you have access to this system?

21 A Yes.

22 Q And how old is the system?

23 A The system is about nine years old.

24 Q And you're able to at certain times go back and pull footage if you need  
25 to. Is that correct?

1 A Absolutely.

2 Q Now how long is it saved?

3 A It's saved for two weeks.

4 Q So after two weeks is it redubbed over?

5 A Redubs. Correct.

6 Q I want to talk to you about May of last year, 2013. You were still the  
7 owner of CJ's at that time. Right?

8 A Yes. I was

9 Q Okay. And did there become an incident that John Bryant brought to  
10 your attention?

11 A Yes, there was.

12 Q And is Mr. Bryant the gentleman who was just in the court a moment  
13 ago?

14 A Yes, he was.

15 Q And is he an employee of yours?

16 A Yes, he is.

17 Q What shift was he working during that time?

18 A He was working first shift.

19 Q Okay. When does that start?

20 A It starts at 7:00 a.m.

21 Q And without getting into what he told you, did he bring to you attention  
22 that there may have been an issue with a gentleman in the store --

23 A Yes, he --

24 Q -- during the last couple days?

25 A Yes, he did.

1 Q Are you familiar with someone by the name of Troy Givens? Officer  
2 Troy Givens?

3 A Yes, I am.

4 Q How do you know him?

5 A He's a regular visitor to our store. He will stop in for water and  
6 Gatorade and such. And we've become -- he's just a wonderful, wonderful man.  
7 So, we've become very friendly with him.

8 Q Okay. So he's a police officer in your area?

9 A Yes, he is.

10 Q Did you -- were you asked by some detective to try to help make a copy  
11 of some footage over -- of the previous few days?

12 A Yes, we were.

13 Q And did you allow them access to try to do that?

14 A Full access. Absolutely.

15 Q Okay. And did you help them in burning a CD?

16 A Yes.

17 Q Now, the CD itself -- I don't know if you've heard this, but you'll learn  
18 that it wasn't able to be opened by the police later on.

19 A That's what they said. Yes.

20 Q Okay. And by the time they were able to come back, was the tape  
21 already dubbed over?

22 A The tape was gone. Yes.

23 Q Okay. Were you aware, though, that Officer Troy was able to get a  
24 screen shot at least of one portion of the video on May 17<sup>th</sup>?

25 A I actually took him to the back room for that screen shot.

1 Q So you were there in the back?

2 A Yes.

3 Q Okay. And that was from May 17<sup>th</sup>, 2013, from your store. Is that right?

4 A That's correct.

5 Q And do you know C [REDACTED] C [REDACTED]?

6 A Just from seeing her a few times, but I didn't know her by name. John  
7 did because he was there earlier --

8 Q I see.

9 A -- when she went to school.

10 Q Do you have your own office there?

11 A Yes.

12 Q Okay. And is that where you typically work out of?

13 A Yes.

14 MR. SCHIFALACQUA: If I could approach your clerk, one moment.

15 May I approach, Your Honor.

16 THE COURT: Yes.

17 BY MR. SCHIFALACQUA:

18 Q I'm showing you what's been marked as State's Proposed Exhibit  
19 Number 3. And just see if you recognize this picture and this store?

20 A Yes, I do.

21 Q And what is that?

22 A That's the picture of Mr. Pigeon entering the store. And we had the  
23 time and date of it. And I had actually stopped the camera on that so that Troy  
24 could take the picture to the office.

25 Q I see. Does this screenshot from the video -- is the video from the

1 morning of May 17<sup>th</sup>, 2013?

2 A Yes, it is.

3 Q And this is your store and your system. Is that right?

4 A This is -- absolutely.

5 Q Okay.

6 MR. SCHIFALACQUA: I'd ask for the admission of State's Proposed 3, Your  
7 Honor.

8 THE COURT: Objections? Hearing no objection, they're be admitted.

9 **[STATE'S EXHIBIT 3 ADMITTED]**

10 BY MR. SCHIFALACQUA:

11 Q Just putting it on the screen real briefly. What angle are we looking at  
12 here in your store?

13 A You are looking facing Charleston, a little bit angled towards Hinson.  
14 So you're sort of southwest because Charleston is directly in front, the doors are on  
15 an angle. So, to the right is the street going to the school and Charleston is directly  
16 in front of the store.

17 Q I see. And this is the main entrance? Is that --

18 A This is the main entrance. Yes.

19 Q And who do you see depicted in this photo?

20 A That was Mr. Pigeon.

21 Q And again, this is the morning of May 17<sup>th</sup>. Correct?

22 A Yes, it is.

23 Q Okay. Thank you very much.

24 MR. SCHIFALACQUA: Judge, I will pass the witness.

25 THE COURT: Do you have any questions of this witness, sir?



1 THE DEFENDANT: No, I don't believe so. It's nice to hear from you, ma'am.  
2 Nice to see you. But I have no questions, Your Honor.

3 THE COURT: Thank you. Jury have any questions of this witness?

4 Thank you, ma'am. You're free to go. Thank you.

5 Call your next witness.

6 MS. MERCER: Your Honor, the State calls Officer Troy Givens.

7 **OFFICER TROY GIVENS**

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

9 THE CLERK: Please be seated. State and spell your full name for the  
10 record.

11 THE WITNESS: Troy Givens. T-R-O-Y.

12 Last name, G-I-V, as in Victor, E-N-S.

13 MS. MERCER: May I proceed, Your Honor?

14 THE COURT: Yes.

15 **DIRECT EXAMINATION BY THE STATE**

16 Q Sir, where are you currently employed?

17 A I'm currently employed with the Las Vegas Metropolitan Police  
18 Department.

19 Q In what capacity?

20 A Patrol.

21 Q How long have you been employed with Metro?

22 A 16 years.

23 Q And as a patrol officer, are you assigned to as what's referred to as an  
24 Area Command?

25 A Yes.

1 Q What is an Area Command?

2 A It's an area where certain sector beats that we're patrolling are -- a  
3 certain area or part of the city. And they're just broken into different geographical  
4 areas within the whole area -- city. Excuse me.

5 Q Which area of command are you currently assigned to?

6 A Bolden Area Command.

7 Q Were you assigned to that area of command back in May of 2013?

8 A Yes.

9 Q Can you generally describe for the jurors the boundaries of that Area  
10 Command?

11 A Northbound to Cheyenne, south to Desert Inn, east to I-15, west to  
12 Jones.

13 Q Prior to being assigned to the Bolden Area Command, where were you  
14 assigned within Metro?

15 A Prior to that I was with the Gang Unit in -- with Metro.

16 Q What did you do in the Gang Unit?

17 A Invested gang crimes from shootings, to stabbings, to anything that's  
18 dealing with the gang element throughout the whole valley.

19 Q Okay. And prior to that you worked other various assignments within  
20 Metro as well. Correct?

21 A Yes.

22 Q On May 15<sup>th</sup> -- or May 17<sup>th</sup> of 2013, what shift were you working inside  
23 the Bolden Area Command?

24 A Morning shift.

25 Q What were the hours for that shift?

1           A     06:30 to 16:30. Or 6:30 in the morning to 4:30 in the afternoon.

2           Q     And while on shift, did you frequent an establishment known as CJ's  
3 Mini Mart?

4           A     Yes.

5           Q     And are you familiar with the owner of CJ's Mini Mart?

6           A     Yes.

7           Q     And the employees there?

8           A     Yes.

9           Q     Specifically directing your attention to May 17<sup>th</sup> of 2013, did you enter  
10 that establishment?

11          A     Yes.

12          Q     When you were inside of that establishment, did you make contact with  
13 an individual named John Bryant?

14          A     Yes.

15          Q     And did you just see the gentleman leave the courtroom a minute ago?

16          A     Yes.

17          Q     When you went into the CJ's Mini Mart that morning what was the --  
18 your purpose in being there?

19          A     Just to go to make community contact. To see how his day's going on,  
20 and to get myself something to drink so I can go back to hitting the streets again.

21          Q     Okay. So you weren't responding to a particular call there?

22          A     No.

23          Q     When you were inside of CJ's Mini Mart did Mr. Bryant bring to your  
24 attention a matter that was concerning?

25          A     Yes.

1 Q Based upon the information that he provided to you, what did you do?

2 A I got the information as far as video surveillance, pictures of the matter.  
3 I also got some information as far as the young lady who goes to -- I was told goes  
4 to Hyde Park Junior High School just a block away from the store.

5 Q Okay. Let me just interrupt you there for a second.

6 A Okay.

7 Q When you say that you looked at surveillance, did you actually watch  
8 surveillance footage from the 15<sup>th</sup>, 16<sup>th</sup>, and 17<sup>th</sup>? Or were you just watching it so  
9 that you could identify the suspect and the alleged victim?

10 A I just saw a still picture of that part -- of the day I was there, May 17<sup>th</sup>, of  
11 the suspect.

12 Q Okay. Were you also given a description of the victim?

13 A Yes, I was.

14 Q Were you given a photograph of the victim from that surveillance  
15 footage?

16 A Yes.

17 Q Okay. After you obtained the facts from Mr. Bryant that he observed on  
18 the 17<sup>th</sup> and you were able to get a still photograph of the suspect and the victim that  
19 were involved in this incident, did you then go on to Hyde Park Middle School?

20 A Yes.

21 Q What was your purpose in going there?

22 A To see if the young lady actually was a student there? And if she was  
23 then to further the investigation.

24 Q Did you make contact with a school counselor or other office employee  
25 that was able to help you identify the victim?

1 A Yes.

2 Q And did you identify that victim as C [REDACTED] C [REDACTED]?

3 A That's correct.

4 Q Were you actually able to make contact with C [REDACTED] C [REDACTED] on  
5 that date?

6 A Yes.

7 Q At the middle school?

8 A Yes.

9 Q Do you recall about what time you made contact with her?

10 A Probably like mid-aft -- mid-morning-ish.

11 Q When you made contact with her, did you obtain from her what's  
12 referred to as a written voluntary statement?

13 A That's correct.

14 Q What is a written voluntary statement?

15 A It's a statement that individuals can write on their account as far as  
16 what had happened to them. Be it a victim or just a witness to a crime. And is  
17 strictly voluntarily.

18 Q What instructions do you give a witness prior to having them complete a  
19 written voluntary statement?

20 A Once again, I just tell them that it is a voluntary statement. If you would  
21 like to tell me your side of the story from complete -- from the beginning to the end.  
22 And their certain sections to give their name, date of birth, so forth; where you live.

23 Q Okay. So you don't stand there and feed them information to put in  
24 there?

25 A No. I just tell them, just tell how you would talk to me is how you will

1 write it in the statement. I'm not going like coach you into saying what you need to  
2 say.

3 Q Prior to obtain that written voluntary statement, did you actually have a  
4 conversation with her about what had occurred in the week preceding the 17<sup>th</sup>?

5 A Yes.

6 Q Based upon the information that she provided to you, did you then  
7 contact someone else within Metro?

8 A Yes.

9 Q And who was that?

10 A Detective Lafreniere.

11 Q Why did you contact him?

12 A Detective Lafreniere works in the sexual assault detail.

13 Q And you were contacting him because of the information that C [REDACTED]  
14 provided to you on that date?

15 A That's correct.

16 Q Did you provide the still photograph of the suspect that you obtained  
17 from the gas station to Detective Lafreniere?

18 A Yes, I did.

19 Q And was that done so that he could potentially identify a suspect?

20 A That's correct.

21 Q Did you, yourself, make any attempts to identify the suspect?

22 A No, I did not.

23 Q Did you make any attempts to locate him within the vicinity of either  
24 CJ's Mini Mart or Hyde Park Middle School?

25 A No, I did not.

1 MS. MERCER: Your Honor, permission to publish State's Exhibit 3.  
2 THE COURT: Have you shown that to the Defendant?  
3 MS. MERCER: It's previously been admitted.  
4 THE DEFENDANT: Yes.  
5 THE COURT: All right.  
6 MS. MERCER: May I publish, Your Honor?  
7 THE COURT: Yes.  
8 BY MS. MERCER:  
9 Q Officer Givens, is this the still photograph of the suspect that you  
10 obtained when you reviewed that surveillance footage --  
11 A Yes.  
12 Q -- at CJ's? And it's the photograph that you provided to Detective  
13 Lafreniere?  
14 A Yes.  
15 Q How do you provide it him?  
16 A I took a picture of it on my iPad, and then I e-mailed it to my work  
17 e-mail, and e-mailed to La -- Detective Lafreniere  
18 Q Okay. So you didn't have any personal contact with Lafreniere prior to  
19 that?  
20 A No.  
21 Q Do you know whether or not he responded?  
22 A After I called, he said he was going to try to come out.  
23 Q Okay.  
24 MS. MERCER: Court's indulgence, Your Honor.  
25 No further questions.

1 THE COURT: Do you have any questions of this witness, Mr. Pigeon?

2 THE DEFENDANT: Just a couple, Your Honor.

3 THE COURT: Okay.

4 **CROSS-EXAMINATION**

5 BY THE DEFENDANT:

6 Q Officer Givens, you never saw me in person, correct? You did not  
7 make the arrest?

8 A No, I did not.

9 Q All right. That's all I wanted to clarify. And you were just an officer who  
10 was reporting the crime for the store.

11 A That is correct.

12 Q Of course it's not really a crime, it was more a concern. Wouldn't you  
13 say?

14 A Yes. I would say a concern.

15 Q All right. And were you a police officer before you were in Las Vegas?

16 A No.

17 Q All right. Just curious.

18 You from Las Vegas originally?

19 A Yes.

20 Q All right.

21 THE DEFENDANT: I think that's good enough, Your Honor. Thank you. I  
22 appreciate that, Mr. Givens.

23 THE COURT: Thank you. Do you have any further questions, State?

24 MS. MERCER: No, Your Honor.

25 THE COURT: Jury have any questions? Write it down and you're seat



1 number 7, 8, 9, 10, 11.

2 **EXAMINATION BY COURT [JURY QUESTIONS]**

3 BY THE COURT:

4 Q Did you attempt to copy the video footage? Or was that another  
5 officer?

6 A I did not make an attempt to make a copy.

7 Q You don't know.

8 A No. I don't know.

9 Q Okay.

10 THE COURT: Any questions based upon that question, State?

11 MR. SCHIFALACQUA: No, Your Honor.

12 THE COURT: Mr. Pigeon?

13 THE DEFENDANT: Nothing further, Your Honor.

14 THE COURT: Thank you, Officer. You can go.

15 THE WITNESS: Thank you.

16 THE COURT: Call your next witness.

17 MR. SCHIFALACQUA: Kathryn Hernandez.

18 **KATHRYN HERNANDEZ**

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

20 THE CLERK: Please be seated. Please state and spell your full name.

21 THE WITNESS: My name is Kathryn Hernandez. K-A-T-H-R-Y-N,  
22 H-E-R-N-A-N-D-E-Z.

23 THE COURT: Go ahead.

24 **DIRECT EXAMINATION BY THE STATE**

25 BY MR. SCHIFALACQUA:

1 Q Ms. Hernandez, do you live here in Las Vegas?

2 A Yes, I do.

3 Q And how long have you lived here?

4 A I was born here.

5 Q Do you know a young lady by the name of C [REDACTED] C [REDACTED]?

6 A Yes, I do.

7 Q And who is C [REDACTED]?

8 A She's actually my granddaughter. But I have custody of her.

9 Q Okay. Have you raised C [REDACTED]?

10 A Yes. Since she was born.

11 Q Does she refer to you as her grandmother or her --

12 A Mom.

13 Q -- mother?

14 A Mom.

15 Q And where were you living in May of 2013? So a year ago in May?

16 A That was at 925 Sierra Vista Drive.

17 MR. SCHIFALACQUA: Judge, may I approach?

18 THE COURT: Yes.

19 MR. SCHIFALACQUA: Thank you.

20 BY MR. SCHIFALACQUA:

21 Q I'm showing you what's been marked as State's Proposed Exhibit  
22 Number 2. I'll show you an overhead map. Do you see it marked here at 925 Sierra  
23 Vista?

24 A Right.

25 Q And is that the location you were living at the time?

1 A Yes.

2 Q Overall, is this a fair overhead of the area? Is that correct?

3 A Yes.

4 Q Okay.

5 MR. SCHIFALACQUA: I'd ask for the admission of State's Proposed 2.

6 THE COURT: Objection? Hearing no objection. It'll be admitted.

7 **[STATE'S EXHIBIT 2 ADMITTED]**

8 MR. SCHIFALACQUA: Thank you, Your Honor.

9 Just putting it on the screen. This has been admitted as 2.

10 BY MR. SCHIFALACQUA:

11 Q What are the major cross streets there?

12 A Like Joe W. Brown and just off of Desert Inn. Sierra Vista, actually.

13 Q And that's where you were living with C [REDACTED]. Is that right?

14 A Right.

15 Q It's just the two of you?

16 A No. I was with my daughter and my son also.

17 Q And last year, where was C [REDACTED] going to school?

18 A At Hyde Park Junior High.

19 Q Is that a magnet school?

20 A Yes.

21 Q And how would she get there in the mornings?

22 A She took the city bus.

23 Q Do you know the route she would go?

24 A She would catch the bus right in front of the apartments and then  
25 transfer to the Charleston bus downtown.

1 Q Okay. Was that the downtown terminal just a few --  
2 A Right.  
3 Q -- blocks from here?  
4 A Yes.  
5 Q So she'd take two busses to get to school in the morning?  
6 A Yes.  
7 Q Same coming home?  
8 A Yes.  
9 Q And do you remember what about time she starts school when she was  
10 a seventh grader?  
11 A She started at like 7:20-something. But she would get up early and  
12 catch the bus. Like 6-something.  
13 Q So sometime before 8:00 she starts. Right?  
14 A Oh yeah.  
15 Q Now, when she would take the bus to school, would she travel by  
16 herself?  
17 A Yes.  
18 Q Okay. Did she have a bus pass?  
19 A Yes.  
20 Q At the time, going to May 17<sup>th</sup> of last year, did you have any type of a  
21 police officer or a police detective call you about C [REDACTED]?  
22 A Yes, he did.  
23 Q Okay. I'm not going to get into everything he said to you, but do you --  
24 did you have a conversation about C [REDACTED] perhaps being a victim of a crime?  
25 A Yes.

1 Q Did you -- at the time, did you know anyone by the name of Christopher  
2 Pigeon?

3 A No.

4 Q And to be clear, at the time, the gentleman to my left here in the black  
5 plaid shirt, did you know him?

6 A No.

7 Q Is he in anyway affiliated with your family?

8 A No.

9 Q Did you ever give him any type of permission to speak, or touch, or take  
10 C [REDACTED] anywhere?

11 A No.

12 Q And did you ever give C [REDACTED] permission to hang around with him or  
13 hang out with him in any way?

14 A Not at all.

15 Q And you did not give permission in this case to him --

16 A No.

17 Q -- or to her. Is that correct?

18 A No.

19 MR. SCHIFALACQUA: Thank you, Judge. I pass the witness.

20 THE COURT: Do you have any questions of this witness, sir?

21 **CROSS-EXAMINATION**

22 **BY THE DEFENDANT:**

23 Q Hello, Ms. Hernandez, it's nice to meet you. I'm Christopher Pigeon. I  
24 apologize. I didn't mean to cause your family or your daughter that much trouble.

25 THE COURT: Okay. We don't need to testify.

1 THE DEFENDANT: Yes, understood.

2 THE COURT: You need to ask a question.

3 THE DEFENDANT: I understand.

4 BY THE DEFENDANT:

5 Q Was C [REDACTED] ever seemingly upset about seeing me for the couple of  
6 days that's claimed that she saw me?

7 A Of course.

8 Q She was a little upset?

9 A Oh yeah.

10 Q All right. Well, I apologize for that as well. I mean, she still was able to  
11 do homework and stuff. Right? Of course they don't have much homework in the  
12 seventh grade. I guess that's it. I just wanted to apologize and ask if she felt that  
13 badly at times. I don't think she felt too badly. I don't think she --

14 THE COURT: Okay. Now, don't testify. Just ask questions.

15 THE DEFENDANT: All right. Well, I wanted her specifically to hear that if  
16 that's okay.

17 THE COURT: All right.

18 BY THE DEFENDANT:

19 Q I just thought she enjoyed my company some, but apparently she was  
20 slightly emotional that one day. That's all I'll say, but thank you very much. I  
21 appreciate it. It's nice meeting you.

22 THE COURT: Any further questions of the State?

23 **REDIRECT EXAMINATION BY THE STATE**

24 BY MR. SCHIFALACQUA:

25 Q Ms. Hernandez, you said that she was upset afterwards. Could you

1 describe how she was upset?

2 A She was just upset, you know? She didn't want to associate with him at  
3 all, you know? And she was emotionally upset, you know? That's all.

4 Q Thank you.

5 A Scared. Really.

6 MR. SCHIFALACQUA: That's all I had, Judge.

7 THE COURT: Further questions?

8 THE DEFENDANT: No. That's it, Your Honor.

9 THE COURT: Jury have any questions of this witness? Seeing no hands.

10 Ma'am, you're free to go. Thank you.

11 Call your next witness, State.

12 MS. MERCER: Your Honor, the State calls C [REDACTED] C [REDACTED].

13 C [REDACTED] C [REDACTED]

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

15 THE CLERK: Please state and spell your full name.

16 THE WITNESS: C [REDACTED] Ca [REDACTED]. C [REDACTED], C [REDACTED].

17 MS. MERCER: May I proceed, Your Honor?

18 THE COURT: Yes.

19 **DIRECT EXAMINATION BY THE STATE**

20 BY MS. MERCER:

21 Q C [REDACTED], how old are you today?

22 A 13.

23 Q Back in May of 2013, how old would you have been?

24 A 12.

25 Q Back in May of 2013, which school were you attending?

1 A Hyde Park.

2 Q And is that a magnet school?

3 A Yes.

4 Q What kind of magnet school?

5 A Math and science.

6 Q Did you also attend Hyde Park for sixth grade?

7 A Yes.

8 Q And did you attend it this last year for eighth grade?

9 A Yes.

10 Q Where is Hyde Park Middle School?

11 A Valley View and Charleston.

12 Q How did you get there back in May of 2013?

13 A The bus. The public bus.

14 Q The city bus?

15 A Yeah.

16 Q Back in May of 2013 you were living on Sierra Vista.

17 A Yes.

18 Q Where would you catch the bus at home?

19 A The streets?

20 Q Was it on Sierra Vista or was it on a different street?

21 A It was close to Twain.

22 Q And when you would catch the bus in front of your home, about what

23 time would you catch the bus?

24 A About 6:39.

25 Q 6:39?



1 A Yes.

2 Q Is that in the morning?

3 A Yes.

4 Q When you would get on that bus, where would that bus take you?

5 A To the transit center.

6 Q Downtown?

7 A Yes.

8 Q And when you got off the bus in downtown, would you get on a different  
9 bus?

10 A Yes.

11 Q Where did that bus take you?

12 A To the school.

13 Q Where was the bus stop?

14 A Valley View and Charleston.

15 Q Okay. Back in May of 2013, were you living with your grandmother?

16 A Yes.

17 Q And that's Kathryn Hernandez?

18 A Yes.

19 Q She's also raised you. Correct?

20 A Yes.

21 Q When you were riding the bus to school back in May of 2013, were you  
22 riding the bus alone or did you have a friend or family member with you?

23 A Alone.

24 Q I want to direct your attention to around May 15<sup>th</sup> of 2013. At that time,  
25 did you notice someone that caused you to become uncomfortable?

1           A     Yes.

2           Q     And was the first time that you noticed him on the 15<sup>th</sup>? Or was it

3 earlier?

4           A     Yes.

5           Q     It was the 15<sup>th</sup>?

6           A     [Nods head yes].

7           Q     Where did you first notice him?

8           A     The transit center downtown.

9           Q     Downtown? Where was he when you noticed him?

10          A     The -- inside the transit center.

11          Q     What made you notice him on the 15<sup>th</sup>?

12          A     I don't know. I just noticed him.

13          Q     Was he looking at you?

14          A     Yes.

15          Q     Did it make you uncomfortable?

16          A     Yes.

17          Q     When you noticed him, did you also notice him getting on the same bus

18 as you?

19          A     Yes.

20          Q     Where did he get off the bus?

21          A     The same stop.

22          Q     The same stop as you got off?

23          A     Yes.

24          Q     Back in May of 2013, were you in the habit of going to a place called

25 CJ's Mini Mart before school?

1           A     Yes.

2           Q     Did you sometimes just get a drink or a snack? What were you doing in  
3 there?

4           A     I was getting like a snack.

5           Q     How much time did you usually have between the time the bus dropped  
6 you at Charleston and Valley View and the time that school started?

7           A     I got there around 7:25. So -- well, around 7:30 actually. So  
8 sometimes it would ring before I got there. And sometimes not.

9           Q     Sometimes the first bell would ring before you got there?

10          A     Yeah.

11          Q     What time did school start?

12          A     7:50.

13          Q     A.M.?

14          A     Yes.

15          Q     So you generally had about 20 minutes before school started?

16          A     Yes.

17          Q     After you got off the bus?

18          A     Uh-huh. Yes.

19          Q     When you noticed this strange man on May 15<sup>th</sup> of 2013 and you  
20 noticed that he got on the same bus as you downtown and off as the same bus stop  
21 as you, at Charleston and Valley View, did you notice whether or not he followed  
22 you once you were off the bus?

23          A     Yes, to the store.

24          Q     To the CJ's Mini Mart?

25          A     Yeah.

1 Q And that's kind of at the intersection of Charleston and Valley View.

2 Correct?

3 A Yes.

4 Q Do you see that man in the courtroom today, C [REDACTED]?

5 A Yes.

6 Q Could you please point to him and describe an article of clothing that  
7 he's wearing today?

8 A [Points at Defendant]. A plaid shirt.

9 THE COURT: The record will reflect she's identified the Defendant.

10 MS. MERCER: Thank you, Your Honor.

11 BY MS. MERCER:

12 Q Did you know this man prior to May 15<sup>th</sup> of 2013?

13 A No.

14 Q When he got on the bus with you on May 15<sup>th</sup> of 2013, did you notice  
15 where he sat?

16 A It was on the bottom floor.

17 Q And where did you sit?

18 A The top. I'm pretty sure.

19 Q So, you were in completely separate sections of the bus?

20 A Yes.

21 Q So, you would not have had occasion to strike up a conversation with  
22 him?

23 A No.

24 Q When you noticed that he got off at the same bus stop as you at  
25 Charleston and Valley View, did you have any sort of conversation with him at that

1 point?

2 A No.

3 Q Were you doing anything to initiate any sort of contact with him?

4 A No.

5 Q When he followed you into the store, could you tell what he was doing  
6 inside of the store?

7 A I think he bought something.

8 Q Did he continue to look at you while you were in the store?

9 A Yes.

10 Q Did it continue to make you uncomfortable?

11 A Yes.

12 Q Did he ever say anything to you when you were inside of the store on  
13 the 15<sup>th</sup>?

14 A No.

15 Q Did you purchase anything inside of the store on the 15<sup>th</sup>?

16 A Yeah.

17 Q Do you remember what you purchased?

18 A I think I got a pack of gum. Yeah.

19 Q After you bought the pack of gum, did you immediately leave the store  
20 and head towards school?

21 A Yes.

22 Q Did you notice whether or not the Defendant followed you out of the  
23 store?

24 A I wasn't sure because the bell rang before I got there.

25 Q Okay. So you could hear the bell ringing as you were walking to

1 school?

2 A Yes.

3 Q And when you heard that bell ring, did you get concerned that you were  
4 going to be late for school?

5 A Yeah. I was in a rush.

6 Q So, you just started running to class; didn't really attention to what was  
7 behind you?

8 A Yes.

9 Q Did you see him after school that day?

10 A No.

11 Q Did you think it was odd that the Defendant got off at the same bus stop  
12 as you and that he followed you to the store?

13 A Yeah.

14 Q Were you -- did it cause you to be worried? Or concerned?

15 A Yes.

16 Q I want to fast forward to the following day, which would have been  
17 Thursday, May 16<sup>th</sup>.

18 A Uh-huh. Yeah.

19 Q Did you see him again on that date?

20 A Yes.

21 Q Where did you see him?

22 A Same place. At the transit center.

23 Q Downtown?

24 A Downtown.

25 Q And when you saw him at the transit center downtown, was he inside

1 again or was he outside?

2 A Inside.

3 Q Inside of the transit center?

4 A Yes.

5 Q Did you notice him looking at you again on the 16<sup>th</sup> -- on Thursday?

6 A Yes.

7 Q When he was looking at you, was he staring at you or would he just  
8 glance in your direction for a few seconds and then look away and then glance back  
9 for a few more seconds?

10 A Glance.

11 Q Did you -- when you saw him at the bus station on the 16<sup>th</sup>, did you ever  
12 try to strike up a conversation with him?

13 A No.

14 Q Were you trying to stay clear of him?

15 A Yes.

16 THE COURT: Okay. You got to speak up. You can't shake your head.  
17 Okay?

18 THE WITNESS: Okay.

19 BY MS. MERCER:

20 A Yes.

21 Q You were trying to stay clear of him?

22 A Yes.

23 Q Because he concerned you?

24 A Yes.

25 Q Did he once again get on the same bus as you?

1 A Yes.

2 Q Did you -- do you remember where he sat that time, on Thursday?

3 A The bottom floor.

4 Q And where did you sit?

5 A I'm pretty sure I went to the top. Yeah. I went to the top.

6 Q Did you usually sit on the top floor of the bus?

7 A Yes.

8 Q Why?

9 A I just like it better on the top.

10 Q So, again, you never had a conversation with him during that bus ride

11 on the 16<sup>th</sup>?

12 A No.

13 Q Did he get off at the same bus stop as you again on the 16<sup>th</sup>?

14 A Yes.

15 Q And on the 16<sup>th</sup>, did -- were you planning on going to CJ's Mini Mart?

16 Or were you going a different route to school when you got off the bus stop?

17 A I went to CJ's Mini Mart, I think. Yeah.

18 Q Okay. Were you -- at some point while you were walking to CJ's, did

19 the Defendant kind of confront you in a parking lot area?

20 A That was either that day or the next day. I don't recall.

21 Q Okay. So either on the 16<sup>th</sup> or the 17<sup>th</sup> he confronted you in the parking

22 lot?

23 A Yes.

24 Q Is it safe to say that you saw the Defendant both on the 16<sup>th</sup> and the

25 17<sup>th</sup>?



1           A     Yes.

2           Q     On the 17<sup>th</sup> he got on the same bus stop as you and got off the same  
3 bus stop as you again?

4           A     Yes.

5           Q     And one of those days you were not planning on going to CJ's.  
6 Correct?

7           A     Yes.

8           Q     Where -- instead of going to CJ's were you just walking straight to  
9 school?

10          A     Yeah.

11          Q     And when you weren't going to CJ's, did you take a different route to  
12 school than the route that you would take?

13          A     Yes.

14          Q     And how would you get to school?

15          A     I would walk past the -- it's a place called Sonio's Café. And I would  
16 go -- I would walk in that parking lot and then I would make a left and I would go  
17 through a gate that was -- it was by the park and then I would cross the street to go  
18 to school.

19          Q     Okay. So you would kind of walk around the back of the business?

20          A     Yes.

21          Q     And on the day that you were not going to CJ's Mini Mart -- that day  
22 that you were taking that back route to the school --

23          A     Yes.

24          Q     -- how was it that the Defendant confronted you?

25          A     He like grabbed like wrist -- my hand, I guess. And so I told him to

1 leave me alone and then I went to the CJ's Mini Mart.

2 Q Okay. Prior to him grabbing your hand kind of, did he do anything to  
3 kind of stop you or get your attention?

4 A Oh yeah. He kind of -- I was walking on the like the staircases and then  
5 I tried to go down and then he blocked me from going.

6 Q He blocked you on the staircase?

7 A Yes.

8 Q So did he stand in the staircase then?

9 A I think he was on the bottom of the staircase.

10 Q And -- I'm sorry. What did he say to you?

11 A He said -- well -- I'm not -- oh yeah. He said you look nice today and I  
12 just kind of ignored and then I just went.

13 Q Did you say anything to him?

14 A No.

15 Q At any point when the Defendant was following you and making you  
16 uncomfortable, did you ask him to leave you alone?

17 A When he did like that against my hand then I told him to leave me  
18 alone.

19 Q When he grabbed your hand?

20 A Yeah.

21 Q Did he leave you alone?

22 A No. He kept following me to the mini mart.

23 Q Okay. Did you go to the CJ's Mini Mart because you felt unsafe?

24 A Yes.

25 Q And you knew that there would be people at CJ's?

1 A Yes.

2 Q When you asked him to leave you alone, and you went towards CJ's  
3 Mini Mart, did you kind of run away from him or were you just walking normally?

4 A I like -- I was walking fast and then like yeah. Well, at first I started to  
5 run and then I just was walking fast.

6 Q And did he say anything to you as you were trying to get away from  
7 him?

8 A I don't recall.

9 Q Once you got to CJ's, did you actually go inside CJ's?

10 A Yes.

11 Q Did the Defendant also enter CJ's?

12 A Yes.

13 Q Could you see where he was inside of CJ's?

14 A He sat at the machines. Like the --

15 Q The slot machines.

16 A Yes.

17 Q When he seated at the slot machines, could you see in what direction  
18 he was looking?

19 A No, I didn't really pay attention to him.

20 Q Were you trying to ignore him?

21 A Yes.

22 Q Did you end up making a purchase that day?

23 A Yes. I think I got Gatorades.

24 Q And then did you leave the store immediately after that?

25 A Well, I put them in my backpack and then yeah, I left.

1 Q When you left the store that day, did you notice whether or not the  
2 Defendant followed you out of the store?

3 A I don't recall. I don't remember if he did.

4 Q After he followed you for two days straight --

5 A Uh-huh.

6 Q -- how did you feel?

7 A I felt like scared or whatever.

8 Q What were you afraid might happen to you?

9 A I wasn't sure. I was just trying to think nothing.

10 Q At the time you were 12 years old. Correct?

11 A Yes.

12 Q How old did you think the Defendant was?

13 A 40's.

14 Q Early? Late?

15 A Mid, I guess.

16 Q Other than telling him to leave you alone, did you ever have a  
17 conversation with him?

18 A No.

19 Q Would you have considered yourself an acquaintance of his?

20 A No.

21 Q Okay. Now, I want to talk about May 17<sup>th</sup> of 2013. That was that  
22 Friday. Correct? Or actually, let me back up. On the 16<sup>th</sup>, did you notice whether or  
23 not he was -- did he get on the bus with you that afternoon?

24 A Yes.

25 Q On the 16<sup>th</sup> he did.

1 A Yes.

2 Q Okay. And --

3 A Well, the morning. Not the afternoon.

4 Q Okay. I'm just talking about the afternoon of the 16<sup>th</sup>. Did you ever see  
5 him outside of the school after that?

6 A No.

7 Q Okay. Now I'm going ahead to May 17<sup>th</sup>. You saw him again?

8 A Yes.

9 Q Where did you see him on the 17<sup>th</sup>?

10 A Same place. The transit center downtown.

11 Q Did he get on the same bus as you again?

12 A Yes.

13 Q When you saw him at the transit center, did you have any sort of  
14 conversation with him?

15 A No.

16 Q Were you trying to ignore him again?

17 A Yes.

18 Q Where did you ride on the bus that day?

19 A Like where to?

20 Q On the top or bottom?

21 A I think that day I stood at the bottom because there was no seats at the  
22 top.

23 Q The bus was full?

24 A Yes.

25 Q Where did he sit?

1           A     On the bottom part. Or actually -- yeah, I'm pretty sure it was the  
2 bottom part.

3           Q     On the bus that morning did you have any conversations with him?

4           A     No.

5           Q     Did he try to talk to you?

6           A     Not on the bus. No. Well -- yeah. No.

7           Q     No? Did you notice whether or not he was still looking at you while you  
8 were on the bus that morning?

9           A     Yeah. I'm pretty sure.

10          Q     Did he get off at the same place as you again?

11          A     Yes.

12          Q     Do you remember what he was wearing that Friday?

13          A     I don't recall.

14          Q     You don't recall. Do you remember completing a handwritten statement  
15 for an Officer Troy Givens later on that day?

16          A     Yes.

17          Q     Would it refresh your recollection if I showed you a copy of that?

18          A     Yes.

19          MS. MERCER: Your Honor, may I approach the witness?

20          THE COURT: Yes.

21          THE DEFENDANT: All right. That's okay.

22          BY MS. MERCER:

23                Q     If you could just read this to yourself quietly and then hand it back to  
24 me. And tell me whether or not it refreshes your memory about what he was  
25 wearing.

1 A Okay.

2 Q Does that refresh your recollection?

3 A Yes.

4 Q And what was he wearing that day?

5 A An American flag t-shirt with tan khaki's and black tennis shoes.

6 Q And was he wearing any glasses that day?

7 A Yes.

8 Q What kind of glasses?

9 A Circular prescription.

10 Q Okay. When you got off the bus that day did you go back to CJ's

11 again?

12 A Yes.

13 Q And do you remember having a conversation with the clerk that was

14 working the cash register that morning?

15 A Yes.

16 Q What did he ask you?

17 A He asked if it was my dad and I said no.

18 Q While you were inside of the store that morning, did the Defendant say

19 anything to you?

20 A He said you look nice again.

21 Q When he said that to you what did you do?

22 A I ignored him and I walked away.

23 Q When you walked away, did you walk out of the store or to a different

24 part of the store?

25 A I -- well, we have to put our backpacks down. So I walked over to

1 where we put the backpacks and I put my stuff in my backpack and then I left.

2 Q Okay. When you say that you have to put your backpacks down, you  
3 have to put them by the front door of the business?

4 A Yes.

5 Q And that's just so that people don't shoplift?

6 A Yes.

7 Q And so you made a purchase and you went to put your items in your  
8 backpack and then you left the store?

9 A Yes.

10 Q Did you notice whether or the not the Defendant followed you out of the  
11 store that morning?

12 A Yes.

13 Q Did he follow you?

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

15 Q Were you walking pretty quickly to get to school?

16 A Yes.

17 Q Were you afraid?

18 A Yes.

19 Q Were you creeped out?

20 A Yes.

21 Q Later on that day did a police officer visit you at school?

22 A Yes.

23 Q And that's when you provided him that written voluntary statement?

24 A Yes.

25 Q Did you also have contact with a Detective Lafreniere later on?



1 A Yes.

2 Q And you did a tape recorded statement that time. Correct?

3 A Yes.

4 Q And these three days that you saw the Defendant in the morning at the  
5 bus station, you never saw him after school. Correct?

6 A No.

7 Q And you never asked him to walk you to school or walk you to the gas  
8 station or anything like that. Correct?

9 A No.

10 Q Did you do your best to avoid him?

11 A Yes.

12 MS. MERCER: Court's indulgence.

13 I have no further questions, Your Honor.

14 THE COURT: Do you have any questions of this witness?

15 THE DEFENDANT: Oh, of course, Your Honor.

16 THE COURT: You can sit down. Please sit.

17 THE DEFENDANT: Oh.

18 THE COURT: Thank you.

19 **CROSS-EXAMINATION**

20 BY THE DEFENDANT:

21 Q Hello, C[REDACTED]. Nice to see you. I apologize if I caused you any  
22 emotional trouble. You look nice, of course.

23 THE COURT: That's testifying.

24 THE DEFENDANT: Yes, I understand.

25 THE COURT: That is not asking a question.

1 BY THE DEFENDANT:

2 Q Do you think it's possible I was just trying to get to know you a little  
3 before summer so maybe I could have permission from you to go meet your  
4 parents?

5 A No.

6 Q You don't think that's possible?

7 A No.

8 Q Sorry to hear that. I thought you were very nice. I was interested in  
9 getting to know you and perhaps even going out with you at some point, even  
10 though you're young.

11 MS. MERCER: Your Honor?

12 THE DEFENDANT: Even in a year or two.

13 MS. MERCER: Your Honor, at this point I'm going to object.

14 THE COURT: You're testifying. Just ask a question, sir.

15 THE DEFENDANT: I thought it was important that she hear it.

16 THE COURT: Well, I understand you think it's important, but you need to ask  
17 questions.

18 THE DEFENDANT: All right.

19 BY THE DEFENDANT:

20 Q I believe it was on the 15<sup>th</sup> when you walked through the parking area to  
21 school rather than down Charleston towards CJ's. You did walk up to the platform  
22 and you came down the stairs. I wasn't right on top of the stairs, was I? I was a  
23 little further away, wasn't I?

24 A Yes.

25 Q I didn't really block you too much, I didn't think.

1 A You did.

2 Q You were able to run away, though. I was just -- wanted to say hello to  
3 you. That's all. I was trying to get to know you. I know you're young and I know I'm  
4 slightly older. We'll say it was a light touch on the hand, you said. Correct?

5 A Yes.

6 Q All right. And you said just a little bit of a block?

7 A No.

8 Q I was hoping you and your mother might give me permission to see you  
9 at some point if that's okay.

10 THE COURT: Okay. That's testifying. You need to ask a question.

11 THE DEFENDANT: All right. Well --

12 BY THE DEFENDANT:

13 Q You remember me buying something in the store one day?

14 A Yes.

15 Q All right. It was an RC Cola probably. Right?

16 A I don't recall.

17 Q How did the detective first contact you? Or was it the principal or the  
18 security people in the school that first contacted you on the day that John Bryant  
19 said something?

20 A The police.

21 Q They came and got you out of class?

22 A Yes.

23 Q All right. Well, I appreciate you being here C [REDACTED]. Thank you for  
24 your time. That's all I have for you.

25 THE COURT: Thank you.

1 THE DEFENDANT: Thank you, Your Honor.

2 THE COURT: State? Do you have any questions?

3 MS. MERCER: I don't have any more questions, Your Honor.

4 THE COURT: The jury has some questions.

5 THE DEFENDANT: Actually, Your Honor, I might like to ask one more  
6 question, if I could.

7 THE COURT: Okay. Just a second.

8 All right. What question do you have now?

9 THE DEFENDANT: Give me one minute.

10 **CROSS-EXAMINATION (CONTINUED)**

11 BY THE DEFENDANT:

12 Q When you talked to the police officer the first day you talked to them  
13 and you wrote a statement for them you said you felt weirded out. Is that correct?

14 A Yes.

15 Q On here it doesn't say you were scared. You didn't say you were  
16 scared until later. Is that correct?

17 A Yes.

18 Q All right. Thank you. I appreciate that.

19 THE COURT: Is that it?

20 THE DEFENDANT: I might have one more. Give me one more second.

21 BY THE DEFENDANT:

22 Q Had you ever seen in the bus station, by the way, before the 15<sup>th</sup>?

23 A No.

24 Q All right. I have one more question, C [REDACTED]. When you told me to  
25 leave you alone and you ran off towards CJ's and I slowly followed you, I didn't get

1 there right away. I came a little bit later. Do you think it's possible that I was just  
2 trying to make sure you were okay?

3 A No.

4 Q I was just trying to make sure you were okay. But that's all I'll say.  
5 Thank you. I appreciate your time, C [REDACTED]. It's nice to see you.

6 THE DEFENDANT: Thank you, Your Honor.

7 THE COURT: State have any questions?

8 **REDIRECT EXAMINATION BY THE STATE**

9 BY MS. MERCER:

10 Q C [REDACTED], you testified that you were afraid for your safety.

11 A Yes.

12 Q Were you afraid that he might try to kidnap you?

13 A Yes.

14 Q Were you afraid that he might try to harm you?

15 A Yes.

16 Q Did you think that it was odd that a 40-something year old man was  
17 trying to hit on you at 12 years old?

18 A Yes.

19 MS. MERCER: No further questions.

20 THE DEFENDANT: I never said -- there is one more thing, C [REDACTED].

21 **RECROSS-EXAMINATION**

22 BY THE DEFENDANT:

23 Q I never said anything inappropriate to you, did I?

24 A Well it weirded me out.

25 Q Weirded you out. All right. But I just said you looked beautiful and it

1 was nice to see you.

2 One more thing. I never -- you never saw me with anything to transport  
3 you with or anything. Correct? It was just me walking with you and --

4 A Yes.

5 Q It was just the bus. And I didn't have any other implements with me.  
6 My hands were empty. I mean, I had nothing in my hands.

7 A Yes.

8 Q All right. Thank you. I appreciate that.

9 **EXAMINATION BY COURT [JURY QUESTIONS]**

10 BY THE COURT:

11 Q Were there any other preteens around before or after school at CJ's?

12 A After school. Yes.

13 THE COURT: Any questions by the State?

14 MS. MERCER: No, Your Honor.

15 THE COURT: Any questions, Mr. Pigeon?

16 THE DEFENDANT: No, I'm okay.

17 THE COURT: Based on that question.

18 THE DEFENDANT: Pardon me?

19 THE COURT: Based on that question, do you have any --

20 THE DEFENDANT: No.

21 THE COURT: -- questions?

22 THE DEFENDANT: I have nothing further.

23 BY THE COURT:

24 Q Did you have a cell phone at the time of those -- in those days?

25 A Yes.

1 THE COURT: Questions?

2 MS. MERCER: If I could just clarify.

3 **FOLLOW-UP EXAMINATION BY THE STATE**

4 BY MS. MERCER:

5 Q C [REDACTED], did you actually have a cell phone back then or do you have  
6 one now?

7 A Back then.

8 Q You had one back then?

9 A Yes.

10 Q Did you ever try to contact your grandmother?

11 A No.

12 Q Why?

13 A I don't know.

14 THE COURT: Do you have any questions?

15 THE DEFENDANT: No. I'm okay, Your Honor.

16 **EXAMINATION BY COURT [JURY QUESTIONS]**

17 BY THE COURT:

18 Q Did you report your concerns about Mr. Pigeon to anyone at school?

19 A No.

20 Q At home?

21 A No.

22 Q 15<sup>th</sup>, 16<sup>th</sup>, or 17<sup>th</sup>?

23 A No.

24 Q Why or why not?

25 A I don't know why not.

1 Q How long of a wait did you have at the layover at the transit on the 15<sup>th</sup>?

2 A About ten to fifteen minutes.

3 Q How long was -- did you notice Mr. Pigeon at the transit center when  
4 you got there?

5 A The first day I didn't at first really notice him and then I did. And then  
6 the other days I did notice him there.

7 Q How long on the other days did it take you to notice he was there?

8 A Not long. When I walked in there I saw him.

9 Q Did it appear that he was waiting for you?

10 A Yes.

11 Q Did Mr. Pigeon try to interact with you at the transit center?

12 A No.

13 THE COURT: Questions by the State?

14 MS. MERCER: No, Your Honor.

15 THE COURT: Mr. Pigeon?

16 THE DEFENDANT: Nope. I'm okay.

17 THE COURT: Thank you. You can step down.

18 We're going to take a five-minute recess, ladies and gentleman. During  
19 this recess you're admonished not to talk or converse among yourselves or with  
20 anyone else on any subject connected with the trial. Or read or watch or listen to  
21 any report of or commentary on the trial or any person connected with this trial by  
22 any medium of information including, without limitation, newspapers, television,  
23 radio, or the internet. Or form or express an opinion on any subject connected with  
24 the trial until the case is finally submitted to you.

25 Take five minutes, please.



1 [Outside the presence of the jury]

2 THE COURT: All right. Take five minutes, please.

3 [Recess taken at 2:28 p.m.]

4 [Trial resumed at 2:38 p.m.]

5 [Outside the presence of the jury]

6 THE COURT: All right. They want to put something on the record, Mr.  
7 Pigeon. The State does.

8 MR. SCHIFALACQUA: It's just more of a --

9 THE COURT: Hold on. It hasn't kicked in yet.

10 Okay. We're on the record.

11 MR. SCHIFALACQUA: Okay. Thank you.

12 THE COURT: Sorry.

13 MR. SCHIFALACQUA: Thank you, Your Honor.

14 We have two more witnesses lined up for today. One is just a  
15 custodian of records. So that shouldn't be more than ten minutes or so. And then  
16 the very last witness is the lead detective, Jason Lafreniere. Through him, he took a  
17 taped statement of the Defendant. The Defendant has the full transcript of that, just  
18 so the Court knows.

19 He is a training class that goes until about 3:30. And he can be here by  
20 3:45 or 4:00. What I was suggesting is so we don't waste the jury's time is -- and he  
21 will be a witness just so everyone knows, is to start playing the statement. We're  
22 just going to listen to the audio of his interview with Detective Lafreniere. And --

23 THE COURT: Does anything in that audio have to be redacted?

24 MR. SCHIFALACQUA: Yes.

25 MS. MERCER: We already did that.

1 MR. SCHIFALACQUA: And we did that.

2 THE COURT: You've already redacted it?

3 MR. SCHIFALACQUA: We redacted out any questions about his priors or a  
4 prior sex offender. So that's been taken out of the statement.

5 THE COURT: So what they're saying is, Mr. Pigeon, is we want to start it and  
6 we'll lay the foundation after the detective gets here. Do you have any objection to  
7 that?

8 THE DEFENDANT: Going to lay the foundation for the prohibited acts?

9 THE COURT: No. For the vid -- the tape. They're -- they took out any  
10 discussion in your statement to the detectives about your prior convictions. So the  
11 prohibited acts won't be in there.

12 THE DEFENDANT: Okay. So this --

13 THE COURT: Tell him what it is.

14 THE DEFENDANT: -- discussion is about --

15 MR. SCHIFALACQUA: The transcript that you have it was the interview with  
16 Detective Lafreniere on May 17<sup>th</sup>. So it's that transcript. We just took out the  
17 part -- any part referencing that there's prior convictions. So what we're --

18 MS. MERCER: Or prior conduct that shouldn't have occurred.

19 MR. SCHIFALACQUA: Right. So what we're doing is asking permission to  
20 start playing that. Detective Lafreniere will be a witness, but just so we don't waste  
21 the jury's time.

22 MS. MERCER: And, Your Honor, if you want I can have my copy of the  
23 transcript with the redactions -- the parts that were redacted are highlighted on here.  
24 I can make it a court exhibit.

25 THE COURT: All right. We'll go ahead and start the -- have your detective

1 come. We'll examine the detective when he gets here. We'll play the tape. This will  
2 be marked, not as an exhibit, but as a court exhibit, Mr. Pigeon. So that it's not  
3 disclosed to the jury. The statement. It's a -- it's not going to be disclosed to the  
4 jury.

5 THE DEFENDANT: Which statement is that now?

6 THE COURT: The printed statement of where the made the redactions,  
7 where they took out stuff about your past.

8 THE DEFENDANT: All right. That's Lafreniere's statement?

9 THE COURT: Your -- I don't --

10 MR. SCHIFALACQUA: Yeah.

11 THE COURT: Yes.

12 THE DEFENDANT: All right.

13 MR. SCHIFALACQUA: With you. Correct.

14 THE COURT: Your statement to him.

15 THE DEFENDANT: They'll --

16 THE COURT: Okay.

17 THE DEFENDANT: Yes. They've already heard some of that though, haven't  
18 they?

19 MS. MERCER: No. They heard it in opening statements. That's not  
20 evidence.

21 THE COURT: They --

22 THE DEFENDANT: That's what I mean.

23 THE COURT: That's not --

24 THE DEFENDANT: Opening statement.

25 THE COURT: That's not in evidence. They have to prove it now.

1 THE DEFENDANT: Well, can we say that in your instruction?

2 THE COURT: Yeah. We can work through that.

3 THE DEFENDANT: All right.

4 MR. SCHIFALACQUA: Okay, Judge. So, hopefully I'll call this one custodian,  
5 we'll start the tape, but the detective will be here afterwards to talk about the whole  
6 interview and have -- be subject to cross.

7 THE COURT: Okay.

8 MS. MERCER: Your Honor, do you mind if I just check the hallway to see if  
9 she's here yet?

10 THE COURT: Yes.

11 [Pause in proceedings]

12 MS. MERCER: She's here, Your Honor.

13 THE COURT: Are we ready?

14 MS. MERCER: I believe so.

15 THE COURT: Where is Schifalacqua?

16 MS. MERCER: He's with the wit --

17 THE COURT: Okay. Go --

18 MS. MERCER: He's just with the witness, giving her something.

19 THE COURT: Bring the jury in, Tom.

20 [In the presence of the jury]

21 THE MARSHAL: All rise, please

22 And be seated.

23 THE COURT: Stipulate to the presence of the jury.

24 MS. MERCER: Yes, Your Honor.

25 THE COURT: All right. Call your next witness.

1 MR. SCHIFALACQUA: Cecilia Gallarzo.

2 **CECILIA GALLARZO**

3 THE CLERK: Please state and spell your full name.

4 THE WITNESS: Cecilia Gallarzo.

5 THE CLERK: Please spell it.

6 THE WITNESS: Oh. C-E-C-I-L-I-A, G-A-L-L-A-R-Z-O.

7 THE COURT: Go ahead.

8 **DIRECT EXAMINATION BY THE STATE**

9 BY MR. SCHIFALACQUA:

10 Q Ma'am, how are you employed?

11 A Yes.

12 Q And how are you employed? Where do you work?

13 A Oh, how are you? I'm employed at Fitness for \$10. It's a --

14 Q What is Fitness for \$10?

15 A It's a gym just down the street on Sahara.

16 Q Okay. So a workout facility. Treadmills, weights, all that type of stuff.

17 Right?

18 A Correct.

19 Q Okay. Do you have locker rooms there?

20 A Yes, we do.

21 Q And do you have showers there as well?

22 A Yes, we do.

23 Q Okay. And in the locker rooms, are there actual lockers?

24 A Yes, there are.

25 Q Okay. Tell me about that.

1           A     So the lockers are for days. So you just bring your own lock and then  
2 take it home once you're done.

3           Q     Okay. But you can use it while you're there. Right?

4           A     Right.

5           Q     And lock up your belongings while you're exercising or showering or  
6 whatever. Right?

7           A     Correct.

8           Q     Oh, okay. And what's your position with Fitness for \$10?

9           A     I'm the general manager.

10          Q     Okay. And being the general manager, do you guys have like an  
11 application process to become a member?

12          A     Yes, we do.

13          Q     Could you describe that?

14          A     So basically everything is done electronically. We just take down their  
15 information based off of their license and the information that they give us. And then  
16 take down their billing information like -- such as a credit card or debit card; prepaid  
17 card. So.

18          Q     All right. And you've had access to those documents as the general  
19 manager. Is that right?

20          A     Correct.

21          Q     Okay. And did you actually provide some of those documents to the  
22 District Attorney's office in connection with you coming to court today?

23          A     Yes, we did.

24          MR. SCHIFALACQUA: Okay, Judge, we've shown the -- Mr. Pigeon this.  
25 This is State's Proposed 33. If I could approach?

1 THE COURT: Yes.

2 BY MR. SCHIFALACQUA:

3 Q And I'm just showing you three pages here. Do you recognize this  
4 document?

5 A Yes.

6 Q What is this?

7 A That's our membership agreement. It's the copy we hand out to the  
8 members or e-mail them.

9 Q Okay. And is the one that's been filled out by a member?

10 A We do it electronically. They just digitally sign.

11 Q I see. And is this a fair and accurate copy of an application that was  
12 submitted with your company?

13 A Correct.

14 MR. SCHIFALACQUA: Okay. I'd ask for the admission of State's Proposed  
15 33.

16 THE COURT: Objection? Be admitted.

17 **[STATE'S EXHIBIT 33 ADMITTED]**

18 MR. SCHIFALACQUA: Thank you, Your Honor.

19 BY MR. SCHIFALACQUA:

20 Q Let's put it on the screen so everybody can see. So this is your logo,  
21 kind of -- your title up there. Right? Fitness for \$10.

22 A Correct.

23 Q And your address?

24 A Yes.

25 Q 4720 West Sahara, Las Vegas, Nevada. Right?

1 A Correct.

2 Q Okay. And who is the member who signed up here?

3 A Christopher Pigeon.

4 Q And does it say how it was done? What does this source mean I

5 guess?

6 A That's just how they heard about us.

7 Q And it's got a date of birth on here. Is that right?

8 A Yes.

9 Q Date of birth. What is it?

10 A Oh. It's zoomed out. I can't read it.

11 Q It's not on there?

12 A No. It's zoomed in too far.

13 Q Oh, okay. Can you -- you know what, you can step down actually and

14 maybe just look on the TV here.

15 A Oh.

16 Q What does it say?

17 A [Indiscernible]

18 Q Okay. Where my finger is here --

19 A Oh.

20 Q Is that it?

21 A August 31<sup>st</sup>, 1962.

22 Q Okay. All right. I thought I was losing my mind there. Okay.

23 A I was looking at the different part.

24 Q Okay. Is that -- the birth date and that type of thing, is that provided by

25 the member when they're signing up?



1 A Yes.

2 Q Okay. That's something that you come up with. Is that a no?

3 A No. Sorry.

4 Q This is probably obvious, but the dues are \$10 a month. Right?

5 A Correct.

6 Q Okay. And this started, am I right, April 5<sup>th</sup> of 2013?

7 A Correct.

8 Q Okay. So this individual would have been a member from April on, until

9 the membership ended. Is that right?

10 A Correct.

11 Q Okay. But was a membership in April and May. Right?

12 A Correct.

13 Q Okay. Were you present when the police came and did a search

14 warrant on a locker in connection with this case?

15 A Yes, I was.

16 Q Okay. You were actually working there?

17 A Yes.

18 Q Okay. And did you help the police in doing that? Or at least pointing

19 out where this was?

20 A Yeah. I just pointed out the locker room towards -- to them.

21 Q Was it the men's or the woman's?

22 A The men's.

23 Q And then the police took it from there?

24 A Yes.

25 Q Okay.

1 MR. SCHIFALACQUA: Thank you, Your Honor. I pass the witness.

2 THE COURT: Do you have any questions of this witness?

3 **CROSS-EXAMINATION**

4 BY THE DEFENDANT:

5 Q Nice to see you, Cecilia.

6 A Hi.

7 Q Hi. I exercised there regularly for about a month and a half. Correct?

8 A Correct.

9 Q Or two months. Maybe it was three months, almost.

10 A Around there I think.

11 Q Somewhere in there.

12 A Yeah.

13 Q I usually use the lockers. Right?

14 A Yes.

15 Q And you didn't know that for certain, but perhaps the fitness people  
16 knew that. Do you still have my lock -- my backpack?

17 A No.

18 Q No. Did the police take that?

19 A I'm not certain.

20 Q All right. Thank you very much. I appreciate it. That's all I have, Your  
21 Honor.

22 **REDIRECT EXAMINATION BY THE STATE**

23 BY MR. SCHIFALACQUA:

24 Q If a lock is left on overnight, is it immediately cut or does it take a little  
25 while to do something like that?

1           A     We usually leave a notice on their locker. And then if it's not taken from  
2 the day, then we cut it off.

3           Q     Oh, okay. You give some notice and then do it after the fact?

4           A     Yeah.

5           THE COURT: What do you do with the property that's inside?

6           THE WITNESS: We usually number it by bag's and then -- by the locker  
7 number. And then if they don't acknowledge it within like two weeks, we just toss it.

8           THE COURT: Any further questions, Mr. --

9           MR. SCHIFALACQUA: No, Your Honor.

10          THE COURT: -- Pigeon?

11          THE DEFENDANT: No. I'm okay, Your Honor.

12          THE COURT: Jury have any questions? No questions.

13                Thank you, ma'am. You're free to go.

14          MR. SCHIFALACQUA: Judge, the next thing = the State is offering is State's  
15 Proposed Exhibit 34. I'm seeking the conditional admission and publication of this.  
16 This is the interview with Detective Lafreniere. Detective Lafreniere will be a witness  
17 in this case and he'll be here later today. But, to save some time, I'd ask that we  
18 start the tape now.

19          THE COURT: How long is the tape?

20          MR. SCHIFALACQUA: It's about an hour.

21          THE COURT: All right. And you've got him on call?

22          MR. SCHIFALACQUA: Yes. He'll be here this afternoon.

23          THE COURT: Subject to it being stricken, we're going to start listening to the  
24 tape. When the detective gets here, they'll lay the foundation for the tape, if they  
25 can.

1 MR. SCHIFALACQUA: Thank you.

2 [Tape of Christopher Pigeon's Interview Played]

3 THE COURT: All right. Let's take a five minute recess. Ladies and  
4 gentleman, during this recess you're admonished not to talk or converse among  
5 yourselves or with anyone else on any subject connected with the trial. Or read or  
6 watch or listen to any report of or commentary on the trial or any person connected  
7 with this trial by any medium of information including, without limitation, newspapers,  
8 television, radio, or the internet. Or form or express an opinion on any subject  
9 connected with the trial until the case is finally submitted to you.

10 Take five minutes, please.

11 [Outside the presence of the jury]

12 THE COURT: All right. Take five minutes.

13 [Recess taken at 3:50 p.m.]

14 [Trial resumed at 3:59 p.m.]

15 [Outside the presence of the jury]

16 THE COURT: All right. Jury ready?

17 THE MARSHAL: Yeah. They're all back.

18 THE COURT: Okay. Let's go. Bring them in.

19 Get me your jury instructions if you can tonight.

20 MR. SCHIFALACQUA: Sure.

21 THE COURT: Get them to him tomorrow morning.

22 MR. SCHIFALACQUA: Okay.

23 THE COURT: Or if you can get them over to him tonight, let him review them.

24 MR. SCHIFALACQUA: Sure, Judge.

25 THE COURT: We'll talk about jury instructions. We'll get the jury --

1 [In the presence of the jury]

2 THE MARSHAL: All rise.

3 THE COURT: -- to come in a little later so we can do jury instructions. So  
4 we'll start at 10:00. That way we can do jury instructions.

5 THE MARSHAL: And be seated.

6 THE COURT: Stipulate to the presence of the jury.

7 MR. SCHIFALACQUA: Yes, Your Honor.

8 THE COURT: All right. Call your next witness, State.

9 MR. SCHIFALACQUA: Jason Lafreniere.

10 THE COURT: Remember to lay a foundation on that --

11 MR. SCHIFALACQUA: Yes, Your Honor.

12 THE COURT: -- CD.

13 **DETECTIVE JASON LAFRENIERE**

14 THE CLERK: Please state and spell your full name for the record.

15 THE WITNESS: My name is Jason Lafreniere. First name is J-A-S-O-N.  
16 Last name, L-A-F-R-E-N-I-E-R-E.

17 **DIRECT EXAMINATION BY THE STATE**

18 BY MR. SCHIFALACQUA:

19 Q Sir, how are you employed?

20 A I'm a detective with the Las Vegas Metropolitan Police Department.

21 Q And are assigned to any particular unit with Metro?

22 A Yes, sir. With the Sexual Assault Unit.

23 Q In the Sexual Assault Unit, does that investigate other crimes than  
24 simple sexual assault or what we commonly know as rape?

25 A Yes. That's correct.

1 Q Okay. And do you investigate cases where adults are victims as well  
2 as juveniles?

3 A I do. Currently in the Sexual Assault Unit we investigate victims from  
4 nine and above.

5 Q I see. And how long have you been with the police department?

6 A 12 and a half years.

7 Q Okay. And how many years as a detective?

8 A Almost seven.

9 Q Okay. Did you become involved in May of 2103 in an investigation with  
10 a potential victim name C [REDACTED] C [REDACTED]?

11 A Yes, sir.

12 Q How did you become involved in that, Detective?

13 A Every day of the week a specific detective is assigned as the on-call  
14 detective. We call him the bucket detective. But they take calls for that day. That  
15 particular day I was assigned as the on-call detective. So any sex-related incidents  
16 would be called into me. I was notified by a patrol officer about a potential situation  
17 and then I responded.

18 Q I see. So you were kind of the one taking the calls for that unit during  
19 that time frame. At least that would fit into your -- under your umbrella in your unit.  
20 Right?

21 A Yes, sir. That's correct.

22 Q I see. And where did you -- did you respond anywhere after you got a  
23 call from the patrol officer?

24 A I did. Yes, sir. That particular day I was notified by Officer Givens and I  
25 responded to Hyde Park Middle School.

1 Q Okay. And Hyde Park, is that close to the intersections of Valley View  
2 and Charleston?

3 A Yes, sir.

4 Q And who did -- if anybody, did you meet with at Hyde Park?

5 A Once at Hyde Park, I met with C [REDACTED] C [REDACTED].

6 Q Okay. Do you remember her age at the time?

7 A At the time, she was 12 years old.

8 Q Was she actually taken out of her class or somewhere at the school to  
9 speak with you?

10 A Yes. Anytime we interview a juvenile at a school we will remove them.  
11 The interview is done between -- at that particular time just myself and her in either  
12 a conference room or an office, but away from anybody else. Yes.

13 Q Do you have any specific training when you're interviewing minors  
14 involves to a potential sex crime?

15 A Yes, sir. I am actually a forensic interviewer. I have been to the  
16 National Children's Advocacy Center for forensic interviewing classes. The Dallas  
17 Children's Conference. For each one a week long. And I continually undergo  
18 forensic interview training.

19 Q And so did you do an interview with C [REDACTED] C [REDACTED] at that  
20 location?

21 A Yes, sir. I did.

22 Q Okay. Was that a taped-type of interview?

23 A Yes, sir. Recorded.

24 Q After that interview -- and you got some information regarding a  
25 potential suspect. Is that correct?

1           A     Yes, sir.

2           Q     Where did you go after that?

3           A     From there I went to the location where Officer Givens was initially  
4 notified of this incident. It was a CJ's Mini Mart or a Sinclair gas station located at  
5 Charleston and Hinson

6           Q     Okay. And was it your understanding that the suspect and the named  
7 victim were inside that over the last few days?

8           A     Yes. That's correct.

9           Q     Okay. So what did you do when you got to the mini mart?

10          A     First I made contact with the clerk, the initial reporting party. I think I  
11 got a brief statement from him and just kind of description of times and events.  
12 From there they were cooperative. They allowed me to view video surveillance of  
13 those described and identified times. And from there I reviewed video footage.

14          Q     Okay. And you reviewed this video footage, was it over the course of a  
15 few days that you were looking for?

16          A     Yes, sir.

17          Q     Okay. And specifically was it May 15<sup>th</sup>, 16<sup>th</sup>, and 17<sup>th</sup> of 2013?

18          A     Yes, sir, it was.

19          Q     And did you take a look at that video?

20          A     I did. Yes.

21          Q     Okay. Was that actually at the store?

22          A     It was. The recording device and the cam -- screens were all at the  
23 store. Yes, sir.

24          Q     Before we get into what you saw, did you attempt to make a copy of  
25 that tape after the fact?



1           A     Yes. Well, I did not attempt to make a copy. I requested that our  
2 forensic analyst -- they do just video recordings and anything to do with any type of  
3 video or audio. I asked them to come out and try and retrieve that.

4           THE DEFENDANT: Objection, Your Honor.

5           THE COURT: Basis.

6           THE DEFENDANT: This tape isn't even in existence. And there were no  
7 witnesses that claimed anything in the store that hasn't already been purported by  
8 those same witnesses.

9           THE COURT: All right. Let's let him lay a foundation. Thank you.

10          THE DEFENDANT: Thank you, Your Honor.

11 BY MR. SCHIFALACQUA:

12          Q     You asked somebody to come out and make a copy. Is that correct?

13          A     I did. Yes, sir.

14          Q     Okay. And did you at least see that there was a disc that was made?

15          A     Yes, sir. That's correct.

16          Q     Okay. Did you try to access that disc at a later point?

17          A     I did. Yes, sir.

18          Q     And tell me about if you had any success.

19          A     No. When I tried to play the disc in my computer -- my assigned  
20 department computer, it would not open. It would not play.

21          Q     And did you take it a step further and try to see if that video person  
22 could do the same?

23          A     Yes, In fact, prior to that I actually handed it to my sergeant who is  
24 pretty well-versed in computers and I asked him if he was able to open it and he was  
25 not either. And from there I -- re-gave it to my -- back to the video analyst.

1 Q And the video analyst, was he ever able to open the disc that was  
2 provided to you from the mini mart?

3 A He also has not opened that same -- able to open that same disc.

4 Q Okay. So three different people, including an analyst type of person,  
5 nobody could open the disc itself?

6 A That is correct.

7 Q Okay. Did you go back to the mini mart to see if you could get another  
8 copy since your disc wouldn't play, wouldn't -- didn't copy correctly.

9 A I don't recall if I physically went back there or if I called them, but I did  
10 ask and try to request a second copy to be extracted from -- for those dates and  
11 times.

12 Q Okay. And at that point, were you successful in getting a copy or a  
13 second copy?

14 A I was not.

15 Q And why was that?

16 A I was informed that their video is purged and recorded over I believe  
17 every 12 days or -- if I'm not mistaken. You can give or take a day. But, by that  
18 point it already had been recorded over.

19 Q Just to be clear, this was nothing something specific that anyone at  
20 Metro did to corrupt this disc. It just was not -- it didn't copy right from the store folks  
21 to you guys. Is that correct?

22 A That is correct. And unfortunately it happens every once in a while.

23 Q Okay. That being said, did you get a chance to view the video while  
24 you were at the store?

25 THE DEFENDANT: That's what's hearsay, Your Honor. I object to that.

1 THE COURT: Overruled.

2 THE DEFENDANT: No, that's -- it's enough of a foundation. I disagree.

3 THE COURT: All right. Thank you. Overruled.

4 BY MR. SCHIFALACQUA:

5 Q So to be clear, there is no disc that we can present here today. Right?

6 A That is correct. There is no disc.

7 Q That being said, you did see portions of that. Is that right?

8 A I did not see portions of that disc, but I saw portions of the initial  
9 recording on the video at the store. Yes, sir.

10 Q Okay. So the original at the store you did see?

11 A Yes, sir.

12 Q Okay. And when you saw that do you remember May -- looking at  
13 some video from Wednesday, May 15<sup>th</sup>, 2013 at about 7:17 hours?

14 A Yes, sir. That is correct.

15 Q Okay. And who did you see enter the store?

16 A At about 7:17 hours is when C [REDACTED] first entered the store.

17 Q And after that, did you see anybody else enter after her?

18 A I did. Shortly after, I believe within a minute, Mr. Pigeon entered the  
19 store as well.

20 Q You say Mr. Pigeon. Did you subsequently meet Mr. Pigeon in person?

21 A Yes, sir.

22 Q And so you know what he looks like?

23 A Yes, sir, I do.

24 Q And you've had a conversation with him?

25 A Yes, sir, I have.

1 Q Do you see him here at court?

2 A I do. Yes, sir.

3 Q Could you identify something he's wearing today and please point to  
4 him?

5 A Yes. [Pointing at the Defendant]. He's the gentleman over here with  
6 a -- looks like gray and black checkered button-up shirt.

7 THE COURT: Record will reflect he's identified the Defendant.

8 THE DEFENDANT: Your Honor, I'd also like to note that this is not the same  
9 detective that interviewed me.

10 THE COURT: Okay. Thank you.

11 BY MR. SCHIFALACQUA:

12 Q Did you interview Mr. Pigeon?

13 A Yes, sir, I did.

14 Q Face to face?

15 A Yes, sir.

16 THE DEFENDANT: I think I have a better photographic memory than that.

17 THE COURT: Okay. Mr. Pigeon, I'm going to ask that you not out -- have  
18 any outbursts again. You've made your --

19 THE DEFENDANT: I just disagree with this portion of the questioning.

20 THE COURT: You've made your objection. It's noted for the record. Thank  
21 you.

22 BY MR. SCHIFALACQUA:

23 Q On the first portion of May 15<sup>th</sup>, could you see anything that the  
24 Defendant was doing after he entered the store after C [REDACTED]?

25 A Yes, sir. On that date I saw the Defendant place his hands in his

1 pockets and pull at his genitals and his groin area while he was staring in the  
2 direction of C [REDACTED].

3 Q Did he appear taking any -- doing anything specific?

4 A It appeared to me as though he was masturbating.

5 Q And where was he looking at this time?

6 A He was always looking in the direction of C [REDACTED]. Well, I can't say  
7 always, but the majority of the time he was looking in the direction of C [REDACTED].

8 Q And specifically when he was taking those motions towards his  
9 genitals?

10 A Yes, sir. That's correct.

11 Q Did C [REDACTED] leave the store?

12 A C [REDACTED] did. Yes.

13 Q And then how about Mr. Pigeon?

14 A And he exited the store shortly after as well.

15 Q Now the following day, Thursday, May 16<sup>th</sup>, did you see a similar type of  
16 event as far as C [REDACTED] and Mr. Pigeon going into the store?

17 A I saw them -- yes, enter the store again.

18 Q Who was first?

19 A C [REDACTED] entered the store first. And shortly after Mr. Pigeon followed.

20 Q And how about after -- who left first then?

21 A Again, C [REDACTED] left and then Mr. Pigeon left as well.

22 Q Short in time thereafter.

23 A Yes, yes. Very short in time. I believe that that instance thought  
24 happened that they both entered and exited the store about 15 minutes later than  
25 the previous day.

1 Q Still in the morning.

2 A Yes, sir. It was.

3 Q And lastly, on May 17<sup>th</sup>, did you see C [REDACTED] enter the store around  
4 7:30?

5 A Yes, sir, I did.

6 Q And anyone enter after her?

7 A Mr. Pigeon entered almost immediately after.

8 Q And about ten minutes later do you see C [REDACTED] exit?

9 A Yes, sir. That's correct.

10 Q And how about Mr. Pigeon?

11 A And then Mr. Pigeon then exits as well.

12 Q Can you describe his rate of speed when he was leaving?

13 A Yes. Mr. Pigeon seemed hurried. Running through the parking lot  
14 after. And they had outdoor surveillance which I was able to actually able to  
15 observe him run across the parking lot in the same direction that C [REDACTED] had left.

16 Q After you viewed that, where did you go next?

17 A While I was there viewing the video, I was advised by Hyde Park  
18 that -- by their staff that school was dismissed at about 2:00. So at about 1:30 I  
19 just -- I drove over to the -- Hyde Park is located hoping to see the Defendant or Mr.  
20 Pigeon in the area.

21 Q And when you got to that location -- the Hyde Park school, you're  
22 driving in a car?

23 A Yes, sir.

24 Q Okay.

25 A Unmarked detective vehicle.

1 Q And who did you see?

2 A I saw the Defendant actually sitting at a park just south of Hyde Park.  
3 There's a picnic table -- picnic-style table there. I don't recall if it was concrete or  
4 not. He was sitting on the table portion with his feet on the bench portion and he  
5 was affixed on Hyde Park and he was actually rocking back and forth while shaking  
6 his legs.

7 Q State's Exhibit 1. This is just kind of an overhead. This has already  
8 been admitted. Does it come up on your screen, Detective?

9 A It does. Yes.

10 Q Okay. So this is just the intersection of Charleston and Valley View.  
11 Does this look familiar, overall, to you?

12 A Yes, it does.

13 Q Okay. Do you see where Hyde Park -- or a park would be that you  
14 were just talking about?

15 A Yes, sir.

16 Q Okay. Could you circle kind of where this park is that you saw Mr.  
17 Pigeon at?

18 A Absolutely. It's going to be in this -- it's going to be this area. This is  
19 the -- oh, okay. Yeah. That's the area over here if I'm not mistaken. So.

20 Q And then if you can put an "X" where Hyde Park Middle School is.

21 A And Hyde Park is over here.

22 Q So right across there?

23 A Yes, sir.

24 Q And what did you see Mr. Pigeon doing?

25 A Mr. Pigeon was seated on a picnic table with his feet on the bench

1 portion of it and he was rocking back and forth, shaking his legs while his attention  
2 seemed to be fixed on the school.

3 Q Did you see him go anywhere?

4 A I did. I parked and just kind of sat and observed for a little while. I  
5 actually removed anything that would identify me as an officer at that time. I exited  
6 my vehicle and -- it was close to dismissal so there were a lot of parents and people  
7 showing up at the school. Mr. Pigeon then got up off of the bench and he walked  
8 onto school grounds and actually entered the gated area of the school.

9 Q What did you do after he went on to school property?

10 A He was quickly stopped actually by a school employee and then I  
11 approached and identified myself as a detective and I escorted Mr. Pigeon in my  
12 vehicle.

13 Q After you did that, did you escort him at some point to where your office  
14 building is?

15 A Yes, sir. That's correct.

16 Q Okay. Is that -- where is that?

17 A It's located at Martin Luther King and Alta. 400 South Martin Luther  
18 King. So Las Vegas Head -- Police Department Headquarters.

19 Q And do you have interview rooms there?

20 A Yes, sir. We do.

21 Q And did you interview Mr. Pigeon?

22 A I did.

23 Q And we've just listened to it, but did you also go back and review and  
24 audio tape of your interview with Mr. Pigeon?

25 A I did. Yes, sir.



1 Q And in fact, are you the person on that tape?

2 A I am.

3 Q And was there another detective in there as well?

4 A Yes, there was. There was a second detective present.

5 Q Who was that?

6 A Detective Prichard. Dave Prichard

7 Q Did you read Mr. Pigeon his Miranda Rights?

8 A I did. Yes, sir.

9 Q Okay. And did Mr. Pigeon acknowledge that he understood his rights  
10 before you spoke to him.

11 A He did. Yes.

12 Q And that was an audio-recorded interview?

13 A That is correct.

14 Q Okay.

15 MR. SCHIFALACQUA: Judge, I'm going to reoffer State's Exhibit 34, which  
16 was the interview we just listened to after the testimony.

17 THE COURT: It'll be admitted.

18 **[STATE'S EXHIBIT 34 ADMITTED]**

19 BY MR. SCHIFALACQUA:

20 Q The jury just heard the tape and so I'm not going to go through the  
21 whole thing. I just have a couple very brief follow-ups on it.

22 A Yes, sir.

23 Q Did you talk to her whether or not he was following C [REDACTED]?

24 A Yes, I asked him.

25 Q And what was his general response to that?

1           A     He admitted that he had been for the last couple months.

2           Q     And where did he say he meet -- met her?

3           A     I believe he said they initially made contact at the downtown bus station

4 where she boards the bus every morning.

5           Q     Did you talk to him about the interaction with him and her by the Sonio's

6 restaurant?

7           A     Yes, I did.

8           Q     Do you remember what he generally told you about -- if he had an

9 interaction with her there?

10          A     Yes, he said he did. I think he said near Sonio's and he said that he

11 had stopped her and told her she looked nice or beautiful. I don't recall his exact

12 wording and -- but that he loved her and that she ran away from him.

13          Q     Did he also say the he tried to touch her hand?

14          A     Yes. He -- I think he described it as a friendly touch and said he

15 touched her arm.

16          Q     Did you hear him say to you that his penis is erect sometimes on the

17 bus with her?

18          A     Yes, sir.

19          Q     Did you ask her if he wanted to be with her sexually?

20          A     Yeah. I'm sorry. I think -- did you say -- maybe I misheard you. Did

21 you say, did you ask her?

22          Q     Did you ask him? I'm sorry. If he wanted to be with her.

23          A     Yes, I did.

24          Q     And what was his response to that?

25          A     I think initially he said no, but that he did say yes, that he did want to.

1 Q Okay. And how about marrying her?

2 A Yes. He said he wanted to marry her.

3 Q Afterwards -- after your interview, did you draft a search warrant for a  
4 few locations?

5 A Yes, sir. I did.

6 Q And was that approved by a Judge?

7 A Yes, sir. It was.

8 Q What locations did you draft a search warrant for?

9 A For two locations. One was the Fitness for \$10, located at Sahara and  
10 Decatur. And the second was for a storage unit located on Cheyenne and Rancho.

11 Q And did you -- were you part of the execution of both of those search  
12 warrants?

13 A Yes, sir.

14 MR. SCHIFALACQUA: Judge, if I could approach? These have been  
15 [inaudible].

16 THE COURT: Sure.

17 THE WITNESS: Pardon me.

18 BY MR. SCHIFALACQUA:

19 Q This is State's Proposed 4 through 32. I'll just leaf through them real  
20 quick.

21 And Detective, are these photographs taken during your execution of  
22 the search warrants at both the Fitness for \$10 and the Edwards Mini Storage  
23 locker?

24 A Yes, sir.

25 Q And are they fairly accurate -- what you saw when you arrived at those

1 locations and saw what you saw.

2 A Yes, sir.

3 MR. SCHIFALACQUA: Okay. I'd ask that -- the admission of State's  
4 Proposed 4 through 32.

5 THE COURT: You've given those to Mr. Pigeon?

6 MR. SCHIFALACQUA: Yes, Your Honor. He has him in his stack right here.

7 THE COURT: All right. Hearing no objection. They'll be admitted.

8 **[STATE'S EXHIBITS 4 THROUGH 32 ADMITTED]**

9 THE DEFENDANT: Yes. That's all right, Your Honor. Although, I think I  
10 might be missing four of them. Because the officer's in the module took four of my  
11 photographs from me.

12 MR. SCHIFALACQUA: Those are not in here, but I'll put --

13 BY MR. SCHIFALACQUA:

14 Q This is Number 4. Is that just that Fitness for \$10, you were saying?

15 A Yes, sir.

16 Q Okay. Is there a men's locker room there?

17 A There is.

18 Q Is it 5? Is that what we're looking at?

19 A Yes, sir.

20 Q How did you determine which one belonged to Mr. Pigeon? This is  
21 State's 6.

22 A Well, I -- process of elimination. I first went in there, I counted the  
23 number of lockers. The number of lockers that had some type of mechanism where  
24 it could be affixed or locked. From there I counted the number that actually had key  
25 locks on them. During my interview with Mr. Pigeon he told me he had the key for

1 the lock on his keychain. I then retrieved his key from his personal property, as  
2 requested in the search warrant.

3 I took that key to the lockers. This one said fortress on it. There was a  
4 key-operative lock on one of the locks that also had fortress engraved on it. I used  
5 that key to try the lock and it opened it.

6 Q I see. So the same brand of lock was on this key and that's you  
7 determined it?

8 A Yes, sir. That's correct.

9 Q And this was his -- from Mr. Pigeon's property?

10 A Yes, sir.

11 Q And did you do then a search of 182? This is State's 8.

12 A Yes, sir. That's correct.

13 Q [Indiscernible]. Normal locker in a locker room. Right?

14 A Yes, sir.

15 Q State's 10. Was there some belongings in there? Some clothing?

16 A Yes, sir.

17 Q 11. A pair of tan shorts.

18 A Yes, sir.

19 Q And Number 13. A t-shirt with the American flag on it.

20 A Yes, sir.

21 Q Why were these significant?

22 A This was significant because that is what I viewed Mr. Pigeon wearing  
23 on the video surveillance at CJ's from earlier -- or from -- on the 17<sup>th</sup>.

24 Q Now this is 15. Is this the storage facility?

25 A Yes, sir. It is.

1 Q And you learn that he was renting a storage unit. Is that correct?

2 A Yes, sir.

3 Q And the warrant covered that as well?

4 A It did.

5 Q Inside this 18, is there a bed in there and some other personal items?

6 A Yes, sir.

7 Q 20. Just a different angle of some of the personal items.

8 A Yes, sir. Excuse me.

9 Q Was there some identifying paper work?

10 A Yes, there was.

11 Q 31. Is that a letter addressed to him?

12 A Yes, sir.

13 Q And 32, an ID with Mr. Pigeon?

14 A Yes, sir.

15 Q On the video that you saw, how long did it appear that the Defendant

16 was masturbating?

17 A I couldn't give an exact amount of time, I'm sorry. But it was at least -- it

18 was for multiple -- a few seconds at least. But I couldn't give an exact amount of

19 time.

20 Q Cheyenne and Rancho. How far is that from the downtown bus depot?

21 Do you know?

22 A I don't know an exact distance. No, sir.

23 Q Okay. Could it be walked or driven? Do you know? I mean, obviously

24 driven.

25 A I'm -- walking would take an extended amount of time. I would imagine

1 driven or a bus.

2 Q Okay.

3 MR. SCHIFALACQUA: Thank you, Judge. I pass the witness.

4 THE COURT: Do you have any questions of this detective, Mr. Pigeon?

5 THE DEFENDANT: Yes. A few, Your Honor.

6 **CROSS-EXAMINATION**

7 BY THE DEFENDANT:

8 Q How is it you found out about this incident at all? We had Officer  
9 Givens on earlier testify that there was nothing really going on. They were just  
10 concerned about the fact that I was following a young girl.

11 A Okay. I was notified by Officer Givens of the situation and kind of the  
12 suspiciousness of the situation. And I responded once he called me.

13 Q All right. There's no mention of a masturbation by anyone, except for  
14 you. You're the only one that mentioned it. Is there reason for that?

15 A Because it appeared that your were masturbating.

16 Q It's probably an exaggeration though, isn't it?

17 A I do not believe it is. No.

18 Q Would you say it's a lot or just a little?

19 A It's masturbation.

20 Q I'd say there was no masturbation. I'd say you were lying just for the  
21 case. And I'd like to state that for the record.

22 A Okay.

23 THE COURT: You're not supposed to testify, but you've already said it.

24 THE DEFENDANT: Exactly.

25 BY THE DEFENDANT:

1 Q I also think it's kind of interesting that no one else mentioned it at all  
2 except for you. I think that's troubling.

3 A Is that a question? I'm sorry. I'm not being --

4 THE COURT: There's no question.

5 THE WITNESS: Okay.

6 THE COURT: You don't have to --

7 THE WITNESS: Sorry.

8 BY THE DEFENDANT:

9 Q Also, during our recorded interview, you said there would be semen on  
10 my shorts, but you found no semen on my shorts. Correct?

11 A I don't know that I said there would be semen on your shorts.

12 Q Yes, you did. We just listened to the interview.

13 A Okay.

14 Q That you found none. Correct?

15 A I never had it tested for semen.

16 Q But you didn't see any?

17 A I did not look for semen.

18 Q When you arrested me, what were the charges you arrested me for?

19 There are primarily two because we're not supposed to mention the third, which is a  
20 lesser charge.

21 A Okay. I believe --

22 Q Let me rephrase the question.

23 A Okay. Yes, sir.

24 Q You arrested me only, except for the one other charge not mentioned,  
25 for open or gross lewdness, which is a misdemeanor that's automatically enhanced



1 to a Class B felony. And then you also arrested me for unlawful contact with a child.  
2 Is that correct?

3 A If I -- I would have to look at my booking paperwork, but I do know  
4 that -- did you say open and gross lewdness? Is that what you said?

5 THE DEFENDANT: Your Honor, I'd like to say that this isn't the same  
6 detective. I said that earlier and that's what I believe.

7 THE COURT: Okay. Well, why don't you ask a question and don't testify.

8 THE DEFENDANT: All right.

9 BY THE DEFENDANT:

10 Q Well, I think we covered that enough. That's what the original arrest  
11 was.

12 THE DEFENDANT: Are you going to agree with me, Mr. Schifalacqua?

13 THE COURT: He's not --

14 MR. SCHIFALACQUA: I can't --

15 THE COURT: -- witness.

16 MR. SCHIFALACQUA: I can't testify to that.

17 THE COURT: He's not a witness. And you got to ask a question. Do you  
18 have another question for this detective?

19 THE DEFENDANT: I didn't asked a question. He didn't answer it.

20 THE COURT: Well --

21 THE DEFENDANT: He says he doesn't remember.

22 THE WITNESS: I will answer it.

23 THE COURT: He says he doesn't remember.

24 THE DEFENDANT: That makes him a weak witness in my opinion.

25 THE COURT: Okay. Well, you --

1 THE WITNESS: I --

2 THE DEFENDANT: I'd like to say that to the jury.

3 THE COURT: All right. Well, you did.

4 BY THE DEFENDANT:

5 A I do believe that the original charge was open and gross lewdness.

6 But, I would also like to say that's actually a gross misdemeanor, not just a  
7 misdemeanor charge, which is a higher severity than a misdemeanor.

8 Q That's correct.

9 A Yes, sir.

10 Q The reason I say that is because the interview -- I was originally  
11 arrested for those two charges and then later they added four charges at the Grand  
12 Jury, which was on June 5<sup>th</sup>. You were at that Grand Jury. Correct?

13 A Yes, sir. I was.

14 Q Did you recall talking about any of those four added Class B felonies,  
15 which is attempted first degree kidnapping, aggravated stalking, luring children with  
16 the intent to engage in sexual conduct, and burglary? Do you remember calling --  
17 did -- were those charges added because of you?

18 A I'll address each question. I -- when we testify I don't go over each  
19 specific charge. At that time I did not. So I can't say that I recall testifying to each  
20 specific charge. What was the second --

21 Q You didn't testify to any as far as I'm concerned. However --

22 A Okay.

23 Q -- I thought you might answer that for me.

24 A Okay. Well, would you like -- want me to cover that?

25 Q If you want. If you'd like.

1           A     It's not uncommon that after we submit a case to the District Attorney's  
2 office, the charges are amended by the District Attorney's office. Sometimes there's  
3 more information gathered after the initial arrest and the initial booking. And the  
4 District Attorney is better apt to add or take away and -- charge, which is very  
5 common.

6           Q     But even Officer Givens said that there was nothing other than just  
7 some basic concern. There wouldn't have been anything else to lead someone to  
8 believe that there were more serious charges.

9           MR. SCHIFALACQUA: I would object. I think that misstates the testimony.

10          THE COURT: Is that a question? You need to ask a question. It's got to be  
11 a proper question.

12 BY THE DEFENDANT:

13          Q     What I'm saying is that there was no reason for the complaining people,  
14 who were John Bryant and C [REDACTED] C [REDACTED], and then in turn Officer Givens, who  
15 took the report and then phoned you. There was nothing claimed. She just said she  
16 was a little scared. Although, I -- originally she said she was weirded out in her  
17 statement. She said she was scared later in the interview.

18          A     Okay.

19          THE COURT: Is that a question?

20          THE DEFENDANT: No. I'm leading up to the question.

21          THE COURT: Well, you can't -- you're leading is correct.

22          THE DEFENDANT: I have to frame the question.

23          THE COURT: All right.

24 BY THE DEFENDANT:

25          Q     The point is there is nothing there for them to have added the other

1 charges. Do you agree? Don't you think that seemed extreme that they added the  
2 other charges?

3 A No, I do not think that's extreme and --

4 Q Even though there was just a little bit of alleged fear and that was it?

5 A I respond out to all different types of allegations. It's not my --

6 Q There was a mild block claimed.

7 A I will answer your question if you give me one second. It's not my job to  
8 pick apart the officer who is calling me with a suspicion or a reason to respond out.  
9 My job is just to respond to any sex-related crime.

10 Q Okay. That's unrelated because the Grand Jury took place later. And  
11 those charges were not added until the Grand Jury. So that's completely unrelated.

12 A I'm sorry. I do not follow. I apologize. I don't --

13 Q What I'm saying is those charges should not have been added because  
14 there was nothing for them to be there. You don't agree with that?

15 A No, I do not agree with that.

16 Q Okay. Well, I disagree with you on that.

17 A Okay.

18 Q That's awfully extreme. It sounds like you have a quota. Do you have  
19 a quota?

20 A No. We do not have a quota.

21 Q You don't have quotas at all with the department.

22 A Absolutely not. No, never.

23 Q I disagree with that also.

24 A Okay.

25 Q Maybe I'll prove that later.

1 THE DEFENDANT: That's all I have, Your Honor.

2 **REDIRECT EXAMINATION BY THE STATE**

3 BY MR. SCHIFALACQUA:

4 Q I think you said this, Detective Lafreniere, but, you are not the one who  
5 ultimately says what charges are going to appear in court. Is that correct?

6 A That is correct.

7 Q Okay. That's done by the District Attorney's office, which is a separate  
8 agency from you.

9 A Absolutely. Yes, sir.

10 Q Book somebody -- what else -- what -- if somebody is charged or if they  
11 are charged at all is up to a completely different entity. Is that correct?

12 A Yes, sir. That's correct.

13 Q You talked about the Defendant that -- you know, touching himself. Do  
14 you recall in his interview that he said that he was adjusting himself?

15 A I do recall him saying that. Yes, sir.

16 Q Does it look like he was adjusting himself?

17 A It looked like more than adjusting. It lasted longer than I would think it  
18 would take to adjust himself.

19 MR. SCHIFALACQUA: Nothing further, Judge.

20 THE COURT: Any further questions, Mr. Pigeon?

21 THE DEFENDANT: No, Your Honor. Thank you.

22 THE COURT: Any questions by the jury of this detective?

23 Detective, you're free to go.

24 THE WITNESS: Thank you, Judge.

25 THE COURT: State?

1 MR. SCHIFALACQUA: Judge, we have no more further witnesses tonight.

2 THE COURT: All right. We're going to take our evening recess, ladies and  
3 gentleman. You'll be back tomorrow at 10:00. I'm sorry. I have a civil calendar in  
4 the morning.

5 During the recess you're admonished not to talk or converse among  
6 yourselves or with anyone else on any subject connected with the trial. Or read or  
7 watch or listen to any report of or commentary on the trial or any person connected  
8 with this trial by any medium of information including, without limitation, newspapers,  
9 television, radio, or the internet. Or form or express an opinion on any subject  
10 connected with the trial until the case is finally submitted to you.

11 Tom will tell you where you can park. You get to park across the street  
12 now. So.

13 [Outside the presence of the jury]

14 THE COURT: All right. The jury has left the courtroom. In the morning we'll  
15 go -- the reason I put it at 10:00 is so we can go over jury instructions in the  
16 morning. Can you have your investigator or somebody take those over -- can he get  
17 the jury instructions in the jail?

18 CORRECTIONS OFFICER: Yeah. He can have them.

19 THE COURT: And you -- okay. So make sure --

20 MR. SCHIFALACQUA: Yeah. What I will do, Judge, is I will e-mail them to  
21 your chambers tonight and my investigator goes home at 5:00, but 8:00 in the  
22 morning we'll have them brought over so he can read them before he comes to  
23 court.

24 THE COURT: Okay. They're going to have you over at 8:00, Mr. Pigeon, so  
25 you can review the jury instructions.

1 THE DEFENDANT: Okay.

2 CORRECTIONS OFFICER: And at that time he'll be downstairs, dressed out,  
3 waiting in his cell.

4 MR. SCHIFALACQUA: Oh. Okay.

5 CORRECTIONS OFFICER: So just -- you could have -- Tom even bring them  
6 down.

7 THE COURT: Tom can bring them downstairs.

8 MR. SCHIFALACQUA: Bring them to courtroom.

9 CORRECTIONS OFFICER: Give them to the Sarge.

10 THE COURT: Because we're doing civil.

11 CORRECTIONS OFFICER: And he'll give them to --

12 THE COURT: Just make sure --

13 MR. SCHIFALACQUA: Sure.

14 THE COURT: Well, I got them. If you fax them or e-mail them.

15 THE DEFENDANT: What time is the trial actually re --

16 THE COURT: 10:00 in the morning.

17 THE DEFENDANT: Okay.

18 MS. MERCER: Your Honor, we don't anticipate calling any additional  
19 witnesses. We just wanted a chance to go --

20 THE COURT: I didn't want you to rest until --

21 MS. MERCER: -- through our notes and make sure we didn't miss anyone.

22 THE COURT: -- I never do that the first day. So tomorrow if you rest, you  
23 rest. And then you still intend to testify.

24 THE DEFENDANT: That's correct.

25 THE COURT: Okay.

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MR. SCHIFALACQUA: Thank you, Judge.

MS. MERCER: Thank you, Your Honor.

[Evening recess at 4:33 p.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case.

A handwritten signature in cursive script, reading "Britt Mang", written in black ink.

Brittany Mangelson  
Independent Transcriber





CLERK OF THE COURT

1 RTRAN

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DISTRICT COURT

5

CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

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Plaintiff,

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CASE NO. C290261

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vs.

DEPT. VIII

10

CHRISTOPHER EDWARD PIGEON,

11

Defendant.

12

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE

13

14

TUESDAY, AUGUST 5, 2014

**TRANSCRIPT OF PROCEEDINGS**

15

**JURY TRIAL**

16

**DAY 2 - VOLUME II**

17

18

For the State:

ELIZABETH A. MERCER, ESQ.

19

Chief Deputy District Attorney

20

MARC M. SCHIFALACQUA, ESQ.

21

Chief Deputy District Attorney

22

For the Defendant:

PRO SE

23

24

RECORDED BY: JILL JACOBY, COURT RECORDER

25

TRANSCRIBED BY: BRITTANY MANGELSON, INDEPENDENT TRANSCRIBER

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TUESDAY, AUGUST 5, 2014 AT 10:07 A.M.

[Outside the presence of the jury]

THE DEFENDANT: Good morning.

THE COURT: Mr. Pigeon.

THE DEFENDANT: Good morning, Your Honor. Can I --

THE COURT: Good morning. Have you had enough time to read through the jury instructions?

THE DEFENDANT: I disagree with a lot of it.

THE COURT: Okay. Well, we'll go through that, but have you had a chance to read through them?

THE DEFENDANT: Almost all of it. Not yet.

THE COURT: Why don't you finish reading it right there then?

THE DEFENDANT: All right. Can I get a couple of pencils?

[Pause in proceedings]

THE COURT: All right. Have you had a chance to read through them now, Mr. Pigeon?

THE DEFENDANT: No. I'm not done.

THE COURT: Okay.

THE DEFENDANT: I'll need probably about 20 minutes.

THE COURT: Okay.

[Pause in proceedings]

MR. SCHIFALACQUA: Judge, on one of them I noticed kind of a typo error. Can I go back and print off a better one with your [indiscernible].

THE COURT: Go see Alan. Alan can --

1 MR. SCHIFALACQUA: Okay.

2 THE COURT: He is marvelous on the computer.

3 MR. SCHIFALACQUA: All right. It's just one.

4 THE COURT: I just have to change the first page too. I screwed that up. I've  
5 got it written on in ink.

6 [Pause in proceedings]

7 THE COURT: How are we doing, Mr. Pigeon? We're getting close?

8 THE DEFENDANT: I'm going --

9 THE COURT: I just have a jury that's been sitting out there for 40 minutes.

10 THE DEFENDANT: It's going to be a while longer, Your Honor.

11 THE COURT: All right.

12 [Pause in proceedings]

13 THE DEFENDANT: You got a statute which dictates what intent is?

14 MR. SCHIFALACQUA: Just like defining intent?

15 THE DEFENDANT: Yes. Because this is way off this intent --

16 MR. SCHIFALACQUA: I can look, but I don't think --

17 THE DEFENDANT: -- instruction.

18 MR. SCHIFALACQUA: I don't think there is.

19 THE COURT: Okay. Now is not the time to argue that. When you're done  
20 reading it --

21 THE DEFENDANT: All right.

22 THE COURT: -- then we will argue it. And you'll put it on the record.

23 THE DEFENDANT: I wasn't arguing. I was asking if he had a specific  
24 reference for it.

25 THE COURT: Oh. Perfect. That's a perfect argument. And he can provide

1 that.

2 THE DEFENDANT: Okay.

3 THE COURT: You do have the citation numbers on those? On the one set?

4 MR. SCHIFALACQUA: I think he was asking on a couple. I'll get those  
5 citations right now, Judge.

6 THE COURT: All right.

7 Here's how we handle this Mr. Pigeon, is I will read it and number it and  
8 if you have an objection, then you make the objection, on the record.

9 THE DEFENDANT: All right.

10 THE COURT: And then we will ask for citations. That's how we do that. But I  
11 want you to read and be comfortable with what you've read before we get started.

12 THE DEFENDANT: Okay.

13 [Pause in proceedings]

14 THE COURT: Are you ready with jury instructions, Mr. Pigeon?

15 THE DEFENDANT: Your Honor, I need about five or ten more minutes. It's  
16 taking a long time, but I got up here late, unfortunately.

17 THE COURT: I understand. I understand.

18 [Pause in proceedings]

19 THE DEFENDANT: Did you find the battery reference?

20 MR. SCHIFALACQUA: Yes. It's Statute Numbers 200.481.

21 THE DEFENDANT: Can we get a copy of that?

22 MS. MERCER: No. We don't have our printer.

23 THE DEFENDANT: I don't think that's sufficient. You're going to have to at  
24 least read it to me.

25 MS. MERCER: The Court has the ability to look at the statute itself and

1 determine whether or not we're making accurate representations.

2 THE DEFENDANT: We'll see. We'll talk to the Judge about it I guess.

3 [Pause in proceedings]

4 THE COURT: You wanted to know battery 200.481?

5 THE DEFENDANT: Yes. That's correct, Your Honor.

6 THE COURT: NRS 200.481. I'm reading from the battery -- from the Nevada  
7 Revised Statutes, subsection 1: As used in this section, subsection A), Battery  
8 means any willful and unlawful use of force or violence upon the person of another.  
9 B), Child means a person less than 18 years of age.

10 THE DEFENDANT: What does it say about a child, Your Honor?

11 THE COURT: A person less than 18 years of age.

12 THE DEFENDANT: Okay. In here -- well, we can talk about it when we get to  
13 it, but I have a problem with the wording. That's all it says in there?

14 THE COURT: That's it.

15 MS. MERCER: The other part is from *Hobbs versus State*.

16 THE COURT: Pardon?

17 MS. MERCER: The problem he -- he wants to argue about it now. I'd prefer  
18 he just get through all of his --

19 THE COURT: Yeah. I want you to read through, that you understand it.  
20 Time to argue --

21 THE DEFENDANT: Well this says: Battery means any willful and unlawful  
22 use of force.

23 MS. MERCER: Are you done with the instructions? Are you done going  
24 through them?

25 THE DEFENDANT: I --

1 MS. MERCER: Because we can argue about them one by one when you're  
2 done going through them.

3 THE DEFENDANT: I have to go -- no, I'm not done because I have to go  
4 through these -- all these statute ones real quick. I know the statutes rather well so  
5 that's not going to be a major issue.

6 THE COURT: Okay. Here's what I understand.

7 THE DEFENDANT: I have them right -- I have all the statutes here except for  
8 battery.

9 THE COURT: I just read to you the battery instruction -- or the battery law.

10 THE DEFENDANT: Yep. Right.

11 THE COURT: We have a jury that's been out there for over an hour waiting  
12 for you and I understand. If you want me to have them take a break -- tell me how  
13 long you're going to be reading through these.

14 THE DEFENDANT: Well, you can have them take a break if you want.

15 THE COURT: Well, I understand I can do what I want. I want you to tell me  
16 how long it will be as you read through these.

17 THE DEFENDANT: Well, the kidnapping one is way off.

18 THE COURT: Okay. You're arguing about each individual. I want you to  
19 have read them and then we'll go through them and number them and you can -- we  
20 can argue about them as you go through them. Have you read through all of them?

21 THE DEFENDANT: Well, give me a few minutes for the kidnapping one and  
22 I'll be ready.

23 THE COURT: Okay.

24 THE DEFENDANT: I still need like about five minutes.

25 THE COURT: All right. I'll -- I can give you five minutes.

1 [Pause in proceedings]

2 THE COURT: Are we ready to go through and number these, Mr. Pigeon?

3 THE DEFENDANT: I still need a couple more minutes. I'm almost there.

4 THE COURT: Okay.

5 [Pause in proceedings]

6 THE COURT: All right. Let's get started. Now, you're going to have to adjust  
7 your jury instruction numbers to mine, Mr. Pigeon.

8 THE DEFENDANT: Yes. I understand.

9 THE COURT: All right. Jury Instruction Number 1. Are you ready?

10 THE DEFENDANT: Give me one second.

11 THE COURT: It is now my duty.

12 THE DEFENDANT: All right. I'm approximately ready to go here.

13 THE COURT: All right. It is now my duty as Judge to instruct you in the law.  
14 That's Jury Instruction Number 1. Any objection to that? Hearing none. We'll move  
15 on.

16 Jury Instruction Number 2: If, in these instructions, any rule, direction,  
17 or idea.

18 I will make you copies of these. As well as all of the jury.

19 Jury Instruction Number 3 --

20 THE DEFENDANT: Which -- what -- which one was 2 now?

21 THE COURT: Okay. You got to stay with me, brother.

22 THE DEFENDANT: I know. I'm not sure where it was.

23 THE COURT: If, in these instructions, any rule. That's how the instruction  
24 starts.

25 THE DEFENDANT: That's Number 2.

1 THE COURT: Yes, sir.

2 THE DEFENDANT: Okay.

3 THE COURT: Number 3 is the indictment. The amended indictment.

4 THE DEFENDANT: I have no problem with either of those first two.

5 THE COURT: 3 is the indictment. It's three pages.

6 THE DEFENDANT: Okay. I do have a problem with that.

7 THE COURT: Okay. Why?

8 THE DEFENDANT: Because a lot of it's misstated.

9 THE COURT: All right. Let's -- tell me what's misstated. Because this is a  
10 duplicate of what the clerk has already read to the jury. Which -- just tell me which  
11 one --

12 THE DEFENDANT: Okay. The kidnapping one is not stated properly  
13 because what they've done -- if you look at the statute, they've taken the end of the  
14 statute where there's a section and then there's another section, and in between the  
15 section it says and, which means it's both the first section and the second section.  
16 All's he's done is just include the second and. So he's missing the whole first part of  
17 the and.

18 THE COURT: All right.

19 THE DEFENDANT: For the kidnapping count.

20 THE COURT: Count 1: First degree -- attempt first degree kidnapping did on  
21 or between May 15, 2013 and May 17, 2013 willfully, and unlawfully, feloniously,  
22 and without lawful authority attempt to lead, take, entice, carry away, or kidnap  
23 C [REDACTED] C [REDACTED].

24 At that point do you have an objection?

25 THE DEFENDANT: Yes. It's missing part of the statute. It says you have



1 to --

2 THE COURT: Okay. Now are you listening to me, Mr. Pigeon? I'm really  
3 trying to be patient with you. You've got to listen to me. That's a part of the  
4 sentence I just read to you. I'm trying to figure out where your objection starts.

5 THE DEFENDANT: I'm reading at 200 dash -- I mean, dot 310 here; the  
6 statute. It says: A person who willfully seizes, confines, inveigles, entices, decoys,  
7 et cetera. Or carries away a person by any means with the intent to hold, detain, or  
8 who holds or detains, the person for ransom, or for reward, or for the purpose of  
9 committing sexual assault, extortion or robbery upon the person, or for the purpose  
10 of killing the person or inflicting substantial harm -- bodily harm upon the person.

11 But then it goes on to say: And a person who leads, takes.

12 Now see what he's done is start after that and. He skipped all that  
13 other stuff. That's got to be in there.

14 THE COURT: All right. Let me --

15 THE DEFENDANT: It has to be both of those. Not --

16 THE COURT: No, it doesn't. But let me hear --

17 THE DEFENDANT: Yes, it does. According to the statute, Your Honor.

18 THE COURT: Mr. Pigeon, just wait a minute. Let me hear from the State.

19 MR. SCHIFALACQUA: First of all, Judge, on this instruction this is just a cut  
20 and paste from the indictment. So this is what was read to the jury. I understand  
21 his objection may be more with the kidnapping instruction in general. There's two  
22 parts to the kidnapping law. One of an adult and that would require one of the  
23 predicate felonies to --

24 THE COURT: Right.

25 MR. SCHIFALACQUA: -- you know, carry him away for the purpose of

1 robbery, or sex assault, or murder. But there's a different part of the statute that just  
2 deals with children. It doesn't require the force requirement that an adult would. So  
3 that's what's being charged here because she was a minor. Not that he was carried  
4 away for one of those purposes, like murder.

5 THE COURT: And you indicate in there C [REDACTED] -- I stopped at: C [REDACTED]  
6 Carpenter, a minor, with the intent to keep, imprison, or confine said victim from his  
7 or her parents, guardians, or other person. Or having lawful authority of said minor.  
8 Or with the intent to hold said minor for -- to unlawful service or perpetrate upon the  
9 person, said minor, in an unlawful act. Or by Defendant following and/or chasing,  
10 and/or grabbing, and/or touching said C [REDACTED] C [REDACTED] with the intent to begin a  
11 sexual relationship with said minor.

12 State your objection again, Mr. Pigeon.

13 THE DEFENDANT: We're missing half of the required definition of  
14 kidnapping.

15 THE COURT: For the adult. All right. Noted for the record. Overruled. It will  
16 be read this way.

17 Now, what other objection do you have?

18 THE DEFENDANT: All right. I did not to intend to begin a sexual relationship  
19 with said minor without parental permission in marriage, I have stated.

20 THE COURT: You've said that.

21 THE DEFENDANT: Well, that should be in here then.

22 THE COURT: No. That isn't a matter of law. That's a matter of fact. And  
23 you can argue that to the jury. Next?

24 THE DEFENDANT: I think that's unfair.

25 THE COURT: Next?

1 THE DEFENDANT: I'm working on it.

2 THE COURT: Okay. The kidnapping is going to go. Count 1 is going to go  
3 as read. Now, what other objection do you have in Jury Instruction Number 3?

4 THE DEFENDANT: You -- I would like to repeat that all five of these charges  
5 for the same situation are a bit extreme. You don't want to reduce some of those  
6 five charges down to --

7 THE COURT: No, I do not.

8 THE DEFENDANT: -- one or two.

9 THE COURT: No.

10 THE DEFENDANT: Why is that, Your Honor?

11 THE COURT: Because I'm not going to get involved in that. Thank you.  
12 Now, do you have anything else that you would like to put on the record for objecting  
13 to these being read to the jury as Jury Instruction Number 3?

14 THE DEFENDANT: I do have more objections.

15 THE COURT: Okay. For Jury Instruction Number 3?

16 THE DEFENDANT: Yes, for the same one. I'm still looking at it.

17 THE COURT: All right.

18 THE DEFENDANT: Okay. It says in aggravated stalking, line 22, that I  
19 attempted to block -- grab or block her escape and by -- or by chasing said C [REDACTED]  
20 C [REDACTED]. And that in fact did cause C [REDACTED] to feel terrorized. The problem is  
21 she said there was a light touch.

22 THE COURT: All right.

23 THE DEFENDANT: She didn't say in the testimony recently that she --

24 THE COURT: That's argument and it doesn't go to the law. The law is clear  
25 as stated. It's aggravated stalking. It will be given over your objection. You've

1 made your objection. Move on to the next one.

2 THE DEFENDANT: All right. There's no -- when you enter in burglary you  
3 have to enter it without permission. Or you have to enter by breaking in. You can't  
4 just walk into a open --

5 THE COURT: That's the common law.

6 THE DEFENDANT: You can't just walk into a store. I --

7 THE COURT: No. That's breaking the plane. That's the common law.  
8 You're -- what you're arguing is the common law. There used to have to be a  
9 breaking. You had to break in somehow. You don't have to break in anymore. The  
10 common law was breaking in. This is an exact definition for burglary. Your  
11 record -- your -- you've made the record on burglary. Move on to the next one.

12 THE DEFENDANT: An open and gross lewdness charge of course.

13 C [REDACTED] C [REDACTED] does not claim there was any masturbation and neither --

14 THE COURT: Okay. That's --

15 THE DEFENDANT: -- does anyone else.

16 THE COURT: That's argument. This is law. Now, of course the jury is the  
17 one that decides whether the facts meet. They can believe the officer or they can  
18 disregard the officer. But that's your argument. That meets the definition of open  
19 and gross lewdness, count 5. Now, move on.

20 THE DEFENDANT: Okay. I'm done with that count, Your Honor.

21 THE COURT: Okay. Jury Instruction Number 4: It is the duty of the jury to  
22 apply the rules of law contained in these instructions to the facts of the case.

23 Jury Instruction Number 5: Every --

24 THE DEFENDANT: I don't have 4 yet. Hold on one second. I'm still trying to  
25 find it. All -- it is the duty -- rules of law one? To --

1 THE COURT: It is the duty of the jury to apply the rules of law, Number 4.

2 THE DEFENDANT: That's Number 4. All right.

3 THE COURT: I will be giving you a copy of these as well with the numbers on  
4 them.

5 THE DEFENDANT: Yeah. I just have to look at it for the sake of me  
6 identifying --

7 THE COURT: In your argument, you'll be able to argue these.

8 THE DEFENDANT: -- identifying the number. That's all.

9 THE COURT: All right.

10 THE DEFENDANT: Okay.

11 THE COURT: Number 5: Every person who leads, takes, entices, or carries  
12 away; is Number 5.

13 THE DEFENDANT: Okay. I have a problem with this one also. Oh, this is  
14 the kidnap one.

15 THE COURT: This defines kidnapping.

16 THE DEFENDANT: Well, again, I have the same objection. It has to involve  
17 some sort of threat for the --

18 THE COURT: That's an argument. This meets --

19 THE DEFENDANT: -- in order to commit -- but that's not stated in here,  
20 though.

21 THE COURT: That meets the require -- no, your argument doesn't. This is  
22 the state -- the law. The law is clearly stated in Number 5. Over you objection it will  
23 be given.

24 Number 6: The elements of an attempt are.

25 Tom, get that juror out of here. He's come in twice. Thanks.

1           You should have kept these in order.

2           THE DEFENDANT: I know I have it here somewhere.

3           THE COURT: I'm going to give you these numbered the way I'm numbering  
4 them.

5           THE DEFENDANT: Yes. That's what I'm trying to do is keep --

6           THE COURT: I'm going to give you a copy of these. I will make a copy and  
7 give you once I get them numbered. This defines an attempt.

8           THE DEFENDANT: Well, go ahead and read the whole -- oh, here it is. I got  
9 it.

10          THE COURT: Okay.

11          THE DEFENDANT: I didn't have a problem with that one.

12          THE COURT: All right.

13          THE DEFENDANT: That's Number 6?

14          THE COURT: That's Number 6.

15                 Number 7: A person without lawful authority.

16                 What did he want?

17          THE MARSHAL: [Inaudible].

18          THE COURT: Tell them to go eat.

19          THE MARSHAL: [Indiscernible].

20          THE COURT: Yeah. Tell them --

21          THE DEFENDANT: Is that the --

22          THE COURT: -- to take a break. It'll be 15 or 20 minutes.

23          THE DEFENDANT: Okay. I don't have a problem with that one either.

24          THE COURT: Okay.

25          THE DEFENDANT: That's 7?

1 THE COURT: That's 7.

2 Number 8: A person who commits the crime of luring a child; is 8.

3 THE DEFENDANT: Okay. I think it should say with the -- with the obvious or  
4 a substantial intent -- on line 11, to avoid the consent of the parent.

5 THE COURT: That's not part of the law. That certainly would be your  
6 argument. And I would make note, if I were you, on that jury instruction that you're  
7 going to argue that. But the law is clear. That is the law of luring. That will be 8.  
8 You've noted your objection.

9 THE DEFENDANT: Well, can we say at the end of it that intent must be  
10 proven beyond a reasonable doubt?

11 THE COURT: We're going to get to a reasonable doubt shortly.

12 THE DEFENDANT: Okay.

13 THE COURT: Number 9: A person who by day or night.

14 THE DEFENDANT: That's battery.

15 THE COURT: Is --

16 THE DEFENDANT: That's burglary.

17 THE COURT: Burglary.

18 THE DEFENDANT: Yes. That's Number 9.

19 THE COURT: That's a definition of burglary.

20 THE DEFENDANT: I have no problem with that either.

21 THE COURT: Number 10: Battery means.

22 THE DEFENDANT: I have a problem with that one. It says however slight at  
23 the end. That does not say that in your own statute when you read it and I don't  
24 think that's right.

25 THE COURT: I believe that's case law, but --

1 MR. SCHIFALACQUA: It is. The -- up until "another," that's the statute. The  
2 however slight, it's *Hobbs versus State*. It was a case that recently came out about  
3 spitting. You don't have to hurt somebody. It can be a slight touch or a slight  
4 offense. There has to be contact, but it doesn't have to cause pain.

5 THE COURT: Over the objection of the Defendant, it will be given. That's a  
6 definition of the law.

7 THE DEFENDANT: You just read it yourself though.

8 THE COURT: Yes.

9 THE DEFENDANT: The statute. You did not say that.

10 THE COURT: That's *Hobbs*. *Hobbs* amended the -- added the slight  
11 touching. That is a clear definition of battery. Number 11.

12 THE DEFENDANT: What -- I have one more question. What is the type of  
13 penalty for battery?

14 MR. SCHIFALACQUA: Well, battery's only --

15 THE DEFENDANT: Oh, that's just a definition.

16 MR. SCHIFALACQUA: That's just a definition.

17 THE COURT: That's just the definition.

18 MR. SCHIFALACQUA: No one's being charged with battery.

19 THE COURT: And you'll find it later in this instructions, the jury can't decide  
20 the issue. Can't even discuss what the penalty might be.

21 THE DEFENDANT: That's Number 10?

22 THE COURT: Yes Number 11.

23 THE DEFENDANT: Well, that's pretty harsh, I think. If you say: No matter  
24 how slight.

25 THE COURT: Yep. You get to argue that.



1 THE DEFENDANT: Well, you're talking about --

2 THE COURT: Number 11.

3 THE DEFENDANT: -- habituals, though.

4 THE COURT: Number -- no. We're talking about the definition of battery.

5 Number 11: With reference to the crime of open or gross lewdness; is  
6 11.

7 THE DEFENDANT: Okay. It's supposed to be public place instead of private  
8 place. That one's definitely incorrect. That's on line 4.

9 THE COURT: State?

10 MR. SCHIFALACQUA: Judge, it can be done in a private place. It may not  
11 really matter much in this case because it was done in a public place. It was in the  
12 store, we're alleging. This is the case law interpreting open and gross lewdness;  
13 that it could be done in a home. Here it wasn't though so it's really not too much in  
14 dispute here.

15 THE COURT: And where did you get the language for private place? Was  
16 that out of the statute?

17 MR. SCHIFALACQUA: It was not. It was a case interpreting it, Judge. I can  
18 pull it.

19 THE COURT: Pull that case, please.

20 MR. SCHIFALACQUA: Okay. No problem, Judge.

21 THE DEFENDANT: Yeah. But that -- but it's supposed to be primarily a  
22 public place, Your Honor.

23 THE COURT: Okay. Just a minute.

24 THE DEFENDANT: He's being very specific about --

25 THE COURT: It was in a public place. It was in that parking lot.

1 THE DEFENDANT: No, but it doesn't say that here.

2 THE COURT: All right. Over the objection of the Defendant, it'll be given.

3 Number 12: A person without lawful authority, willfully and maliciously  
4 engages in a course of conduct with a child who is under 16. That's 12.

5 THE DEFENDANT: All right. Yes. That's how the statute reads.

6 THE COURT: Thank you.

7 13: A person less than 16 years of age may marry only if the person  
8 has consent of either parent or such legal guardians; is 13.

9 THE DEFENDANT: I need a statute reference for that one.

10 MR. SCHIFALACQUA: Sure. It's NRS 122.025.

11 THE COURT: NRS -- I'm reading to you from NRS.

12 THE DEFENDANT: I'm listening.

13 THE COURT: A person less than 16 years of age may marry only if that  
14 person has the consent of A, either parent, or B, such person's legal guardian. And  
15 such person also obtains authorization from a district court as provided in  
16 subsection 2.

17 That will be given over the objection of --

18 THE DEFENDANT: I wasn't objecting. I just wanted to hear the statute.

19 THE COURT: So, you're stipulating to that one.

20 THE DEFENDANT: Right.

21 THE COURT: All right. To constitute the crime charged is 14.

22 THE DEFENDANT: Okay.

23 THE COURT: That's the act and the intent.

24 THE DEFENDANT: All right. I -- it says here to constitute the crime charged  
25 there must exist -- I should -- I would like to include both on union or joint operation

1 of an act forbidden by law beyond the intent. And then -- and an intent to do that.

2 THE COURT: No. Not beyond the intent. Here's what it is. You have to  
3 have an *actus reus*. You have to have the *mens rea*. You have to have an act and  
4 you have to have the intent to commit the act. That's what that's instructing. That's  
5 a general instruction. That's not even a specific instruction. That will be given  
6 over --

7 THE DEFENDANT: Well, I disagree with the line that says: Intent refers only  
8 to the state of mind with which the act was done.

9 That's not enough, I don't think. He has to show some other inclination  
10 or some other fact that indicates there was an intent there. These are pretty serious  
11 charges and I think that's a little weak.

12 THE COURT: All right. That will be given over the objection of the Defense.

13 THE DEFENDANT: What number is that?

14 THE COURT: 14.

15 THE DEFENDANT: I object to that a lot.

16 THE COURT: Right.

17 15: Defendant is presumed innocent. You want that one given or not?

18 THE DEFENDANT: I object to the line doubt -- on line 9: Doubt to be  
19 reasonable must be actual, not mere possible or speculation.

20 Because I think it weakens it too much.

21 MR. SCHIFALACQUA: Judge, this is the statutory definition and the statute  
22 says that we cannot give any other definition of reasonable doubt.

23 THE COURT: That has to be given that way. That's --

24 THE DEFENDANT: Is that a statute?

25 MR. SCHIFALACQUA: I can look it up, but this is --

1 THE COURT: That's a --

2 MR. SCHIFALACQUA: It's for every case. We can't --

3 THE COURT: That's a general one that's given in every trial; whether it's  
4 murder or possession of drugs. That'll be given over the objection of the Defense.

5 Number 16: The evidence which you are to consider consists of.

6 Get Susannah in here, Tom.

7 THE DEFENDANT: Well, I do have a problem with that. It says: Statements,  
8 arguments, and opinions of Counsel are not evidence in this case.

9 And I wish to add: However, their comments should and can provide  
10 relevant insight to the relevance of witness testimony in comparison to other  
11 testimony, instructions, and relevant statutes.

12 THE COURT: All right. Noted for the record. Overruled. It'll be given as  
13 typed.

14 Number 17: Credibility or believability of a witness.

15 THE DEFENDANT: Does that include the Defendant?

16 THE COURT: The credibility or believability of any witness.

17 THE DEFENDANT: Of any witness.

18 THE COURT: Yes.

19 THE DEFENDANT: Okay. Shouldn't there be some sort of scale of the thing.  
20 You shouldn't disregard the entire testimony of a Defendant --

21 THE COURT: They can disregard all of it or part of it. That's up to them. If  
22 they believe somebody's lied on the stand, they can disregard the whole thing. Or  
23 they can disregard part of it.

24 THE DEFENDANT: Okay.

25 THE COURT: That's 17.

1                   18: A witness who has special knowledge skill. This is the expert  
2 witness or the --

3                   MR. SCHIFALACQUA: Judge -- yeah, I think we can pull that one out.

4                   THE COURT: We don't have an expert witness. So we'll pull that.

5                   Number 18: Although you are to consider only the evidence; is 18. Any  
6 objection?

7                   THE DEFENDANT: No.

8                   THE COURT: In your deliberation you may not discuss is 19; the punishment.

9                   THE DEFENDANT: I have no problem with that one either.

10                  THE COURT: 20: You are -- when you retire you must select one of your  
11 member to be foreperson.

12                  THE DEFENDANT: Okay. I don't have a problem with that either.

13                  THE COURT: 21: If in your deliberation you desire further informed.

14                  THE DEFENDANT: Now what's that, now?

15                  THE COURT: If any -- it's if they want a read-back or a listen-back.

16                  If in your deliberation you desire to be further informed on any point of  
17 law or hear test -- portions of testimony, you must reduce your request to writing,  
18 signed by the foreperson.

19                  THE DEFENDANT: Okay. I think I misplaced that. I don't have it here.

20                  THE COURT: You'll get a copy of this.

21                  THE DEFENDANT: But, that's okay.

22                  THE COURT: That's 21.

23                  Okay. You're going to get a copy of all of these by the way.

24                  THE DEFENDANT: Well, now you will listen to the arguments that's -- I have  
25 another one. In your deliberation you may not discuss or consider the subject of

1 punishment.

2 THE COURT: Yeah. That was 17, I believe.

3 THE DEFENDANT: Well, I'm off slightly. I'll just take the ones you have. I  
4 don't have objections to the rest of them.

5 THE COURT: All right. Now you will listen to the arguments of Counsel is 22.  
6 And I sign that.

7 THE DEFENDANT: Although if you give me the reference that you were  
8 looking for there. That would be nice.

9 MR. SCHIFALACQUA: Sure. The open and gross lewdness one was taken  
10 from *Ranson versus* --

11 MS. MERCER: *Berry*.

12 MR. SCHIFALACQUA: *Ranson versus State* and *Berry versus State*. And  
13 then the reasonable doubt instruction, it's the statute. And it's NRS 175.211. And  
14 then it says: No other definition of reasonable doubt may be given by the Court to  
15 juries in criminal actions in this state.

16 THE DEFENDANT: Okay. What was the second case reference for open or  
17 gross lewdness?

18 MR. SCHIFALACQUA: *Berry*, B-E-R-R-Y. *Ranson*, R-A-N-S-O-N. And  
19 *Berry*.

20 THE COURT: All right. So we have 22 jury instructions. And we've argued  
21 about them. Other than the objections that you've made, do you have any other  
22 jury -- you're familiar with 1 through 22, Mr. Pigeon?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you have any others you wish to propose?

25 THE DEFENDANT: No. I think we've covered it all.

1 THE COURT: All right. You've had a chance to review the verdict form? It's  
2 two pages long.

3 THE DEFENDANT: Yes. I did look at that.

4 THE COURT: Do you have any objections to the verdict form?

5 THE DEFENDANT: Well --

6 THE COURT: Other than you want three or four of the counts down to two.

7 THE DEFENDANT: Yeah. That's an important objection, Your Honor.

8 THE COURT: All right. Do you have --

9 THE DEFENDANT: No. It looks like it's okay.

10 THE COURT: Okay.

11 THE DEFENDANT: Although I will say this. Luring children is actually luring  
12 children or persons with mental illness. It doesn't say with the intent to engage in  
13 sexual conduct in the statute itself.

14 MR. SCHIFALACQUA: I'm sorry. What --

15 THE COURT: Count 3.

16 MR. SCHIFALACQUA: Okay.

17 THE DEFENDANT: Luring children it -- in the statute -- NRS statute says:  
18 Luring children or persons with mental illness. It doesn't say with the intent to  
19 engage in sexual conduct.

20 MR. SCHIFALACQUA: Yes.

21 THE DEFENDANT: Well, I'd like to have that removed if I could.

22 MR. SCHIFALACQUA: Well you could ask -- it's up to you. You could ask for  
23 a lesser included because guilty of luring with the intent to engage in sexual  
24 conduct, that's a B felony. That's how we've charged it. There is a gross  
25 misdemeanor of just guilty of luring a child without the intent for sexual conduct; that

1 would be a gross misdemeanor. So, it's just the sentencing. It's a B if it's for sexual  
2 conduct. If it's for just whatever purpose then it would be a gross misdemeanor.

3 THE DEFENDANT: So you don't agree with me, Your Honor?

4 THE COURT: I don't have a position. What do you want to do?

5 THE DEFENDANT: I wanted to take off with the intent to engage in sexual  
6 conduct.

7 MR. SCHIFALACQUA: Like I said, we can't take it off because that's the  
8 charge. The Defendant could ask for a less --

9 THE DEFENDANT: Well it would have to be changed in the indictment as  
10 well and in the --

11 THE COURT: No. And it's not going to be changed.

12 THE DEFENDANT: All right. Well then objection overruled, apparently.

13 THE COURT: All right. Make 19 copies of this.

14 All right. Do you have any objections or anything else you would like to  
15 put on the record, Mr. Pigeon?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: All right. The State is familiar with Jury Instructions 1 through  
18 22?

19 MR. SCHIFALACQUA: Yes, Your Honor.

20 THE COURT: Do you have any -- are you satisfied with them?

21 MR. SCHIFALACQUA: Yes, Your Honor.

22 THE COURT: Do you have any more you wish to propose?

23 MR. SCHIFALACQUA: No, Your Honor.

24 THE COURT: You've reviewed the verdict form.

25 MR. SCHIFALACQUA: I have.



1 THE COURT: Are you satisfied with it?  
2 MR. SCHIFALACQUA: Yes, Your Honor.  
3 THE COURT: All right.  
4 MR. SCHIFALACQUA: And no further objections.  
5 THE COURT: Go see if your jury's back yet, Tom.  
6 MR. SCHIFALACQUA: Judge, the State intends to rest when the jury comes  
7 back in.  
8 THE COURT: All right.  
9 MR. SCHIFALACQUA: We don't have any further witnesses. Mr. Pigeon, I  
10 believe, said he would like to testify.  
11 THE COURT: Do you still intend to testify, Mr. Pigeon?  
12 THE DEFENDANT: Yes. Hopefully, briefly.  
13 THE COURT: All right.  
14 MR. SCHIFALACQUA: I wanted to let him know he -- the two priors would be  
15 subject to cross-examination of the open or gross lewdness. I would not bring in the  
16 forgery because --  
17 THE COURT: Forgery.  
18 MR. SCHIFALACQUA: -- it's outside the ten years.  
19 THE COURT: He's already told the jury when I told him not to tell the jury,  
20 he's already told them that he's been convicted of those two anyway.  
21 MR. SCHIFALACQUA: That is true.  
22 THE COURT: He sort of opened the door, but --  
23 All right. So, they're going to rest.  
24 THE DEFENDANT: I'm going to take a restroom break, hopefully, real quick.  
25 THE COURT: Okay. Before Tom comes -- well, he'll come back in. Why

1 don't you take him to the restroom, if you don't mind? Everybody --

2 THE DEFENDANT: I'll only be a second.

3 THE COURT: Everybody, if you need to go to the restroom, go to the  
4 restroom.

5 [Recess taken at 11:42 a.m.]

6 [Trial resumed at 11:51 a.m.]

7 [Outside the presence of the jury]

8 THE COURT: Once they're admitted into --

9 THE DEFENDANT: Well, how about I not make an exhibit and just show  
10 them briefly, like this, that I do draw for a living.

11 THE COURT: Okay.

12 MR. SCHIFALACQUA: Okay.

13 THE COURT: Okay.

14 We're waiting for the jury to get back.

15 [Pause in proceedings]

16 THE DEFENDANT: Am I allowed to bring up a case?

17 THE COURT: Where -- how --

18 THE DEFENDANT: During testimony?

19 THE COURT: Huh?

20 THE DEFENDANT: Am I allowed to bring up a case during testimony?

21 THE COURT: What do you want to say?

22 THE DEFENDANT: I want to just reemphasize something that's stated in an  
23 instruction.

24 THE COURT: No, no. That's argument. Your testimony should be your  
25 testimony, not argument. That you can bring up in argument to the jury when you

1 argue. You kept slipping in arguments in the trial. I -- and you'll notice I let that go.

2 THE DEFENDANT: Thank you, Your Honor. I appreciated that.

3 THE COURT: Well, you need to stick with --

4 THE DEFENDANT: Can I mention one thing from *Colosimo versus State*? It

5 talks about when considering someone's guilt in a crime --

6 THE COURT: In your arg --

7 THE DEFENDANT: -- or the elements of the crime.

8 THE COURT: In your argument.

9 THE DEFENDANT: Yes.

10 THE COURT: Not in your testimony.

11 THE DEFENDANT: Oh, okay. Argument being my closing statement.

12 THE COURT: Yes.

13 THE DEFENDANT: Okay. [Indiscernible]. That's all right with me.

14 THE COURT: Okay. You ready for the jury?

15 THE DEFENDANT: I think I'm ready.

16 THE COURT: Bring them in.

17 [In the presence of the jury]

18 THE MARSHAL: All rise, please.

19 THE DEFENDANT: Can I testify from here, Your Honor?

20 THE COURT: Yeah.

21 THE MARSHAL: And be seated.

22 THE COURT: Stipulate to the presence of the jury.

23 MR. SCHIFALACQUA: Yes, Your Honor.

24 THE DEFENDANT: Yes.

25 THE COURT: State?

1 MR. SCHIFALACQUA: Judge, I took a look. All of the exhibits we're  
2 intending on offering have been admitted and so at this point State rests.

3 THE COURT: All right. State's rested their case in chief. Do you have any  
4 witnesses to call?

5 THE DEFENDANT: Just myself, Your Honor.

6 THE COURT: You'll raise your right hand. You can just sit right there and  
7 testify.

8 **CHRISTOPHER E. PIGEON**

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

10 THE CLERK: Please state and spell your full name for the record.

11 THE COURT: You can be seated. You don't have to stand.

12 THE DEFENDANT: Christopher E. Pigeon. That's C-H-R-I-S-T-O-P-H-E-R.  
13 Middle initial, E, period. And then the last name's P-I-G-E-O-N.

14 THE COURT: Go ahead, Mr. Pigeon.

15 THE DEFENDANT: All right.

16 **TESTIMONY OF CHRISTOPHER E. PIGEON**

17 **BY THE DEFENDANT:**

18 Welcome back, everyone. It's nice to see you this morning. Hopefully  
19 everything is fine. I want to start with a brief bio for character. I'm the oldest of five  
20 children. I was born in 1962 in Albany, New York. My dad was a courier military  
21 officer. He primarily served in the adjutant general core, which is personnel and  
22 administration. I moved -- I lived in -- also in Germany, Cape Cod, and Georgia for  
23 a long time and then my dad settled finally in El Paso, Texas where he was at Fort  
24 Bliss for a good many years.

25 And that's where I went to school from fourth grade to twelfth grade. I

1 was a good student. Graduated number 27 in my class out of 550 students. I got  
2 accepted to the University of Notre Dame and received an Army ROTC  
3 scholarship -- full scholarship to Notre Dame. I studied business administration  
4 there with a concentration in management information systems. And I had a minor  
5 in music theory and composition. So I'm also a composer, a business major, and I  
6 graduated from there as a distinguished military graduate in 1984.

7           Then I served four years in the army. At Fort Hood for two years and in  
8 downtown Philadelphia with an entrance processing station for new recruits; that  
9 was another two years. And I got out of the army in 1988. And while I was still in  
10 the army I started attending Drexel University, which is in downtown Philadelphia. I  
11 studied architecture there. I actually was in the army for a year and a half while I  
12 was attending night school at Drexel in architecture. It's a five year degree. I went  
13 on to finish that degree in seven years part-time at night.

14           It's one of only two architectural degrees you can have at night -- or you  
15 can achieve at night -- or take at night. The other one is Boston Architectural  
16 College and then -- the other one's in Philadelphia, of course; Drexel University. I  
17 didn't quite well there. I knew quite a lot of the professionals in Philadelphia. That's  
18 where I conducted my internship. I worked at three architectural firms and one  
19 construction management company. I worked on all sorts of projects, including  
20 office buildings, a city hall, an airport project, a YMCA fitness facility, and there were  
21 a few other lesser projects; some houses. But that's what I did primarily there.

22           I was married during that time from 1980 -- I graduated in 1984 from  
23 Notre Dame. Graduated in 1993 from Drexel University. I was married from  
24 1990 -- 1985 to 1992. We were in Philadelphia for most of that time. A little bit of  
25 time in central Texas at Fort Hood. I have three children and their ages are 28, 26,

1 and 24. Two boys and -- two girls and a boy. My ex-wife still lives in North Carolina  
2 and the kids live there, I think, primarily.

3               Since then I've worked some, but not extensively. Sort of a very  
4 qualified starving artist slash architect, who's had trouble keeping long-term work.  
5 Not due to ability. I think it's not due to inability. Due to too much ability. I think  
6 once you reach a certain point as an architect -- I think this true of even doctors and  
7 accountants. Once you get too valuable you either become a partner in a firm or  
8 you start your own firm. And that's not necessarily easy to do because you have to  
9 acquire your own clients.

10              I'm a theoretician. I draw a lot.

11              THE DEFENDANT: Can I approach the jury, Your Honor, a little bit?

12              THE COURT: No. You can just show them from there.

13              THE DEFENDANT: Well, I --

14              THE COURT: That's fine. Have Tom show them. Tom?

15 BY THE DEFENDANT:

16              I have almost 300 drawings. These are not going to be admitted as  
17 evidence or as an exhibit. But I do draw extensively while I'm locked up. And I do  
18 this outside. I draw on the computer on AutoCAD also. This is all for character.

19              THE MARSHAL: Would you like me to just pass them around or just hold  
20 them up?

21              THE COURT: No. Just show them. Walk in front.

22              Go ahead.

23 BY THE DEFENDANT:

24              I should also mention I played trombone while I was in grade and high  
25 school. And started playing the guitar when I was 18 and I'm also a guitar player

1 and a piano player and like I said, a composer. Primarily concentrating on  
2 architecture, however, at the moment. I have worked at other architecture firms. I  
3 worked at PSWC Architecture here in Las Vegas for about four or five months. But  
4 that was back in 1999. I've interviewed with many firms in town here, but have  
5 never actually been hired.

6 I should also mention I'm a pretty good chess player. I was the best  
7 chess player in every module I've been in so far. So I'm considered a master chess  
8 player. There are very good chess players in the jail. I have been incarcerated in  
9 the jail for these crimes since May of 2013. So I've been locked up for almost 15  
10 months.

11 THE DEFENDANT: I think, Judge, I'd like to just reshow three exhibits we  
12 already have.

13 THE COURT: Tom.

14 THE DEFENDANT: I'd like to show -- reshow these three exhibits we already  
15 have.

16 THE COURT: Okay. Take them from him, Tom.

17 THE DEFENDANT: Can I show them?

18 THE COURT: Yeah. Well, he'll show them and then you can talk about them.

19 BY THE DEFENDANT:

20 Yesterday during the tape and during Officer Lafreniere's -- or Detective  
21 Lafreniere's testimony, he claims he may have found cum on my shorts. But if you  
22 look carefully those shorts are very clean. There's nothing there. I just wanted to  
23 mention, he argued that I was homeless, which is true. I was homeless at the time.  
24 I am normally on social security since I haven't worked in a while. Social security is  
25 for depression and over-achiever syndrome. It's not major disability, but it's minor

1 disability and I do receive income from it on occasion.

2 But I was living in this box briefly from March to May. This is my  
3 storage box, which I might add I've had since 2001. So I've had it for 13 years. I  
4 haven't stayed there that often. Just on occasion when I've been homeless. I have  
5 lived in many different apartments. Well, I shouldn't say many. A few different  
6 apartments in Las Vegas. Most of them are downtown that I've lived. And the most  
7 recent one of course is 200 South 8th Street, which is called the Bargain Motel. I  
8 just wanted to point out this is relatively neat and well-kept. So I am a well-  
9 organized person.

10 Briefly, we mentioned I have prior charges at the beginning of this -- at  
11 the opening arguments of this trial. Those were in 2002, 2006, 2009, and then  
12 again in 2012. I will say all of those if they were my first charges would have been  
13 misdemeanors. So they're all misdemeanor lewdness charges. One of them, as I  
14 mentioned earlier, was for touching a waitress in the back at Treasure Island  
15 Casino. That one was reduced to a misdemeanor.

16 Another one was for having my hand in my pocket. And then there are  
17 two more that are, I think, were very mild. I don't think it was that serious an issue.  
18 However, I did spend time in prison. Two years, the once, which I spent mostly in  
19 the County Jail. And another time I spent two years and nine months; six months in  
20 County Jail and two years and three months in the prison system at both High  
21 Desert and Lovelock for that crime.

22 With respect to this crime, I will say this. She claims that -- in her  
23 interview that -- and her written statement, C [REDACTED] C [REDACTED], the victim -- or --  
24 well, I guess she is the victim for one of the crimes only. Well, plus the -- some of  
25 Class B felonies, but those are only alleged. She claims that she only saw me for



1 three days, but I think I actually saw her for longer than that. I stated that in my own  
2 interview that I saw her for a couple of months. So we were -- I mean, we were  
3 around each other quite a lot. It wasn't something that just happened out of the  
4 blue. I just wanted to mention that. We did say hello a couple times.

5 I want to mention, with respect to -- I was originally arrested for just  
6 open and gross lewdness one count, which is originally misdemeanor lewdness;  
7 however, they automatically enhance it to a felony, lewdness since I already have a  
8 prior charge. But we've established that there are no wit -- there are absolutely no  
9 witnesses for that crime. So I don't really think that there's any val -- validity to it.  
10 There was a tape that they don't have that they claim they saw something on. And  
11 it's only Detective Lafreniere that claimed he saw anything on it. And he just claims  
12 I had my hand in my pocket, touching myself. I don't think -- that constitutes  
13 hearsay in my opinion and it means there are no witnesses and there's no crime  
14 there.

15 With respect to burglary, you'll -- you will find that there's an instruction,  
16 which talks about what burglary is.

17 THE COURT: Okay. You're arguing now. You're just supposed to say -- I  
18 told you, you would have another time to argue.

19 THE DEFENDANT: All right. Well, I have to argue at the closing argument  
20 then. I'll say that to the members of the jury.

21 BY THE DEFENDANT:

22 The other -- I'll just mention the crimes in general. I won't talk  
23 specifically. The other crimes of course are burglary, luring children, aggravated  
24 stalking, and attempted kidnapping. Those crimes have different elements to them  
25 and we have to prove all those elements. And there's not just one aspect of the

1 crime that has to be there. It has to be all the aspects of the crime that have to be  
2 proven. And I don't think you'll find that there's a crime there. I just was very  
3 enamored with a young girl, who was probably 12 and a half back then. She's now  
4 13.

5 I don't normally chase girls who are 12 years old. Normally I chase girls  
6 that are waitresses, actually, perhaps. Or sometimes maybe a girl in high school or  
7 college. I don't often talk to young girls, but I find this particular girl very nice, bright,  
8 interesting. I thought she was a nice specimen. I like her being slimmer. I just sort  
9 of fell in the first stages of love with her and was trying to get to know her over the  
10 summer. There were only two weeks before school was out so I was really trying to  
11 get to -- get her to let me meet her mom or her dad or maybe I could have come  
12 over for dinner or something over the summer. It would have been nice.

13 My intention was to marry her if I could have met her mom and she  
14 would have agreed. So I really had good intentions I'd say. I mean, obviously I was  
15 somewhat sexually attracted to her. But I didn't exercise any of that formally.

16 THE COURT: Okay. You're arguing again.

17 THE DEFENDANT: All right, Your Honor. Noted.

18 BY THE DEFENDANT:

19 I will say the charges that I talked about attempted kidnapping,  
20 aggravated stalking, luring children, and burglary were added later. Those were not  
21 the original arrests. There's somewhat of an argument and dispute about whether  
22 or not the original charges are even valid. Including unlawful contact with a child.  
23 It's just --

24 THE COURT: Mr. Pigeon, you're arguing again. You need to not argue to  
25 the jury right now. You'll have an opportunity.

1 BY THE DEFENDANT:

2 Well, those charges were added later. And the -- I just wanted to point  
3 out that the interview you heard on tape yesterday from me was recorded before  
4 they added these more serious Class B felonies that we mentioned. So there were  
5 just two charges at that point. That interview was conducted under those  
6 circumstances. I also want to remind you that C [REDACTED] C [REDACTED] didn't complain  
7 about me at all. It was the store clerk, John Bryant that said something.

8 I would also like to add that I've written in the past 15 months -- I've  
9 written four motions to drop charges due to improper indictment --

10 THE COURT: Okay. Mr. Pigeon, that's argument. You need to tell us --

11 THE DEFENDANT: Well, that's going to be a long closing sentence, if you're  
12 saying that's argument.

13 THE COURT: That's argument. You can't argue right now. You just tell your  
14 story.

15 THE DEFENDANT: Well, it'll be a longer closing sentence, but I can do that.

16 THE COURT: That's fine. That's fine. But you have to do when the time  
17 comes for that as I've mentioned in the past.

18 THE DEFENDANT: But that hasn't been established as fact.

19 THE COURT: That's argument.

20 THE DEFENDANT: No. Argument would be if I claimed something about it.

21 THE COURT: Now you're arguing with me. Just --

22 THE DEFENDANT: Well, that's correct, Your Honor.

23 Your Honor, does the jury get to review the transcript, thus far, when  
24 they deliberate?

25 THE COURT: No.

1 THE DEFENDANT: They just --

2 THE COURT: If they need --

3 THE DEFENDANT: -- go based on what they remember.

4 THE COURT: Jury Instruction Number 20, I believe, will say if -- maybe it's  
5 21. If they need further instruction, they'll be instructed. We've gone over that.

6 THE DEFENDANT: Okay.

7 All right. I think I'll rest on that, Your Honor.

8 THE COURT: You have nothing else to say?

9 THE DEFENDANT: Well -- nothing -- other than an argument. That's it.

10 THE COURT: Yeah. No. Your argument will come in a little bit. Okay.  
11 Cross.

12 **CROSS-EXAMINATION BY THE STATE**

13 BY MR. SCHIFALACQUA:

14 Q Mr. Pigeon, how long do you think you followed C [REDACTED] on the bus?  
15 Was it more than those three days?

16 A Just a couple more, probably.

17 Q And what initially interested you in following her?

18 A She seemed attracted to me. I mentioned in the interview yesterday,  
19 facial expressions, body language, and she glanced at me often.

20 Q And --

21 A She didn't seem to mind my company.

22 Q Did you know how old she was or did you learn that later?

23 A I knew that she was probably a junior high student.

24 Q And is that because you knew she went to Hyde Park, which is a junior  
25 high school?

1           A     Yeah. I didn't discover that until later though.

2           Q     So did you think that she was around the age of 12?

3           A     Yes. 12 or 13, I figured.

4           Q     Okay. What was your purpose in following her for those days on the  
5 bus?

6           A     To get to know her.

7           Q     Okay. Did you feel like you did get to know her over the course of  
8 those few days?

9           A     Some.

10          Q     Okay. When she asked you that one day kind of the -- by Sonio's to  
11 leave her alone, how did you interpret that?

12          A     I actually was somewhat shocked because she seemed to like my  
13 attention. I felt kind of bad about it. I followed her to make sure she wasn't going  
14 away nuts or anything.

15          Q     Okay. And so --

16          A     I mean, normally I walked her to the front door of her school just to  
17 make sure she got there. Or just to watch her go in. And so on that day I did the  
18 same thing. I just -- I mean, she went to the convenience store, I went in the  
19 convenience store, and then I walked with her to school.

20          Q     Okay. And when you walked into the convenience store on that day  
21 that was not the day you bought something. Is that right?

22          A     I bought something on the 15<sup>th</sup> and the 17<sup>th</sup>.

23          Q     Okay. So the 16<sup>th</sup> -- if the 16<sup>th</sup> is the Sonio's incident, that was -- you  
24 were just checking on her. That wasn't a day you purchased anything at CJ's.

25          A     Yeah. I didn't purchase anything. She didn't stay in the store as long

1 that day.

2 Q Okay. On the 17<sup>th</sup>, you heard the testimony from the police detective  
3 that he saw you at the park across the street.

4 A Right.

5 Q Were you at the park across the street around the time that school was  
6 dismissed?

7 A Yes, I was. It is a public park.

8 Q Okay. No, I understand. And what were you doing at the park?

9 A I was going to see if I couldn't see C [REDACTED] there and say hello.

10 Q Okay. So your purpose was to say hi to C [REDACTED]. And you heard the  
11 testimony about how you went onto the school grounds -- or the area there. Do you  
12 remember that? Do you remember doing that?

13 A Yeah. I just walked up the front sidewalk.

14 Q Okay. And what was your purpose on going on to the school grounds?

15 A I was going to look in the hallway briefly to see if C [REDACTED] might not be  
16 there and I was just going to have a drink of water of course. It was May and I had  
17 just jogged probably three or four miles.

18 Q Okay.

19 A So I was going to get some water.

20 Q Okay. So you were looking for C [REDACTED] and also a sip of water?

21 A Right.

22 Q Okay. Earlier that morning, did you tell her that she looked nice or  
23 something like that when you were in the convenience store?

24 A Yes. I said she -- "you look beautiful today, Miss," is what I actually  
25 said.

1 Q And did you, when she left, go after her to school? Did you --

2 A Yes.

3 Q And did you do that somewhat quickly after she left?

4 A On that particular day, yeah, I was -- one of the days I didn't follow her  
5 until a couple minutes later. But on the other two days I left right after she did.  
6 Walked with her.

7 Q Okay.

8 A Walked behind her.

9 Q You never met her family. Is that right, Mr. Pigeon?

10 A That's correct.

11 Q With her parental permission, you were saying, you did want to marry  
12 and have sex with her. Is that right?

13 A That's correct.

14 Q Okay.

15 A Only with permission and of course, marriage.

16 Q Okay. And you did find her sexually attractive?

17 A Yes.

18 Q Okay. You do have a 2006 felony conviction for open and gross  
19 lewdness here in Nevada. Is that correct?

20 A That's correct.

21 Q Is it also correct that you have a 2012 felony conviction for open or  
22 gross lewdness in Nevada?

23 A Yes. Both of those would have been misdemeanors if they had been  
24 my first charge. But they enhance it automatically.

25 Q You brought up the facts of one. Isn't it true in the 2012 case that you

1 were masturbating in a casino while looking at some women?

2 A No. I didn't masturbate. I took a plea bargain on that.

3 Q Okay. So you pled guilty to masturbating in public, but you didn't do  
4 that.

5 A Yes.

6 Q I see. And how about the 2006 one? Were you masturbating in public  
7 then?

8 A 2006 one I was represented by Mark Cichoski and one other female  
9 lawyer whose name I don't remember. And they convicted me for that one.

10 Q Okay.

11 A That occurred at a department store at the Boulevard Mall.

12 Q Okay.

13 MR. SCHIFALACQUA: Nothing further, Your Honor.

14 THE COURT: Do you have anything else you'd like to say before argument,  
15 Mr. Pigeon?

16 THE DEFENDANT: No. I think I'm --

17 MR. SCHIFALACQUA: Judge, I think there were some --

18 THE DEFENDANT: -- satisfied.

19 THE COURT: All right. Does the jury have any questions of this witness? All  
20 right. Write them down, please.

21 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

22 BY THE COURT:

23 Q What was your intent when you physically blocked Candace's way on  
24 the steps by Sonio's restaurant? And you touched her on the wrist.

25 A Yes. I'll explain that carefully. My intent was just to say hello to her and



1 talk to her for a minute. I told her I loved her and I said I think you're beautiful. That  
2 was the second time I said -- actually it was the first time I'd said I think you're  
3 beautiful, but I said that twice to her during those three days. She was walking north  
4 on Valley View in the parking lot there and she -- we had both just gotten off the bus.  
5 The bus is right there perhaps only about 20 -- 25 yards away.

6 She walked straight up the steps and then came down took a right  
7 down some steps and I just walked this way out in front of her at an angle outward  
8 and I stopped and she actually kept going a couple of more steps. So I didn't really  
9 block her. I mean, she was able to run. And what she did is after I told her that I  
10 reached for her arm right here and she said leave me alone and then she picked up  
11 her -- my hand was there and she just kind of did that with her arm and then she ran  
12 off. So that's how it happened. That was the touch. It was just kind of that.

13 Q Why did you take the bus route from central station to Charleston and  
14 Valley View?

15 A Well, I always -- I rode the bus with her on purpose. It was to be with  
16 her.

17 Q Where were you going?

18 A I walked her to school.

19 Q Were you only following C [REDACTED]?

20 A Yes.

21 Q Do you still love C [REDACTED]?

22 A Yes, I do.

23 Q Were you happy to see her again in Court?

24 A Yes, I was.

25 Q Do you hope to see C [REDACTED] again someday?

1           A     Well, I think it's difficult at that moment because unlawful contact,  
2 although it's a misdemeanor right now -- a second crime of that would be a felony of  
3 one to six years. I'd like to see her again. I mean, I would really -- I really do hope  
4 to see her again. However, I'd have to have permission for that.

5           Q     Do you want to pursue a relationship with C [REDACTED] or another teenager  
6 in the future?

7           A     Only with C [REDACTED]. Otherwise I don't want to chase any more  
8 teenagers. Except for maybe an 18 or 19 year old. Perhaps a student at UNLV.

9           Q     Would you approve of a man who is pursuing his daughters when they  
10 were teens? Do you -- would you approve of a 50 year old following a teenager?

11          A     Following?

12          Q     Following.

13          A     You said daughters though.

14          Q     Following. Would you -- what would you think of a man that would  
15 approve of a 50 year old following a teenager?

16          A     Well, ideally you talk to them and not follow them. Or walk with them  
17 instead. I'd say it's okay some of the time as long as she doesn't say anything  
18 about it. I mean, I saw her at the bus station quite often before that point. Before  
19 the 15<sup>th</sup>.

20          Q     Okay.

21          A     But I'd say it would depend on the circumstances.

22          THE COURT: I'm going to have the State -- do you have any questions?

23          MR. SCHIFALACQUA: No, Your Honor.

24          THE COURT: Okay.

25          THE MARSHAL: We've got one more question.

1 JUROR NUMBER 11: Sorry, Your Honor.

2 THE COURT: That's all right.

3 I'm not going to ask that question. I'll put it on the record later.

4 Do you have any other witnesses to call, Mr. Pigeon?

5 THE DEFENDANT: No. I'm --the Defense rests, Your Honor.

6 THE COURT: Do you have any rebuttal?

7 MR. SCHIFALACQUA: No, Your Honor. We rest as well.

8 THE COURT: Are you ready for argument?

9 MR. SCHIFALACQUA: Yes, Your Honor.

10 THE COURT: Go ahead.

11 MR. SCHIFALACQUA: Are you going to read the instructions or are you  
12 going to have the --

13 THE COURT: Oh. I have to read the jury instructions. Sorry.

14 MR. SCHIFALACQUA: No problem.

15 THE COURT: Hand out the jury instructions, please. Sorry.

16 MR. SCHIFALACQUA: No problem,

17 THE COURT: Sometimes I forget that.

18 You're being handed the jury instructions. Make notes on there if you'd  
19 like. You'll take them back in the jury room. When you're done, you'll leave them in  
20 the jury room. And you can follow along with me as I read. Okay.

21 [The Court read the instructions to the jury]

22 THE COURT: Now your foreperson will be given this verdict form. It'll have  
23 check marks. You can just check them off. And then signed by the -- the form and  
24 dated.

25 State ready?

1 MS. MERCER: Yes, Your Honor.

2 THE COURT: Go ahead.

3 MS. MERCER: Can I get the monitor switched over, Your Honor?

4 THE COURT: Pardon?

5 THE MARSHAL: She's doing it.

6 **CLOSING ARGUMENT BY THE STATE**

7 BY MS. MERCER:

8 Good afternoon, ladies and gentleman. In this case the Defendant  
9 committed the six crimes charged in the amended indictment between May 15<sup>th</sup> and  
10 May 17<sup>th</sup> of 2013. Between those dates he attempted the first degree kidnapping of  
11 C [REDACTED] C [REDACTED], he committed the aggravated stalking against C [REDACTED]  
12 Carpenter, he attempted to lure her with the intent to commit to sexual conduct, he  
13 committed the crime of burglary, he committed the crime of open and gross  
14 lewdness, and he committed unlawful contact with a child.

15 As the Court just explained to you, at this point I'm going to go through  
16 the charges in this case and help you apply the facts of the case to the legal  
17 elements. And help you understand why he's guilty of those charges.

18 The crime of attempt first degree kidnapping. In order for there to be an  
19 attempt, you have to find that he had the intent to commit the crime; that he took  
20 some act towards the commission of that crime, and he failed to actually complete  
21 the crime. Which is why it's an attempt first degree kidnapping versus an actual  
22 kidnapping. The elements of kidnapping are that every person who leads, takes,  
23 entices, or carries away or detains any minor. C [REDACTED] C [REDACTED] is obviously a  
24 minor. She is 12 years old.

25 With the intent to keep, imprison, or confine him from his parents or

1 guardians. He obviously intended to take her away from her guardians because he  
2 wanted to have sex with her. With the intent to perpetrate upon the person of the  
3 minor any unlawful act is guilty of kidnapping. As the Judge just instructed you, it  
4 would have been illegal for Christopher Pigeon, a 50 year old man, to marry  
5 C [REDACTED] C [REDACTED], a 12 year old little girl. What is -- would have also been equally  
6 illegal for him to have sexual contact with her.

7           The evidence that supports the charges in this case are his conduct.  
8 The fact that he followed her for three days straight; May 15<sup>th</sup>, May 16<sup>th</sup>, May 17<sup>th</sup>.  
9 On May 17<sup>th</sup> he blocks her. She tells him to leave me alone. Instead of leaving her  
10 alone, he actually accelerates his conduct. He then starts hitting on her in front of  
11 people. He becomes more brazen. Waits for her outside of school on a Friday,  
12 which is significant because he knew he might lose the opportunity to get her. He  
13 knew that she was becoming frightened. She had told him, leave me alone.

14           He didn't wait for her on any other day of the week except Friday  
15 because he knew she would go home to her family that weekend. And what does  
16 he do? He actually starts going into the school. And he told you with his own mouth  
17 this morning why he went into that school. He went into that school to get C [REDACTED]

18 C [REDACTED]

19           Detective Lafreniere testified that when he observed the Defendant  
20 sitting on that park bench he was giddy, he was excited, his legs were shaking.  
21 He -- the Defendant looked excited for his encounter with C [REDACTED] C [REDACTED] that  
22 afternoon. He watched to see what he would do and then he entered the school.  
23 He told the detective, he told you today that he wanted to marry her. He still wants  
24 to marry her. He wants to see her again if he gets out.

25           Because of all of that conduct and because of the fact that he

1 attempted to grab her on the 16<sup>th</sup>. Because of the fact that -- and the conduct on the  
2 16<sup>th</sup> I point to because it illustrates what he would have done on the 17<sup>th</sup>. That  
3 coupled with the fact that he waited for her to get out of school; that he went -- made  
4 sure that he was back there in time to get her. Made sure that he went into the  
5 school so that she couldn't exit the school before he found her. All of that illustrates  
6 that when he went to the school on the 17<sup>th</sup>, he intended to take her. He intended to  
7 take her so he could have sex with her. He intended to take her so he could marry  
8 her. This 50 year old man. A 12 year old girl.

9           Aggravated stalking: Willfully or maliciously engaging in a course of  
10 conduct, as opposed to accidental. This wasn't accidental. So that element's pretty  
11 clear. That would have caused a reasonable person to feel terrorized, frightened,  
12 intimidated, harassed and actually causes those same reactions. And he must have  
13 done it with the intent that the person be placed in fear. A course of conduct means  
14 a pattern of conduct which consists of a series of acts over time that evidences a  
15 continuity of purpose. In others words, in this case his conduct spanned over those  
16 three days, which is indicative of his intention. It was a course of conduct as  
17 opposed to just one single encounter.

18           Again, he was 50 years old and she was 12 years old. Any reasonable  
19 12 year old girl who is walking to school, minding her own business would feel  
20 threatened, terrorized, all of those things when a 50 year old man follows them not  
21 just to the school, but from the bus station to Charleston and Valley View. She tries  
22 to get away from him. He follows her into the gas station. He tried to block her.  
23 She ran into the gas station. And that's significant because it shows that she  
24 actually was placed in fear.

25           I asked her, why did you run to the gas station when you weren't

1 planning on going there in the first place? She said, because there were people in  
2 there and I knew I would be safe. Some of you asked the question why didn't she  
3 call the police. She's 12 years old. She's not thinking like an adult. She's not  
4 thinking man, this guy might kidnap and do something really bad to me. She's  
5 thinking hopefully this guy will get the message that I just gave him, leave me alone  
6 and he'll actually leave me alone.

7 THE DEFENDANT: Those are all lies, Your Honor.

8 THE COURT: Okay. Noted your objection. You can argue in a minute.

9 THE DEFENDANT: I would think you'd calm her down a little bit.

10 THE COURT: Okay. Thank you.

11 BY MS. MERCER:

12 In addition to the fact that she went to the store to get help, she told you  
13 that she was frightened. She told the detective that she was frightened. She told  
14 the police officer that was frightened. She is a 12 year old girl. Of course she was  
15 frightened by this man following her around and professing his love to her. And  
16 when she asks him to leave her alone he -- again -- I'm going to point to this again,  
17 he accelerated his conduct. He became more aggressive with her. He began  
18 hitting on her in front of the store clerk. It was at that point -- had John Bryant not  
19 observed that contact between the two of them, he probably still would have  
20 continued to harass her. The police wouldn't have intervened.

21 The luring a child in this case is very simple. He knowingly contacted a  
22 12 year old girl. He knew she was 12. He told the detective she was 12. He just  
23 told you he -- well, I knew she was junior high student. There's by and large very  
24 few people in junior high over the age of 13 or 14. She -- he also -- because he told  
25 the detective that he knew she was 12, he was very obviously aware that she was

1 under 16. And there's very clearly a larger age gap than five years between a 50  
2 year old and 12 year old. He was obviously attempting to lure her away. He told the  
3 detective that. He told you all that. I wanted to marry her. I wanted to get her  
4 parent's permission, allegedly.

5 Without the express consent of a parent or guardian. He knew that it  
6 was without the consent of a parent or guardian in this case. Because if he actually  
7 intended to get the permission from a parent or guardian, he knew what bus she  
8 rode. He could have followed her to the house and knocked on the door and said  
9 hey, I'd like to date your daughter. Is that okay? He wasn't going to get permission  
10 because he knew it wasn't right. A 50 year old man doesn't date a 12 year old girl.

11 With the intent to engage in sexual conduct. He's already told you he  
12 intended to have sex with her. That count's easy.

13 Burglary is a little bit tricky because a lot of us think burglary is only at a  
14 home and there has to be a breaking and entering. But as the instruction tells you,  
15 a burglary occurs anytime a person enters a store with the intent to commit a battery  
16 or felony. In this case it's specifically alleged that he entered the store with the  
17 intent to batter her.

18 And I'll explain why that's pled that way. Because the grabbing of  
19 C [REDACTED] on the 16<sup>th</sup> actually constitutes a battery. A battery is any unlawful use of  
20 force or violence on the person of another, however slight. So that's why we alleged  
21 that because he entered the store with the intent to further engage in conduct with  
22 C [REDACTED] and with the intent to grab her.

23 He also entered the store with the intent to commit the kidnapping that's  
24 alleged in count one. He entered into the store with the intent to commit the luring a  
25 minor, which is charged in, I believe, count four. So, that's why he's charged with



1 burglary in this case and that's why he's guilty of burglary in this case. Because he  
2 entered that store with that felonious intent.

3 And open or gross lewdness. It sounds confusing, but it's really not.  
4 Open is used to modify the term lewdness. It include acts which are committed in a  
5 private place of which are committed in an open, as opposed to secret, manner. It  
6 includes an act done in an open fashion, clearly intending that the act could be  
7 offensive to the victim. The term gross is defined as being indecent, obscene, or  
8 vulgar. Lewdness is any act of a sexual nature, which the actor knows is likely to be  
9 observed by the victim, who would be affronted by the act.

10 The test -- the evidence in this case established that on May 15<sup>th</sup> of  
11 2013, the Defendant entered the store. He makes a purchase, he's watching  
12 C [REDACTED] all along. If you'll recall John Bryant testified that every time the Defendant  
13 was in the store, his hands were in his pocket. He makes that purchase and he  
14 goes and sits at the slot machine. Detective Lafreniere, a sex assault -- a sex  
15 assault detective for, I believe the testimony was about five years, watches the video  
16 and can clearly tell what's going on at this point.

17 The Defendant is masturbating his penis while watching C [REDACTED], while  
18 sitting at the slot machine. The Defendant, in his interview with the Defendant and  
19 in his testimony this morning tried to minimize that conduct and tell you oh, I was  
20 just adjusting myself; that never happened. But Detective Lafreniere told you no, he  
21 was absolutely masturbating. His hand was on his penis a lot longer than it would  
22 have taken to adjust himself.

23 He was obviously enamored with C [REDACTED]. He told you during his  
24 interview with the detective that his penis would become erect when he'd see her;  
25 that he would be aroused by her. So we all know what happened in that store. He

1 was aroused and he was masturbating because he saw C [REDACTED].

2 Unlawful conduct with a child. It's pretty much the same elements as  
3 the luring a child except that it doesn't have the sexual element. It says that a  
4 person who willfully and maliciously engages in a course of conduct with a child  
5 who's under 16 years of age and at least five years younger than the suspect.  
6 Obviously that age difference is met again and actually causes the child to feel  
7 terrorized, frightened, intimidated, or harassed. Obviously he's guilty of that count.  
8 C [REDACTED] told you that his conduct scared her; that she felt frightened; that she was  
9 worried that he might kidnap her; that she was worried that he might harm her. He  
10 obviously committed that crime.

11 In light of all of the evidence in this case, in light of the Defendant's  
12 testimony in this case, the State is going to ask that you convict the Defendant on all  
13 six counts in the amended indictment.

14 THE COURT: Mr. Pigeon.

15 THE DEFENDANT: All right, Your Honor. Thank you.

16 THE COURT: You can sit right there and argue your case.

17 **CLOSING ARGUMENT BY THE DEFENDANT**

18 BY THE DEFENDANT:

19 Well, that was awfully harsh closing argument in my opinion. She  
20 claimed many things that weren't even mentioned or claimed in the trial; even by  
21 questioning. I'd like to mention one thing. The kidnapping charge is actually  
22 missing half of the statute. There's an end portion which I objected to and the Judge  
23 overruled my objection and decided to leave that out. So there is actually a  
24 kidnapping portion -- there are aspects of kidnapping missing from the instruction  
25 that you have there. I just wanted to point that out.

1 I think kidnapping is a pretty serious charge. I had no automobile, no  
2 implements. I was out for a jog. She claimed -- the DA claims I went there to  
3 kidnap her or to block her again as she put it. However, there was only one block  
4 and that was on the first date; on the 15<sup>th</sup>. And I had just run and had belongings at  
5 my fitness club, you know, probably about two or three miles away. I guess it's a  
6 mile and a half or two actually.

7 So, I don't think there's any attempt -- I had no intent to collect a  
8 ransom. I had no intent to keep her anyway. I don't have any place I could have  
9 kept her. I wasn't well off at the time. I was unemployed. So I didn't really have  
10 money for that sort of thing. I don't think there was any intention there to kidnap at  
11 all.

12 She says I plan to see her again on the outside. That's not true. I'm not  
13 going to chase her unless they get -- had -- unless they had already given me  
14 permission to see her. I won't see her without permission. I -- I mean, I think she's  
15 very nice. I still love her some. But I won't see her if I don't have permission.

16 Keep in mind -- the aggravated stalking charge, if you read the  
17 instruction that talks about the statute and the elements of the crime there, it claims  
18 that you -- it claims that you can have misdemeanor stalking. There are two types of  
19 stalking there. There's misdemeanor stalking and there's aggravated stalking.  
20 Misdemeanor stalking is a penalty up to a year. The aggravated stalking can be up  
21 to 15 years. But if you read case law concerning aggravated stalking, there are  
22 instances of aggravated stalking where there's guns involved --

23 MR. SCHIFALACQUA: Judge, I have to object. He's really redoing the  
24 instructions that have already been settled.

25 THE COURT: Yeah. Just stay to the instructions as we've said it. You can

1 argue that you don't meet those -- that law. But you can't bring in new facts. Go  
2 ahead.

3 THE DEFENDANT: It's not a new fact.

4 BY THE DEFENDANT:

5 What I'm saying is there are many, many severe instances of  
6 aggravated stalking which aren't even close to this. I mean, maybe you can argue I  
7 had a very, very, very minor misdemeanor stalking. But I don't even think I -- I don't  
8 even think that's valid, personally. And in order to be aggravated stalking you have  
9 to place the person in reasonable fear of death or substantially bodily harm. It's not  
10 just bodily harm, it's substantial bodily harm. So it has to be a pretty serious  
11 instance. And there was no act that imitated that -- or that approximated that at all.

12 C [REDACTED], in her original statement, claims that I blocked her and that  
13 there was a light touch on her hand. And I want to remind you she never  
14 complained to anyone. It was only the store manager that said something to the  
15 police officer that walked into the store. So it wasn't immediate. It was some time  
16 later. So it wasn't anything urgent at any point. Even though that same store  
17 manager had seen me in that store two out of the three days. There was a different  
18 store manager for the first day.

19 She also claims to be weirded out in her original statement, not scared.  
20 And she admitted to that on the stand. I want to remind you of that. Also, I asked  
21 her -- during her testimony I asked her about whether or not I ever said anything  
22 inappropriate to her or whether or not I ever threatened her. And she says no, she  
23 never -- I never did that for her. There was never -- never anything inappropriate  
24 being stated, never anything claimed. There was never a threat of any kind at all.

25 The DA argues that blocking her -- I think that was about as mild of

1 definition as block as you can get because I was probably six feet from the stairs  
2 and she came down the stairs. So she had a full six feet between the stairway and  
3 where I was at. So it wasn't really blocking. I don't think that constitutes bodily  
4 harm or any sort of an attempt to do anything related to kidnapping or aggravated  
5 stalking. That's all I have for that one.

6           Concerning luring children, that's a tough one. It's perhaps the only  
7 valid crime they could have added in order to make this case a little more difficult for  
8 me as a Defendant and a little more favorable for the DA. So that -- in my opinion,  
9 of the five charges that they added at the Grand Jury -- and keep in mind that there  
10 are five charges all for this same relative three-group of -- group of three incidents.

11           In a word, constitute luring children, you have to have -- you have to  
12 prove that I intended to transport her somewhere. And at the same time you have to  
13 prove that I wanted to do this with the -- without the intent -- well, they -- they did  
14 prove that I didn't have consent; however, they have to prove that I had an intent to  
15 avoid the consent of the parent or guardian. And I don't think they can prove that.  
16 And they have to prove that I had the intent to engage in sexual conduct. You have  
17 to prove all three of those elements there. And I don't think any of those apply  
18 there.

19           I mean, I don't think the crime applies because I don't think you can  
20 prove even one of those really. Not beyond a reasonable doubt. And there are no  
21 comments or no testimony that indicate that it -- any of my actions or any of the  
22 situation was severe enough to claim that I intended to transport, or I intended to  
23 avoid the consent of the parents, or I intended to engage in sexual conduct.

24           Burglary I think's extreme. Really what burg -- the burglary charge in  
25 this case is the other charges -- a substitute for the other charges. But I don't think

1 that's a valid charge here because there's really no battery. It does say you have to  
2 prove violence or force. And I don't think blocking or the light touch on the hand,  
3 which she claimed -- she claims it was a light touch. So did I claim it was a friendly  
4 touch in my own interview. I don't think you can claim that there was any  
5 substantial -- there was enough force or violence there at all to qualify as burglary.

6 For open and gross lewdness it says -- they have here: As such it  
7 includes acts which are committed in a private place. But that's for a specific crime  
8 and I don't think that even applies. It's actually supposed to be in public and in  
9 direct view of witnesses. And by witnesses who would be offended. But as I've said  
10 earlier, no one claimed that there was any masturbation except someone who  
11 claims there was a video. But they have no video, I don't think. I mean, I don't think  
12 there even was a video to begin with. I think they just claimed that. That's my  
13 opinion however.

14 Unlawful contact with the child. I think you could argue there was a  
15 very mild case of that. That's the misdemeanor. But as -- if there's a second charge  
16 of that, it becomes a Class C felony, which is one to six years. It's a misdemeanor  
17 now. I mean, you might be able to argue that one and you might be able to argue  
18 the very simple misdem -- gross misdemeanor stalking, but I think not both. I think  
19 it's one or the other. And in the case of unlawful contact with the child, it says here:  
20 Which would cause a reasonable child of like age to feel terrorized, frightened,  
21 intimidated, or harassed. Those are all pretty strong words.

22 I repeat, she does claim she was weirded out in her original statement  
23 and later she claims she was scared. I don't think she was too scared. I don't think  
24 she seemed too nervous or scared on the stand either. I just really loved the girl  
25 some, I mean. You know, as far as first stages of love go. And obviously there's a

1 little bit of lust and I admit she was a little young. But I have good intentions. I'm a  
2 Notre Dame grad and a Catholic by religion and I think I'm a pretty good person.

3 That leads me to a brief case reference. *Colosimo versus State*. And  
4 *Colosimo versus State* they --

5 MR. SCHIFALACQUA: Judge, I would object. This is really more case law  
6 interpreting so --

7 THE COURT: I told him he could read it.

8 MR. SCHIFALACQUA: Oh, okay, Your Honor.

9 BY THE DEFENDANT:

10 In *Colosimo versus State* there are five aspects -- five elements they  
11 look at in order for someone to evaluate whether someone might be guilty of luring  
12 children. In this instance it was over the internet. So three of those five elements  
13 don't apply. But two of those elements I think apply to all crimes, just not luring  
14 children.

15 THE COURT: Is that a Nevada case?

16 THE DEFENDANT: Yes, it is. 2006.

17 THE COURT: Okay.

18 THE DEFENDANT: It's 142 P. 3d 352.

19 BY THE DEFENDANT:

20 It says you have to evaluate the person's character. And keep in mind  
21 this is something that applies to a lot of crimes but was originally the luring children  
22 crime over the internet. And the other issue is the Defendant's propensity to commit  
23 the crime. I think if you look at that, I don't really qualify as being guilty of any of  
24 these charges, even the misdemeanors. Even though -- even when you reduce the  
25 aggravated stalking to stalking, I think I don't really have a propensity to commit that

1 crime.

2 I was just trying to get to know her before the summer. The summer  
3 was coming quick and I was kind of eager about getting to know her or something  
4 and seeing her over the summer. So I think if you consider my character, which I  
5 think is pretty high, my propensity to commit the crime would be almost none, I think;  
6 even though you might say I'm questionable even thinking about being around a 12  
7 or even maybe a 15 year old girl. But I -- again, I think she was a wonderful girl.  
8 And I enjoyed seeing her.

9 Keep in mind I was originally indicted for two of the charges, not all six.  
10 The interview tape which you heard the other day, that -- I'm going to repeat. I  
11 repeated this earlier. The interview date was before I knew that they were going to  
12 add the four Class B felonies of attempted kidnapping, aggravated stalking, luring  
13 children, and burglary. I only had an open and gross lewdness and unlawful contact  
14 with a child. So I was being honest then. So that was heartfelt.

15 Keep in mind I'm an architect. I've lived -- I didn't mention, but I've lived  
16 in Las Vegas since 1999. I did leave for about a year. I went out east and then I  
17 came back to Texas and then from Texas came back to here. So I've spent a lot of  
18 time here. I read the newspaper. I write letters to the editor. I'm especially  
19 interested in things like development and design. I have a lot of opinions about  
20 design and architecture. Rather opinionated in that case.

21 I also enjoy sports. So I -- I spend some time in sport's books,  
22 especially on Saturdays. I don't bet a lot, but I like to follow college sports  
23 especially. So I enjoy Las Vegas in that sense. I've recently written articles to the  
24 UNLV committee that's trying to design a football stadium for UNLV. And I haven't  
25 gotten any letters back, but I've been keeping in touch with them and also the



1 newspaper. I hope to maybe pursue an opportunity to design that football stadium.  
2 We'll see. Just thought I'd mention that.

3           You know, I hope you all enjoyed yourselves here. Consider me -- well,  
4 I think we have another trial after this one actually. There's two more counts of  
5 something. But thank you for your time and I hope you rule for me. In favor of me.  
6 Thank you.

7           THE COURT: Okay. Thanks. Rebuttal.

8           MR. SCHIFALACQUA: Thank you.

9                           **REBUTTAL CLOSING ARGUMENT BY THE STATE**

10          BY MR. SCHIFALACQUA:

11                 Ladies and gentleman, you've been very patient these last couple of  
12 days. If you could just give five minutes then the case will be yours. I appreciate it.

13                 The Defendant talks about that he just didn't have the intent to do these  
14 crimes. However, when we're looking at intent, just look at his actions and you also  
15 look at what he says. When he says, I didn't intend to kidnap her, that's just not  
16 true. Kidnapping a child, the instruction tells you, there doesn't need to be an  
17 element of force. It's not like an adult where you have to take someone and put  
18 them in the trunk of your car. Could that have happened here? Certainly.

19                 But children is a little different. Children can be manipulated and led  
20 away from parents because of their age. The laws are there to protect them. So  
21 when we're looking at that count, ladies and gentleman, he says well, I didn't have a  
22 car or you know, some type of weapon. That's not needed when we're dealing with  
23 kidnapping a child. Leading away a child for an unlawful purpose, that's what a  
24 kidnap is and that's what he was doing here on the 17<sup>th</sup>.

25                 And you know what he was going to try and do because it was getting

1 worse. If you look at what happens on the 15<sup>th</sup>, 16<sup>th</sup>, and 17<sup>th</sup> everything kind of  
2 notches up a little bit. The 15<sup>th</sup> we have the following of her and he's masturbating  
3 while he's looking at her, but not a ton of interaction. The 16<sup>th</sup>, the confrontation  
4 where he's blocking her, she runs away, leave me alone. And now the 17<sup>th</sup> we've  
5 got her actually -- him actually at the school, going on to school property to get her.  
6 You heard him a few minutes ago, I was going to go over to that hallway to find her.

7           You know, the question I had -- the reason why it's an attempted is  
8 because he never finally go there. But the question is simple, does anybody think  
9 this was going to end well for O [REDACTED]? Of course not. This was not going to end.  
10 You heard him say he was going to keep communicating with her; keep contacting  
11 her. The conduct was getting worse every day. So we know what his intentions  
12 are. We know what he was thinking. He told you that. He's certainly guilty of trying  
13 to lead her away for an unlawful purpose, being a sexual relationship.

14           And the aggravated stalking. He certainly did place her in fear of  
15 getting hurt. You heard O [REDACTED]. She didn't call the police right away. You  
16 probably know why. She's 12. Everybody in this room has been 12 at some point.  
17 We don't always think the same way as a child as we do now. Or -- we may call the  
18 police now, we may not when we were kids. But that doesn't mean she wasn't  
19 scared. Sometimes hindsight's better and certainly she understands the gravity of  
20 the situation; how scared she really is of what happened. But she was just trying to  
21 deal with it the best she could. But that doesn't mean she wasn't scared for her  
22 safety. She certainly was.

23           You know, the luring. He did try to, again, take her away or lead her  
24 away or persuade her to have sex with her, to lead her away from -- without the  
25 parental consent. That's all that crime is. Whether or not someone ultimately has

1 sex, that's not needed to show, just that the intent is to do that. He's certainly guilty  
2 of that.

3 And he talks about the open and gross count that he didn't, you know,  
4 masturbate. You know, I'd be the first one to say I would have loved to have  
5 showed the video for you. Unfortunately, you heard a little bit of that. It just dubbed  
6 over. Those things happened. That being said, ladies and gentleman, you know,  
7 crimes happen a lot that aren't on video. They happen behind closed doors. Just  
8 look at all the circumstances and you'll know what happened.

9 You know that he was sexually attracted to her. He said that. He's  
10 getting an erection by thinking about her, by looking about -- looking at her. He's  
11 trying to have sex with her. He's really going in on that one day for no other purpose  
12 than to stare at her. You know what happened. I know we don't have the video,  
13 but -- it would be nice, certainly, but it doesn't mean the crime didn't occur. A lot of  
14 crimes happen that aren't on tape.

15 He says that he mean -- meant her no harm and he said that to her  
16 while he cross-examined her yesterday. I'd ask you to take a look at that statement  
17 and just take a look that it's really not supported by the facts of this case. He's  
18 following her, he's chasing her, he's going up to the school to get her. He did mean  
19 her harm. He was not going to take no for an answer. He'd still talk to her right now  
20 and pursue her if he could. His intent to do -- to mean her harm was there.

21 You know, the Defendant's representing himself. You're not supposed  
22 to take any look into that. He certainly had a right to a lawyer, but it was his choice  
23 to give that up. So, you know, I'd ask that you not hold that against anyone in  
24 particular and particularly not us, as the prosecutors. That was not certainly our  
25 decision just so everyone on the jury knows.

1 Ladies and gentleman, he tried to have sex with a 12 year old, to start a  
2 relationship with her. He followed her every day to do that. That's what these  
3 crimes are. And it wasn't going to get any better without intervention. And it wasn't  
4 going to stop. We know what his intent was and it was to do each and every crime.  
5 You know, when you got this case originally, you didn't know a lot about it, you didn't  
6 know the facts. He's certainly presumed innocent. But now you have heard all the  
7 facts, you have heard all the evidence, and you know what happened.

8 All I'm asking you to do is to deliberate, talk amongst yourselves.  
9 Whoever's the foreperson, mark guilty on these counts and let the Defendant know  
10 that you know he did these crimes. He already knows what he did, C [REDACTED] knows  
11 what he did, and now you guys do too. Thank you very much.

12 THE COURT: Thank you. Swear the two officers in.

13 Ladies and gentleman, I can tell you now. 13, Ms. Balingit -- is it  
14 Balingit?

15 JUROR NUMBER 13: Yeah.

16 THE COURT: And Mr. Eason are alternates. Swear them in.

17 [The Clerk swore in the officers to take charge of jury during deliberations]

18 THE COURT: And you'll go with Susanne and Susanne will take you to a  
19 room.

20 The rest of you will pick up your property and go with Tom.

21 [The jury retired to deliberate at 1:18 p.m.]

22 [Outside the presence of the jury]

23 THE COURT: All right. The door's closed. I'm going to have -- feed the jury,  
24 but I anticipate that they'll be back within a half hour. Would you keep him here for a  
25 half hour? Could you do that?

1 CORRECTIONS OFFICER: Up here?

2 THE COURT: Yeah.

3 CORRECTIONS OFFICER: We'll be downstairs.

4 THE COURT: Downstairs?

5 CORRECTIONS OFFICER: We'll be right downstairs in the tunnel.

6 THE COURT: Whatever's safest for you guys.

7 CORRECTIONS OFFICER: Yeah. We'll be in the tunnel.

8 THE COURT: I don't get in your business.

9 CORRECTIONS OFFICER: We'll be right there in the tunnel, sir.

10 THE COURT: We'll call you.

11 [Colloquy between the Corrections Officers and the Defendant]

12 MR. SCHIFALACQUA: Judge, there will be the second part of trial. I have  
13 those witnesses ready. Just a couple very quick ones and there will be another  
14 instructions and I'll get -- bring those with me.

15 THE COURT: Okay.

16 MR. SCHIFALACQUA: I'll go get them right now.

17 [Colloquy between the Court and the Clerk]

18 [Recess taken at 1:20 p.m.]

19 [Trial resumed at 3:17 p.m.]

20 [Outside the presence of the jury]

21 THE COURT: -- I gave you a lot of leeway in this trial. You were a  
22 gentleman. But there were some objections I expected. I didn't get them. I gave  
23 you a couple opportunities. In fact I gave you another one this morning; do you  
24 have anything you want for the record or any objections and you still didn't do it.  
25 And that was you had -- in your opening statement you told them you had been

1 convicted of a couple lewdness's after the Court instructed you not to do it. I believe  
2 the DA's said don't talk about that. You did it anyway, which that's -- that's  
3 problematic when someone represents themselves.

4           And then you talked about an officer in your module. I don't know if  
5 they know what a module is, but they can probably assume it. It took four of your  
6 photographs. And then you talked -- twice you mentioned a Grand Jury testimony of  
7 the detective. And then you said today -- oh, you did a lot of -- you were referring to  
8 your architectural drawings as you're locked up for 15 months. The statement was  
9 by the -- that the State played was supposed to be redacted completely. There was  
10 one reference to your record. Not saying you had been convicted of anything, but  
11 they were familiar with your record.

12           I think it was harmless error. I don't think it was something that they  
13 caught or relied on. If -- I don't know what the verdict is, but I just wanted to put that  
14 on the record. And then you told them that you've been locked up for 15 months.  
15 You calculated the time since May of 2013. You talked about your prior charges  
16 being 2002, 2006, 2009, 2012. And you told them all should have been  
17 misdemeanors. You told them you'd been in prison two years. And you talked  
18 about your arrest on your priors.

19           And then in your closing remarks you told them there would be a new  
20 trial on a couple other counts, which you weren't supposed to talk about. Now  
21 they're aware of it. So, I just wanted to put that on the record that that one reference  
22 to your record was after you made comments yourself in your opening statement  
23 about your prior convictions. The detective didn't say anything about convictions,  
24 just your record; that he knew your record. That should have been --

25           THE DEFENDANT: Mr. Schifalacqua said something though.

1 THE COURT: No, he did not.

2 THE DEFENDANT: In the opening statement, yes, he did.

3 THE COURT: Absolutely not. I would -- I paid attention to that. In any event,  
4 bring them in.

5 [In the presence of the jury]

6 THE MARSHAL: All rise, please.

7 And be seated.

8 THE COURT: All right. Stipulate to the presence of the jury.

9 MR. SCHIFALACQUA: Yes, Your Honor.

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. Ladies and gentlemen, were you -- did you pick --  
12 select a jury foreperson?

13 THE FOREPERSON: Yes, we did.

14 THE COURT: And who is that?

15 THE FOREPERSON: That would be me.

16 THE COURT: All right. Did -- was there a unanimous verdict?

17 THE FOREPERSON: Yes, Your Honor.

18 THE COURT: Would you hand that to the marshal?

19 All right. The clerk will now read the verdict into the record.

20 THE CLERK: District Court, Clark County, Nevada, State of Nevada. Plaintiff  
21 versus Christopher Pigeon, also known as Christopher Edward Pigeon, Defendant.  
22 The case number is C290261, Department VIII.

23 Verdict: We the jury in the above entitled case find the Defendant  
24 Christopher Pigeon, also known as Christopher E. Pigeon -- Edward Pigeon as  
25 follows:

1 Count 1, attempt first degree kidnapping. Guilty of attempt first degree  
2 kidnapping.

3 Count 2, aggravated stalking. Guilty of aggravated stalking.

4 Count 3, luring children with the intent to engage in sexual conduct.  
5 Guilty of luring children with the intent to engage in sexual conduct.

6 Count 4, burglary. Guilty of burglary.

7 Count 5, --

8 THE DEFENDANT: I didn't do anything.

9 CORRECTIONS OFFICER: Hey, hey.

10 THE CLERK: -- open or gross lewdness.

11 CORRECTIONS OFFICER: Be quiet.

12 THE COURT: I don't need a response.

13 THE CLERK: Guilty of open or gross lewdness.

14 THE DEFENDANT: That's ridiculous.

15 THE CLERK: Count 6, --

16 THE DEFENDANT: You're a criminal.

17 THE CLERK: -- unlawful contact with a child. Guilty of unlawful contact with  
18 a child.

19 Dated this 5<sup>th</sup> day of August 2014. Foreperson is Bryan Kneiding.

20 THE FOREPERSON: Kneiding.

21 THE CLERK: Ladies and gentleman of the jury, is this your verdict as read?

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THE JURY: Yes.

THE CLERK: So say you one, so say you all.

[Trial concluded at 3:25 p.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case.



\_\_\_\_\_  
Brittany Mangelson  
Independent Transcriber