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AA 1526-AA1534	Transcript June 24, 2021
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1 Q Or retired?

2 A Yes.

3 Q Okay.

4 A Yeah, somebody else would take my place.

5 Q Okay. And if you were to break your leg, somebody
6 would follow up and cover stuff?

7 A Correct.

8 Q Okay. And just want to be clear, do you take your
9 job seriously?

10 A Of course.

11 Q Do you try to put -- you were trained at the
12 academy, if it's not in a report, it didn't happen?

13 A Yeah, I'm sorry, say that again.

14 Q One of the things you were probably trained at the
15 academy, if it's not in a report, it didn't happen?

16 A That's a saying. It's not that -- we necessarily
17 didn't get trained that, but it's a saying.

18 Q How long ago did you go through the academy?

19 A Oh, 13 years ago.

20 Q What year?

21 A 2008.

22 Q That was known by then. Okay, but it is a saying?

23 A It is a saying, yes.

24 MR. HART: Okay. Nothing further.

25 THE COURT: All right. Was there something

1 additional by the State?

2 FURTHER REDIRECT EXAMINATION

3 BY MR. LEXIS:

4 Q Sir, when you have multiple events, do you sometimes
5 use just a primary event number on reports?

6 A Correct.

7 MR. LEXIS: Nothing further.

8 THE COURT: Any further on that -- in that regard,
9 Mr. Arnold?

10 MR. ARNOLD: No, Your Honor.

11 THE COURT: Mr. Hart?

12 FURTHER RECROSS-EXAMINATION

13 BY MR. HART:

14 Q And just to be clear, you also do what we call
15 linking event numbers? You'll have linking event numbers to a
16 case?

17 A I'm not sure what you mean by linking.

18 Q Well, if you do a search at one place, and you do a
19 search at another, a lot of times, you call out -- another
20 event number gets pulled, but then you put it into the
21 system --

22 A Yeah, like cross-reference event numbers. Yes.

23 MR. HART: Okay.

24 THE COURT: Okay. Any questions by our jurors? We
25 do have a question. I'll meet with counsel in the back.

1 (Bench conference begins.)

2 THE COURT: All right, Judge Villani here. This is
3 from Juror -- he gave his number, 197, if anyone's interested.
4 It's -- the question is, "Is there a specific officer charged
5 with collecting video?" Any objection, State?

6 MR. LEXIS: No, Judge.

7 THE COURT: Mr. Arnold?

8 MR. HART: No objection.

9 MR. ARNOLD: No objection.

10 THE COURT: Mr. Hart? No objection. All right.

11 (End of bench conference.)

12 THE COURT: Detective, we have a question from one
13 of our jurors. Is there a specific officer charged with
14 collecting video?

15 THE WITNESS: No, there isn't. Generally speaking,
16 the collection of video, the way it would normally work is
17 when a patrol officer goes out, each one of these hotels have
18 their own security team and their own investigative team. If
19 we respond, their security team responds and also generates a
20 report. Their surveillance, generally speaking, the police
21 department has no control over it. But generally speaking,
22 they will record over video -- or they will -- they will burn
23 the video for us, and then I, as the detective, will get
24 assigned the case or request the video from them and then go
25 pick it up.

1 THE COURT: All right. Any follow-up by the State
2 to that question?

3 MR. LEXIS: No, Judge. No, Your Honor.

4 THE COURT: Mr. Arnold?

5 MR. ARNOLD: No, Your Honor.

6 THE COURT: Mr. Hart?

7 FOLLOW-UP EXAMINATION

8 BY MR. HART:

9 Q Just to be clear, so sometimes you'll call out, and
10 they'll say, we already have that saved, is what you're
11 saying?

12 A Yes. Generally speaking, that's -- that's how it
13 works.

14 MR. HART: Okay.

15 THE COURT: All right. Any additional questions by
16 our jurors? No additional questions. Detective, thank you
17 for your testimony. You are excused.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: Next witness for the State?

20 MR. LEXIS: Detective Lopez.

21 THE MARSHAL: Watch your step. Raise your right
22 hand. Face the Clerk. Once she swears you in, slide your
23 chair forward to that red light and make sure you speak loud.

24 //

25 //

1 CHRISTIAN LOPEZ, STATE'S WITNESS, RESWORN

2 THE CLERK: Thank you. Please have a seat, and
3 state and spell your first and last name for the record.

4 THE WITNESS: Christian Lopez. C-h-r-i-s-t-i-a-n.
5 Lopez, L-o-p-e-z.

6 THE COURT: Go ahead, counsel.

7 DIRECT EXAMINATION (CONTINUED)

8 BY MR. LEXIS:

9 Q Detective, did you previously testify today?

10 A Yes, I did, sir.

11 Q Okay. Did -- you were telling the State that you
12 misspoke after you left about a particular exhibit?

13 A Yes, I did.

14 Q And what was that?

15 A The photograph depicting Social Security cards.

16 Q Okay. And what did the State tell you to do?

17 A I reviewed my -- I reviewed my report.

18 Q Okay. And since you last testified, have you now
19 double-checked the report and everything you've done?

20 A Yes, I did.

21 Q Okay. And did you -- all the pictures that were
22 shown to you previously, did you double-check to see where
23 those pictures came from, which particular phone?

24 A Yes, I did, sir.

25 Q Okay. Two of these -- two of the five phones you

1 said you were unable to get information from, correct?

2 A Yes, sir.

3 Q And one of them you believed was possibly wiped?

4 A Yes.

5 Q Okay. With regards to that pink phone ending in
6 phone number 5174, you previously stated, and tell me if I'm
7 wrong, State's Exhibit 138, that came from that phone?

8 A Yes, sir.

9 Q Okay. State's 137 you said came from that phone; is
10 that correct?

11 A Yes, sir.

12 Q State's 136?

13 A Yes, sir.

14 Q State's 135?

15 A Yes, sir.

16 Q And State's 134?

17 A Yes, sir.

18 Q Double-checked all those came from that phone,
19 correct?

20 A Yes.

21 Q Okay. Then you stated earlier that you had a black
22 phone ending in phone number 3090 that you were able to get
23 limited information from; is that correct?

24 A Yes, sir.

25 Q And is that the one phone you're referring to with

1 regards to the cards?

2 A Yes, sir.

3 Q Okay. So, State's Exhibit 139, this is the exhibit
4 you stated was previously from the pink phone, but upon
5 further review, it's actually from the black phone ending in
6 3090; is that correct?

7 A Yes, it is, sir.

8 MR. LEXIS: Nothing further.

9 THE COURT: Any cross-examination, Mr. Arnold?

10 CROSS-EXAMINATION

11 BY MR. ARNOLD:

12 Q Sir, where is the pink phone right now?

13 A In the LVMPD evidence vault.

14 Q Where is the black phone?

15 A In the LVMPD evidence vault also.

16 Q Did you go look to make sure before you came back in
17 here and testified as to which picture that came from?

18 A Not from the phones, from the -- the data extracted
19 from the phones.

20 Q What?

21 A The information taken from the phones, that's where
22 the review was done, not from the actual phones.

23 Q So did you review that information again?

24 A Yes, I did, sir.

25 Q And that's just a report, though, right?

1 A No, that -- the report that I did, the typed
2 report --

3 Q Right.

4 A -- is the report that details all the -- the
5 information about the phone. The report that has the
6 pictures, text messages, things like that, are generated by
7 the Cellebrite program.

8 Q Okay, I understand that. What did you review to
9 determine that you totally messed up in your testimony
10 previously to this jury in regards to where that picture came
11 from?

12 A From the Cellebrite report.

13 Q So, again, you still have the report -- I mean, the
14 phones, though, right?

15 A Yes, sir, at the vault, the LVMPD vault.

16 Q And so did you double-check the phones before coming
17 in here again and realizing where that picture came from?

18 A That's not possible. The pictures of the Social
19 Security cards were taken from the SD card. The phone is
20 locked. I can't access any pictures on the phone. The SD
21 card, the memory card from the --

22 Q Gotcha.

23 A -- black LG phone was taken out, and the information
24 was extracted by Cellebrite. So I can't view those pictures
25 on the cell phone itself.

1 Q So how do you know that the SD card was related to
2 the black phone?

3 A Because I took it out of the black phone myself.

4 Q But you came in here earlier and made a mistake
5 thinking that that was related to the pink phone?

6 A Yes, because most of the pictures that were taken --
7 most of the data taken was off the phone, and that was my
8 mistake.

9 Q And do you have a copy of that report?

10 A I provided one to the district attorney. Are you
11 talking about the Cellebrite report? Now, that --

12 Q The Cellebrite report that you got this information
13 from.

14 A That's on a thumb drive. That's on a thumb drive
15 that I've provided to the district attorney.

16 Q So what did you review to -- that made you notice
17 that you had made a mistake when you testified?

18 A The information that was generated by the Cellebrite
19 report, when they took the -- the information, the data, the
20 pictures off of the SD card.

21 Q What triggered your thought process that you had
22 testified wrongly?

23 A I was asked to review my report.

24 Q Who asked you to review your report?

25 A This district attorney.

1 Q And when did he ask you to review your report?

2 A After I left here, I was -- I reviewed; I
3 remembered.

4 Q So as you were walking out the door, he said, please
5 review that report?

6 A I was informed that I may -- I needed a report to
7 review it because I was incorrect.

8 Q So he told you that you messed up even though you
9 didn't think you messed up when you gave the testimony, then
10 you're coming back in here now and saying that you did mess
11 up?

12 A I was incorrect when I initially stated that that
13 picture came off the phone.

14 Q But you didn't think you were incorrect until the
15 district attorney told you you were incorrect as you were
16 walking through this door; is that correct?

17 A At the time, yes.

18 MR. ARNOLD: No further questions.

19 THE COURT: Any questions, Mr. Hart?

20 CROSS-EXAMINATION

21 BY MR. HART:

22 Q Just to be clear, you didn't come back here on your
23 own volition -- on your own volition, or wasn't -- wasn't
24 because it popped into your mind independently?

25 A No.

1 MR. HART: Nothing further.

2 THE COURT: Any redirect?

3 MR. LEXIS: Sure. Going to introduce this --

4 MR. ARNOLD: The Cellebrite?

5 MR. LEXIS: -- as the next exhibit. This is the
6 Cellebrex, the next exhibit. Can I get this marked, ma'am?
7 What's the next exhibit?

8 THE CLERK: Next will be 189.

9 MR. LEXIS: 189?

10 THE CLERK: Um-hum.

11 MR. LEXIS: May I approach, Judge?

12 THE COURT: Yes.

13 REDIRECT EXAMINATION

14 BY MR. LEXIS:

15 Q Do you recognize this, sir?

16 A Yes.

17 Q What is it?

18 A It's a USB thumb drive, 64 gigabytes of memory
19 provided with the -- with the data.

20 Q Okay. Is that the data you extracted from the
21 phones at issue?

22 A Yes.

23 Q Let me know when it loads. Password is "user,"
24 u-s-e-r. Did it load, sir?

25 A It's opening up right now.

1 Q Okay. Go ahead and load that exhibit.

2 MR. LEXIS: Mr. Arnold and Mr. Hart, if you would
3 like to see what he's pulling up, feel free.

4 MR. HART: Thank you.

5 MR. LEXIS: Thank you.

6 BY MR. LEXIS:

7 Q And, sir, if you could go to the phone ending in
8 3090. I know it takes some time to load that Cellebrex. Is
9 that what it's doing?

10 A Yes.

11 (Pause in the proceedings.)

12 THE WITNESS: Yeah, it's loaded for you.

13 MR. LEXIS: Okay.

14 BY MR. LEXIS:

15 Q Sir, I'm showing you 139. Do you see that
16 photograph?

17 A I do.

18 Q Okay. Can you blow it up on the screen so it's just
19 this photo?

20 A It's loaded up for you.

21 MR. LEXIS: Can I approach, Judge?

22 THE COURT: Yes.

23 BY MR. LEXIS:

24 Q Here you go. Can you hold that up for the jury to
25 observe?

1 A I'm sorry?

2 Q Just hold it up pointing toward the jury for them to
3 observe.

4 THE COURT: And, Detective, what is it depicting?
5 If you could explain that to us.

6 THE WITNESS: It's depicting a picture of the Social
7 Security card that --

8 MR. LEXIS: You can sit down.

9 THE WITNESS: -- that was taken from the memory card
10 from the cell phone.

11 BY MR. LEXIS:

12 Q And, again, the same as Exhibit 139?

13 A Yes, sir.

14 Q From the Cellebrex software downloaded from the
15 black phone, once again, ending in phone number 3090?

16 A Yes.

17 MR. LEXIS: Nothing further.

18 THE COURT: Anything further, Mr. Arnold?

19 MR. ARNOLD: No further questions, Your Honor.

20 THE COURT: Anything further, Mr. Hart?

21 MR. HART: No, Your Honor.

22 THE COURT: Any questions by our jurors?

23 We do have a question. I'll meet with counsel in
24 the back.

25 Please hand the question to the Marshal.

1 (Bench conference begins.)

2 THE COURT: All right.

3 MR. LEXIS: Judge, before you read that, can I just
4 ask -- say one thing on this?

5 THE COURT: State who you are.

6 MR. LEXIS: Chad Lexis for the State. Judge, that
7 exhibit that I brought up, the reason I didn't move to admit
8 it and did what I did as far as just having them show that is
9 because it includes a lot of the text messages that you've
10 already -- we already agreed to that would not come into
11 evidence and made mentions of other acts. So I just want to
12 let you know I'm not going to admit it. I went with -- just
13 with him going to it and showing the jury because of that.

14 THE COURT: Okay, thank you. This is from Juror --
15 he used his old number, 051, 051.

16 MR. ARNOLD: (Indiscernible).

17 MR. HART: Okay.

18 THE COURT: So, if anyone's interested. "Were these
19 burner cell phones? If not, are the suspects the registered
20 owners?"

21 MR. ARNOLD: (Indiscernible).

22 THE COURT: Any objection, Mr. Arnold?

23 MR. ARNOLD: No objection. Mr. Arnold.

24 THE COURT: Mr. Lexis?

25 MR. LEXIS: No, Judge.

1 THE COURT: Any objection, Mr. Hart?

2 MR. LEXIS: Are they burner or what -- what --

3 THE COURT: Hang on, hang on, hang on.

4 MR. LEXIS: One more time, Judge. Are they --

5 MR. HART: No.

6 THE COURT: Were there -- "Were these burner cell
7 phones?"

8 MR. HART: No.

9 THE COURT: "If not, are the suspects the registered
10 owners?"

11 MR. ARNOLD: He can't answer that. That's the --

12 MR. LEXIS: Yeah, I mean, I don't -- okay.

13 MR. HART: He kind of knows.

14 MS. COLE: He can answer whether they're burner
15 phones.

16 MR. ARNOLD: He can answer the -- yeah, the burner
17 phone part, but --

18 MS. COLE: Right.

19 MR. ARNOLD: -- not the subscriber part.

20 THE COURT: Okay.

21 MR. ARNOLD: That's what he'll say.

22 MS. COLE: Right.

23 THE COURT: Then he'll say, I don't know. Okay.

24 (End of bench conference.)

25 //

1 THE COURT: Sir, we have some questions from one of
2 our jurors.

3 THE WITNESS: Yes, sir.

4 THE COURT: First one, were these burner cell
5 phones?

6 THE WITNESS: The two cell phones, the LG cell
7 phones, I personally would not consider burner cell phones.
8 They're -- they were a little on the higher end.

9 The other phones that I wasn't able to get to, those
10 are typically what you would -- someone would consider
11 burner-type cell phones. A burner-type cell phone, a low-cost
12 cell phone, something you can use and get rid of at a later
13 time. There's typically no contracts or anything like that.

14 THE COURT: If not, are the suspects the registered
15 owners?

16 THE WITNESS: That information I don't have. I
17 don't have any information to figure out who the registered
18 owners of those cell phones are.

19 THE COURT: Any follow-up by the State?

20 FOLLOW-UP EXAMINATION

21 BY MR. LEXIS:

22 Q You mentioned burner phone. Just since that was a
23 question, can you just educate the jury on what is a burner
24 phone?

25 A Burner phones are typically more affordable phones.

1 You can typically buy them without a contract. Typically,
2 they don't require a commitment, as far as I know, long-term
3 contracts or anything like that. In my experience as a police
4 officer, typically used for criminal activity, things like
5 that, or just having another cell phone for whatever purposes
6 they need them for.

7 Q Harder to track, harder to get information out of?

8 A Yes.

9 Q Okay. And you stated, a couple of these, you were
10 unable to get much information out of?

11 A Correct.

12 Q Okay. And one of them, you even stated earlier,
13 probably wiped?

14 A Yes. The iPhone, in my opinion, looked to be wiped.

15 Q Okay, explain that.

16 A When I got -- we were able to get into that phone
17 through one of our other unlocking tools, and there was no
18 data on there, no personal data. It was a iPhone -- an older
19 -- an older iPhone; I believe maybe an iPhone 7. If you've
20 had an iPhone for that long, just logic would say that you
21 would have more personal information, maybe contact
22 information, photos, things like that. None of that
23 information was on there.

24 Q Is it easy to do that?

25 A Yes.

1 Q Okay. Could you do it quick?

2 A Relatively quick, yes.

3 MR. LEXIS: Nothing further.

4 THE COURT: Any follow-up, Mr. Arnold?

5 MR. ARNOLD: No, Your Honor.

6 THE COURT: Follow-up, Mr. Hart?

7 FOLLOW-UP EXAMINATION

8 BY MR. HART:

9 Q Just to be clear, if you get a phone number, you can
10 send out administrative warrants to the carriers about the
11 numbers, correct?

12 A I'm sorry, sir?

13 Q You can send out warrants, administrative warrants
14 to the different carriers to determine who owns a phone or a
15 number, correct?

16 A Yes. Typically, we -- my section doesn't do that,
17 but yes, you can.

18 Q Okay. And one of the features on iPhones and other
19 phones is sometimes people will set them up so if somebody
20 tries to enter the wrong password, you know, a number of
21 times, it cleans the information so that people can't have
22 stuff taken, correct?

23 A That is an available feature. How it works on each
24 individual phone, I'm not too familiar with.

25 Q Okay. And did you have the password for the iPhone?

1 A No, I did not.

2 Q Do you need a password to get in an iPhone quite
3 often?

4 A Sometimes. This iPhone was unlocked by one of our
5 unlocking tools.

6 MR. HART: Okay. Nothing further.

7 THE COURT: All right. Any further questions by our
8 jurors? No further questions. All right. Thank you, sir,
9 for your testimony.

10 THE WITNESS: Thank you.

11 THE COURT: You are excused. Do you have another
12 witness for this afternoon?

13 MR. LEXIS: Yes, Judge.

14 MS. COLE: Your Honor, at this time, the State calls
15 Officer Montalbano.

16 THE MARSHAL: Watch your step. Raise your right
17 hand. Face the Clerk. Once she swears you in, slide your
18 chair forward to that red light right there and make sure you
19 speak loud.

20 THE WITNESS: Yes, sir.

21 ANTONIO MONTALBANO, STATE'S WITNESS, SWORN

22 THE CLERK: Thank you. Please have a seat, and
23 state and spell your first and last name for the record.

24 THE WITNESS: First name is Antonio, A-n-t-o-n-i-o.
25 Last name is going to be Montalbano. It's going to be

1 M-o-n-t-a-l-b, as in baker, a-n-o.

2 THE COURT: Go ahead, counsel.

3 MS. COLE: Thank you, Your Honor.

4 (Pause in the proceedings.)

5 DIRECT EXAMINATION

6 BY MS. COLE:

7 Q Good afternoon, Officer. Where do you work?

8 A For Las Vegas Metropolitan Police Department.

9 Q Okay, and how long have you worked there?

10 A Four years.

11 Q And in what capacity do you work for Metro as?

12 A A police officer, ma'am.

13 Q Okay. And on August 26th, 2020, did you become
14 involved in a burglary investigation of specific properties on
15 the Las Vegas Strip?

16 A Yes, ma'am.

17 Q And did you become aware through investigative means
18 of the two suspects?

19 A Yes, ma'am.

20 Q Okay. And the specific subjects or suspects, was it
21 two men, two women, a man and a woman?

22 A It was a man and a woman, ma'am.

23 Q And through your investigation regarding these
24 burglaries, did you discover a Letgo account?

25 A Yes, ma'am.

1 Q How did you discover that Letgo account?

2 A For the Letgo account, we were told by detectives
3 through a briefing before shift that we had two names, which
4 was going to be the Darrell Clark and Veneshia Oliver.

5 Q Okay, and I'm going to stop you right there. Do you
6 see those two individuals in court today?

7 A May I stand up, ma'am?

8 Q Yes.

9 A Yes, ma'am. I see Mr. Clark right there, second
10 from the left. I --

11 Q You can step off the stand, sir.

12 A I see Ms. Oliver on the right.

13 Q Okay.

14 MS. COLE: Your Honor, may the record reflect
15 identification of the defendants?

16 THE COURT: Yes, it will.

17 BY MS. COLE:

18 Q Okay, sir, and I guess before we get into the Letgo,
19 was there a specific Facebook you were aware of?

20 A Yes, ma'am.

21 Q Okay, and what was the username on that Facebook?

22 A Same as one of the defendants, Darrell Clark

23 Q Okay. And on that specific Facebook, were there
24 essentially postings?

25 A Yes, ma'am. There was shared links to Letgo.

1 Q Okay. What exactly is Letgo?

2 A Letgo is basically a application similar to
3 Craigslist or OfferUp, where a person can sell individual
4 belongings on there, creating postings, and then setting
5 prices and everything.

6 Q Okay. And on this specific Facebook, there was
7 essentially a Letgo link?

8 A Yes. It shows a link to an item in which -- that
9 the person is selling.

10 Q Okay. And was it associated with the Facebook
11 account that it was located on?

12 A Yes. So for Darrell Clark, there was a link to
13 Letgo. When you open that up, that has another account to
14 Letgo, which also said Darrell Clark with a -- with a picture.

15 Q Okay. And why did this specific account stand out
16 to you?

17 A At that time, when we had the name, we already had a
18 picture for the male. We were able to say that this is more
19 than likely going to be him because the picture resembled the
20 male that was -- or we are looking for.

21 Q Okay. And what about the specific items that were
22 being posted? Was there anything significant about those?

23 A Yes. We had a spree of burglaries which were
24 happening on the Strip under multiple event numbers, and there
25 was multiple items on that particular Letgo which coexisted

1 and co-aligned to those burglaries.

2 Q And, sir, I'm showing you what's been marked State's
3 121 through 132 with the exception of 130, which I cannot
4 locate at this time. Can you take a look at those photos and
5 let me know when you're done?

6 A I finished viewing them, ma'am.

7 Q I'm sorry?

8 A I finished viewing them.

9 Q Okay, thank you. Thank you, sir. Do you recognize
10 those photos?

11 A Yes, ma'am.

12 Q How do you recognize those?

13 A Those are pictures that were on the Letgo app under
14 that account name.

15 Q Okay, I found Exhibit No. 130. Okay, and let me
16 just show you this as well. Do you recognize that?

17 A Yes, ma'am.

18 Q Okay, thank you.

19 MS. COLE: And, Your Honor, permission to publish?

20 THE COURT: Have these already been admitted in the
21 evidence?

22 MS. COLE: Yes, Your Honor.

23 THE COURT: Okay. Yes, go ahead and publish.

24 BY MS. COLE:

25 Q State's 121. What are we looking at here?

1 A For this item, it appears to be a handbag in which
2 -- that was a picture of on the app.

3 Q Okay. And you identified these photos that I showed
4 you, these exhibits, as being consistent with the photos on
5 the app that you saw or on the Letgo page that you saw?

6 A Yes, ma'am.

7 Q Showing you State's 130. Same with that one?

8 A Yes, ma'am.

9 Q Showing you State's 122. Same as that one?

10 A Yes, ma'am.

11 Q State's 123?

12 A Yes, ma'am.

13 Q State's 125?

14 A Yes, ma'am.

15 Q State's 126?

16 A Yes, ma'am.

17 Q 127?

18 A Yes, ma'am.

19 Q State's 132?

20 A Yes, ma'am.

21 Q State's 128?

22 A Yes, ma'am.

23 Q Sir, on Letgo, is there an application wherein you
24 can chat with a user?

25 A Yes, there is a -- basically, a messenger app.

1 Q A messaging app?

2 A Yes.

3 Q And is that essentially how you would contact the
4 seller?

5 A Yes.

6 Q Okay. And showing you what's been marked as State's
7 177, and I know this is very tiny, so let me approach you with
8 it first so you can take a look at it.

9 MS. COLE: Your Honor, may I approach?

10 THE COURT: Yes.

11 BY MS. COLE:

12 Q Can you go ahead and look at that and let me know
13 when you're done? And, sir, do you recognize these messages?

14 A Yes, ma'am.

15 Q And what are these messages?

16 A Those messages are between myself and Darrell Clark
17 on the messaging app for Letgo.

18 Q Okay. And, sir, I'm just going to zoom in because
19 this is very small font, and I'm just going to start in the
20 left-hand corner. Can you indicate what is the username and
21 email address that you are using?

22 A For myself, we used a fictitious name. So Jason
23 would be me, and then the email address BigMoneyMusic23@Gmail
24 was going to be the one that we used.

25 Q Okay, so that's you?

1 A Yes.

2 Q And your name's not Jason, correct?

3 A No, ma'am.

4 Q Okay, and you're not purporting to be a police
5 officer?

6 A No, ma'am.

7 Q You're essentially doing an undercover
8 investigation?

9 A Yes, ma'am.

10 Q Okay. And you're purporting yourself to be Jason,
11 looking to buy some products; is that correct?

12 A Yes, ma'am.

13 Q Okay. And looking at some of these messages, these
14 are, in fact, the messages between you and the user, Darrell
15 Clark?

16 A Yes, ma'am.

17 Q Okay. And what -- can you let us -- can you read
18 the email that is associated with the user Darrell Clark?

19 A Yes. It says D-c-m-y-g-r-e-a-t at Gmail, so
20 Dcmygreat@Gmail.com.

21 Q Okay. And this is who you were communicating with
22 about potentially buying some items?

23 A Yes, ma'am.

24 Q Okay. And do you recall what specific items you
25 were attempting to buy?

1 A Yes, ma'am.

2 Q And what were those?

3 A Two Apple Watches.

4 Q Two Apple Watches. Did you essentially talk about
5 meeting in person?

6 A Yes, ma'am. We negotiated on price and then spoke
7 about where to meet up in person.

8 Q Okay. And just for -- just for the record, we're
9 looking at some dates and some timestamps. Are you aware of
10 what time these records are depicted in?

11 A Yes. It appears that it's going to be a slight
12 shift in time, so it's about seven hours off for --

13 Q Okay.

14 A -- whatever recordkeeping that they had.

15 Q Okay, and are you referring to UTC time?

16 A Yes, ma'am.

17 Q Okay. So for UTC time to be converted into Pacific
18 Standard Time, which is essentially the time in Las Vegas,
19 what sort of math do we have to do?

20 A It should be a minus of seven hours.

21 Q Okay. So, in looking at this record, will you just
22 look at number one and tell us what time would that be Pacific
23 Standard Time?

24 A From that time, it should be around ten o'clock,
25 10:20.

1 Q Okay, on what day?

2 A It should be on the 26th.

3 Q Okay. So, in looking at these records, although
4 they depict the 27th, that's because it's indicated in UTC
5 time?

6 A Yes, ma'am.

7 Q Okay. Do you recall what time you started
8 communicating with Mr. Clark?

9 A Yes, at approximately 10:20, ma'am.

10 Q Okay. And, sir, where did you decide to meet?

11 A We decided to meet at the Casino Royale on the Las
12 Vegas Boulevard.

13 Q Okay. And did you talk about an approximate time?

14 A We did discuss a time on there.

15 Q Okay. And did you, in fact, go to the Casino Royale
16 Hotel?

17 A Yes, ma'am.

18 Q Okay. And were there other officers that were
19 involved in this investigation as well?

20 A Yes, ma'am.

21 Q Was there a specific task force, in fact, assigned
22 to be on the premise for this operation?

23 A You could say, yes, ma'am. It was the FLEX squad
24 that I was on at the time.

25 Q Okay, so you weren't the only officer. There was

1 multiple other offers that were set up -- multiple other
2 officers that were set up, waiting at the Casino Royale?

3 A Yes, ma'am.

4 Q Okay. And did the defendant arrive?

5 A Yes, ma'am.

6 Q Okay. And where did you meet him?

7 A We met him over by the Buffalo slot machine, ma'am.

8 Q Okay. And what happened when you approached him?

9 A We came -- we came up to Clark. We were in uniform
10 at that time. We grabbed -- we detained him at that time,
11 and --

12 Q Okay, and I'm going to stop you right there. You're
13 saying "we." Who are you referring to?

14 A It's going to be myself and Officer Perez, and then
15 the other officers approached after.

16 Q Okay. And when you approached him, did he say
17 anything to you?

18 A Yes.

19 Q What did he say?

20 A He said he has a .40.

21 Q And what did you understand that to mean?

22 A Meaning that he had a firearm that was a .40
23 caliber.

24 Q Okay. And when you were looking at him, when you
25 were approaching him, walking to him, did you ever see a

1 firearm?

2 A No, ma'am.

3 Q Where exactly was the -- was the firearm positioned?

4 A The firearm was going to be in his front waistband.
5 He had loose-fit clothing that was covering over it.

6 Q Okay, so how did you see the firearm?

7 A I could not see the firearm until we did a feel,
8 when we did the pat-down, ma'am.

9 Q Okay. And then, at that point, you still couldn't
10 see it, correct?

11 A No, ma'am.

12 Q Okay. When could you finally see the firearm?

13 A I had to lift up his shirt physically, altering his
14 clothing.

15 Q Okay. And where was the firearm?

16 A It was going to be in his front waistband.

17 Q Okay. And his shirt was completely covering that
18 firearm?

19 A Yes, ma'am.

20 Q It was not readily discernible as a firearm when you
21 saw him or approached him?

22 A No, ma'am.

23 Q Would you categorize it as concealed?

24 A Yes, ma'am.

25 Q Sir, I'm showing you State's 97. Was this, in fact,

1 the firearm that you saw on Clark's person and the firearm
2 that was impounded under this specific event number of
3 200800114539?

4 A Yes, ma'am.

5 Q And this fairly and accurately depicts the firearm
6 that you saw on that day at that time?

7 A Yes, ma'am.

8 Q And, again, this is the firearm that you're
9 describing as being not readily discernible?

10 A Yes, ma'am.

11 Q Now, sir, did you ultimately conduct a search on the
12 defendant?

13 A Yes, ma'am.

14 Q Okay, and what did you locate?

15 A The two Apple Watches in which we agreed upon.

16 Q Okay. Was there a specific Apple Watch that was of
17 important evidentiary value?

18 A Yes, ma'am.

19 Q Is this that watch?

20 A Yes, ma'am.

21 Q And for the record, I'm showing what's marked as
22 State's 99. Why was this significant?

23 A That one was tied to another case that -- which was
24 part of our investigation.

25 Q And, sir, showing you State's 104, is this what the

1 defendant was wearing when you saw him at the Casino Royale on
2 that date and time?

3 A Yes, ma'am.

4 Q And for the record, can you just describe the
5 clothing?

6 A He's wearing jean pants with a loose Tupac orange
7 t-shirt. He also had a black face mask on. The shirt has a
8 good amount of ruffles and wrinkles in it, showing how loose
9 it is on him.

10 Q Okay. And, sir, showing you State's 103, is that
11 the female that you saw on that day?

12 A Yes, ma'am.

13 Q Okay. And you didn't actually apprehend this
14 person?

15 A No, additional --

16 Q That was other officers?

17 A Yes, other officers on the squad.

18 Q Okay, but you saw this individual, and who do you
19 know that to be?

20 A Veneshia Oliver.

21 THE COURT: Counsel, I believe you may have
22 referenced Exhibit 177. I don't know that that's been
23 admitted yet. Are you offering that into evidence?

24 MS. COLE: Your Honor, I believe all these exhibits
25 that I have referenced have been stipulated to.

1 THE COURT: Is that correct, Mr. Arnold? 177?

2 MS. COLE: That's my understanding, Your Honor.

3 MR. ARNOLD: Yes.

4 THE COURT: Mr. Hart?

5 MR. HART: Yes, Your Honor.

6 THE COURT: All right, thank you.

7 (State's Exhibit 177 is admitted.)

8 (State's Exhibits 184-189 stipulated admitted.)

9 BY MS. COLE:

10 Q And, sir, you also impounded some property from this
11 event?

12 A Yes, ma'am.

13 Q Okay. You were what we call the impounding officer?

14 A Yes, ma'am.

15 Q So it was -- you were tasked with taking all of the
16 items, documenting them, and creating a report?

17 A Yes, ma'am.

18 Q Okay. Was there items of evidentiary value
19 regarding any cell phones that you, in fact, impounded?

20 A Yes, ma'am.

21 Q Okay. Was there a cell phone that was impounded
22 from Ms. Oliver's person?

23 A Yes.

24 Q Okay. And what -- do you recall what cell phone
25 that was?

1 A There was two phones that were -- in particular.
2 There was one that was an LG phone, and there was one that was
3 a Motorola phone.

4 Q There was one -- I'm sorry, can you repeat that?

5 A There was an LG phone and a Motorola phone, ma'am.

6 Q Okay. And those were both on Ms. Oliver's person?

7 A They were in her bag, yes.

8 Q Okay.

9 MS. COLE: And for the record, Your Honor, can I
10 approach with the property report?

11 THE COURT: Yes.

12 MS. COLE: I just want to confirm that we're talking
13 about the same one.

14 THE WITNESS: Yeah.

15 BY MS. COLE:

16 Q Can you take a look at that?

17 A Yes, ma'am.

18 Q And specifically to the LG phone, that had a pink
19 case, correct?

20 A Yes, ma'am.

21 Q Okay. And you also said there was another phone --

22 A Yes.

23 Q -- on Ms. Oliver? And can you say what that is one
24 more time?

25 A It was a black Motorola phone.

1 Q Thank you, sir. What about on Mr. Clark?

2 A Mr. Clark had a iPhone and a similar LG phone with a
3 black case.

4 Q Okay, so he also had two different phones?

5 A Yes, ma'am.

6 Q Okay, and you indicated this in your property
7 report?

8 A Yes, ma'am. The other one should be on the second
9 page, ma'am.

10 Q And, sir, was there any other property that you
11 found on Defendant Clark regarding any Apple products?

12 A Yes, the two Apple Watches.

13 Q Okay. And for the record, one of those watches was
14 what we've been looking at and referring to as State's 99; is
15 that accurate?

16 A Yes, ma'am.

17 Q Okay. And where were the Apple Watches recovered?

18 A They were located in his right pocket.

19 Q Okay, in Mr. Clark's right pocket?

20 A Yes.

21 MS. COLE: Your Honor, I'll pass the witness.

22 THE COURT: Any cross-examination, Mr. Arnold?

23 MR. ARNOLD: Yes.

24 CROSS-EXAMINATION

25 BY MR. ARNOLD:

1 Q Sir, you said you recovered two iPhone watches from
2 Mr. Clark?

3 A Yes. Those are going to be Apple Watches, sir, yes.

4 Q Apples Watches, I'm sorry. And one of them was
5 stolen, right?

6 A Yes, sir.

7 Q And the other one wasn't stolen, right?

8 A Not to our knowledge.

9 Q On that Letgo account, I believe it was your
10 testimony you can go on there and purchase items, too; is that
11 correct?

12 A Yes, sir.

13 Q So you can offer them up for sale, but there's also
14 communication where you can purchase it from whoever's
15 offering it up?

16 A Yes, sir.

17 Q Okay. And you said that you also went on Mr.
18 Clark's Facebook, and you saw the Letgo account on there and
19 the Letgo link?

20 A Yes, sir.

21 Q And then, also, there were other items on his
22 Facebook account that were up for sale; isn't that correct?

23 A Yes, sir.

24 MR. ARNOLD: I have no further questions.

25 THE COURT: Any questions, Mr. Hart?

1 MR. HART: No, Your Honor.

2 THE COURT: All right. Any redirect by the State?

3 MS. COLE: No, Your Honor.

4 THE COURT: Any questions by our jurors? No
5 questions. Thank you, sir, for your testimony. You are
6 excused. About five minutes before 5:00. We're going to --
7 thank you, Officer.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: Ladies and gentlemen, hopefully, it will
10 run smooth tomorrow, we won't have any technical issues. So
11 we'll come back at 9:00 A.M. tomorrow morning.

12 So during this evening recess, it is your duty not
13 to discuss or communicate with anyone, including fellow
14 jurors, in any way regarding the case or its merits either by
15 voice, phone, email, text, internet, or other means of
16 communication or social media. You're not to read, watch, or
17 listen to any news, or media accounts, or commentary about the
18 case. You're not to do any research such as consulting
19 dictionaries, using the internet, or using reference
20 materials. You're not to make any investigation, test a
21 theory of the case, recreate any aspect of the case, or in any
22 other way investigate or learn about the case on your own.
23 You're not to form or express any opinions regarding this case
24 until this matter is submitted to you.

25 Have a safe drive home. We'll see you tomorrow at

1 9:00.

2 THE MARSHAL: All rise for the exit of the jury.

3 (Outside the presence of the jury.)

4 THE COURT: Okay. All right, we're outside the
5 presence of the jury panel. I had previously given counsel a
6 copy of the proposed jury instructions. We had noticed that
7 the numbering line for the instruction number was missing on
8 some pages, and other pages, it was at the bottom of the page.
9 So what you've just been handed is a corrected set of the jury
10 instructions. I don't know if the parties are ready to go
11 over those.

12 Mr. Arnold, have you had an opportunity to review
13 those instructions?

14 MR. ARNOLD: Yes, I have, Your Honor.

15 THE COURT: All right. And Mr. Hart, have you had
16 an opportunity to review those?

17 MR. HART: As long as they're not different than
18 what we had earlier other than formatting questions.

19 THE COURT: Only formatting. So, State, are you
20 familiar with Instructions 1 through 41?

21 MR. LEXIS: State has no objection, Judge.

22 THE COURT: Okay. Are you requesting any additional
23 instructions?

24 MR. LEXIS: No, Your Honor.

25 THE COURT: And you're familiar with the Verdict

1 Form?

2 MR. LEXIS: Yes, Judge.

3 THE COURT: Any objection to the Verdict Form?

4 MR. LEXIS: No, Your Honor.

5 THE COURT: Okay. Mr. Arnold, are you familiar with

6 Instructions 1 through 41?

7 MR. ARNOLD: Yes, Your Honor.

8 THE COURT: Any objection?

9 MR. ARNOLD: No, Your Honor.

10 THE COURT: Any requests for additional?

11 MR. ARNOLD: No, Your Honor.

12 THE COURT: And any objection to the Verdict Form?

13 MR. ARNOLD: No, Your Honor.

14 THE COURT: All right. Mr. Hart, familiar with 1

15 through 41?

16 MR. HART: Yes, Your Honor.

17 THE COURT: Any objection?

18 MR. HART: No, Your Honor.

19 THE COURT: Requests for additional?

20 MR. HART: No, Your Honor.

21 THE COURT: And any objection to the Verdict Form?

22 MR. HART: None that will be sustained, so, no, Your

23 Honor.

24 THE COURT: I'll hear any objection you want.

25 MR. HART: I always like to put not guilty ahead of

1 the guilty's.

2 THE COURT: Actually, State, that's my policy if
3 it's requested by defense counsel. If you can just change it,
4 not guilty first, because there is a presumption of innocence.

5 MR. HART: Oh, wow. Thank you, Your Honor.

6 THE COURT: I know some -- there's just a couple
7 judges that do that, but if it's requested, I -- if you can
8 just change it around to not guilty first.

9 MR. LEXIS: Oh, you want the State to change it?

10 THE COURT: Yes.

11 MR. LEXIS: Okay.

12 THE COURT: All right. Anything else, Mr. Lexis,
13 before we leave for today?

14 MR. LEXIS: No, other than I -- we plan on getting
15 done tomorrow and being -- and closing tomorrow.

16 THE COURT: Okay, we'll see how fast it goes.
17 Anything, Mr. Arnold, before I leave?

18 MR. ARNOLD: No, Your Honor.

19 THE COURT: Mr. Hart?

20 MR. HART: No, Your Honor.

21 THE COURT: So how many witnesses do you expect to
22 have, State, in the morning?

23 MR. LEXIS: We expect to have four lined up, ready
24 to go.

25 THE COURT: As you know, the Indictment is quite

1 lengthy, and it took my Clerk about 30 minutes, 35 minutes to
2 read all of it, so that might be a factor. I mean, I'll read
3 it, but we'll see if we have the time, all right?

4 MR. LEXIS: Oh, for what, Judge?

5 THE COURT: No, to --

6 MR. ARNOLD: Instructions.

7 THE COURT: To have closing tomorrow.

8 MR. LEXIS: Oh, yeah, we'll be closing.

9 THE COURT: Okay. All right, and in the morning,
10 I'll give both defendants the Carter instruction as far as
11 testifying.

12 MR. LEXIS: Thank you.

13 THE COURT: Counsel, if you have time, if you
14 haven't already done so, Mr. Arnold and Mr. Hart, if you would
15 speak with your clients either now or in the morning about
16 their rights to testify, but obviously, I will advise them on
17 the record, but --

18 MR. ARNOLD: Yes, Your Honor, already have.

19 THE COURT: Thank you.

20 (Court recessed at 4:58 p.m., until Friday,
21 April 16, 2021, at 9:01 a.m.)

22 * * * * *

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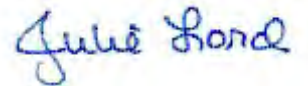
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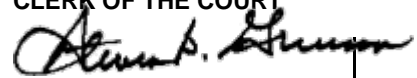
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ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case.

A handwritten signature in blue ink, appearing to read "Julie Lord".

VERBATIM DIGITAL REPORTING, LLC



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	CASE NO. C-20-351676-1
)	C-20-351676-2
Plaintiff,)	
vs.)	DEPT. NO. XVII
)	
VENESHIA LANETTE OLIVER,)	
and DARRELL CLARK,)	
)	
Defendants.)	

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

FRIDAY, APRIL 16, 2021

TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 5

APPEARANCES:

FOR THE STATE:	CHAD N. LEXIS, ESQ. <i>Chief Deputy District Attorney</i>
	MADILYN M. COLE, ESQ. <i>Deputy District Attorney</i>
FOR DEFENDANT OLIVER:	MARTIN W. HART, ESQ.
FOR DEFENDANT CLARK:	CARL E. ARNOLD, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, CLARK COUNTY, NEVADA, FRIDAY, APRIL 16, 2021

2 (Case called at 9:01 a.m.)

3 (Outside the presence of the jury.)

4 THE COURT: All right. Counsel, we're on the
5 record. I understand that the State may be resting soon. I
6 want to advise both Ms. Oliver and Mr. Clark on their rights
7 to testify. So Ms. Oliver and Mr. Clark, please listen
8 carefully. I'm going to ask you a series of questions.

9 I must advise you that you have the right under the
10 Constitution of the United States of America and under the
11 Constitution of the State of Nevada not to be compelled to
12 testify in this case.

13 Do you understand that, Ms. Oliver?

14 DEFENDANT OLIVER: Yes, I do.

15 THE COURT: Do you understand that, Mr. Clark?

16 DEFENDANT CLARK: Yes, I do.

17 THE COURT: You may, if you wish, give up this right
18 and take the witness stand and testify. If you do, you will
19 be subject to cross-examination by one of the Deputy District
20 Attorneys. Anything that you may say, be it on direct or
21 cross-examination, would be the -- would be the subject of
22 fair comment when the District Attorneys speak to the jury in
23 their closing argument.

24 Do you understand that, Ms. Oliver?

25 DEFENDANT OLIVER: Yes, I do.

1 THE COURT: Do you understand that, Mr. Clark?

2 DEFENDANT CLARK: Yes, I do.

3 THE COURT: If you choose not to testify, the Court
4 will not permit the District Attorneys to make any comments to
5 the jury concerning the fact that you have not testified.

6 Do you understand that, Ms. Oliver?

7 DEFENDANT OLIVER: Yes, I do.

8 THE COURT: Do you understand that, Mr. Clark?

9 DEFENDANT CLARK: Yes, I do.

10 THE COURT: If you elect not to testify, I will
11 instruct the jury, but only if your attorney specifically
12 requests, the following, and I will give the following
13 instruction if requested. And here is the instruction.

14 It is a Constitutional right of a Defendant in a
15 criminal trial that he may -- he or she may not be compelled
16 to testify. Thus, the decision as to whether he or she could
17 testify is left to the defendant on the advice and counsel of
18 their attorneys. You must not draw any inference of guilt
19 from the fact that he or she does not testify, nor should this
20 fact be discussed by you, or enter into your deliberations in
21 any way.

22 Ms. Oliver, do you understand I will give that
23 instruction if requested by your attorney?

24 DEFENDANT OLIVER: Yes.

25 THE COURT: Mr. Clark, do you understand, I will

1 give that instruction if requested by your attorney?

2 DEFENDANT OLIVER: Yes, sir.

3 THE COURT: Do you -- Ms. Oliver, do you have any
4 questions regarding these rights?

5 DEFENDANT OLIVER: No, I do not.

6 THE COURT: Did you have an opportunity to speak to
7 your attorney regarding your decision to testify in this case?
8 I'm not asking for --

9 DEFENDANT OLIVER: Yes.

10 THE COURT: -- decision right now.

11 DEFENDANT OLIVER: Yeah.

12 THE COURT: I'm just saying did you have an
13 opportunity to speak with Mr. Hart regarding you taking the
14 witness stand in this case?

15 DEFENDANT OLIVER: Yes.

16 THE COURT: Mr. Clark, did you have an opportunity
17 to discuss with your attorney you testifying in this case?

18 DEFENDANT CLARK: Yes, sir.

19 THE COURT: Okay. If either defendant has a felony
20 conviction within the last ten years, and the defense has not
21 sought to preclude that from coming in before the jury, I must
22 advise both of you, that if you do take the stand and testify
23 the District Attorney in the presence of the jury will be
24 permitted to ask you if you have ever been convicted of a
25 felony, what was the felony, when did it occur, however, they

1 would not be able to go into the specific details of those
2 felonies if they do, in fact, exist.

3 Do you understand that, Ms. Oliver?

4 DEFENDANT OLIVER: Yes, I do.

5 THE COURT: Do you understand that, Mr. Clark?

6 DEFENDANT CLARK: Yes, sir.

7 THE COURT: Mr. Hart, as far as you know, does Ms.
8 Oliver have any prior felony convictions?

9 MR. HART: Not that we're aware. No, Your Honor.

10 THE COURT: Okay. Mr. Arnold, as far as you know,
11 Does Mr. Clark have any prior felony convictions?

12 MR. ARNOLD: Yes, he does, Your Honor.

13 THE COURT: Okay. And did you discuss those with
14 Mr. Clark?

15 MR. ARNOLD: Yes, Your Honor.

16 THE COURT: Okay. Any questions, Ms. Oliver?

17 DEFENDANT OLIVER: No, I do not.

18 THE COURT: Do you have any questions for your
19 attorney about you testifying?

20 DEFENDANT OLIVER: No, I do not.

21 THE COURT: All right. Mr. Clark, do you have any
22 questions for me about testifying?

23 DEFENDANT CLARK: No, sir.

24 THE COURT: Do you have any questions for Mr. Arnold
25 about the decision to testify?

1 DEFENDANT CLARK: No, sir.

2 THE COURT: All right. Thank you.

3 Anything else before we start, counsel?

4 MR. HART: No, Your Honor.

5 MR. LEXIS: Yes, Judge. Madilyn brought down the --
6 the new jury instructions pertaining to those two burglaries.
7 I would just ask that maybe you could have your law clerk put
8 on your recommendations on there, on the -- the burg and home
9 invasion that at the top, that this just applies to Esther
10 Chae's events, or however you want to do it. And then on the
11 other one, put on there that this is the law that pertains to
12 all the other burgs and this is the law that pertains to all
13 of the home invasions?

14 MR. HART: Or just put on it the date for event for
15 July [inaudible].

16 THE COURT: Just tell me if someone can -- because
17 it's two separate instructions; okay?

18 MR. LEXIS: There's two burgs now --

19 THE COURT: Okay.

20 MR. LEXIS: -- and two home invasions.

21 THE COURT: I don't know. My law clerk is doing --
22 but he is with Judge Barker who's handling my homicide
23 calendar. He'll probably be done maybe 10:00 or 10:15 or so.

24 MR. LEXIS: Well, Judge, we're going to have plenty
25 of time today, I believe, to -- if you give us some time

1 during the break maybe we could do it ourselves.

2 THE COURT: Right. And if you can just -- if you
3 have a hard copy and then have both Mr. Arnold and Mr. Hart
4 look at it where you just maybe put in parentheses in the top,
5 you know, relates to count whatever, and the other one relates
6 to the other count -- counts or count.

7 MR. LEXIS: Yes.

8 THE COURT: And I'll --

9 MR. LEXIS: And before we even do that, I'm going to
10 give them a copy right now so they're good with just the
11 language in --

12 THE COURT: Right.

13 MR. LEXIS: -- it in general.

14 THE COURT: I appreciate that.

15 Can we call the jury in at this time?

16 THE MARSHAL: Are you ready?

17 THE COURT: Counsel, can we call the jury in?

18 MR. HART: If we can have one minute.

19 MR. LEXIS: One -- one moment, Judge.

20 (Pause in the proceedings.)

21 THE COURT: Are we ready go?

22 MR. LEXIS: Judge, I showed them both to Marty and
23 Carl, so the only additions we'll make to them is just to
24 specify which charges they belong to.

25 THE COURT: All right. If you can do that while

1 we're examining some of the witnesses, I'd appreciate it. And
2 then hand them to my law clerk.

3 All right. Let's get the jury in,

4 THE MARSHAL: All right.

5 All rise for the entry of the jury.

6 (Inside the presence of the jury.)

7 THE COURT: All right. Everyone have a seat. Thank
8 you. And welcome back, ladies and gentlemen.

9 State, who is your next witness?

10 MS. COLE: And, Your Honor, the State calls Officer
11 Ellis.

12 OFFICER PRESTON ELLIS, STATE'S WITNESS, SWORN

13 THE CLERK: And state and spell your first and last
14 name for the record.

15 THE WITNESS: Preston Ellis, P-r-e-s-t-o-n,
16 E-l-l-i-s.

17 THE COURT: Go ahead, counsel.

18 DIRECT EXAMINATION

19 BY MS. COLE:

20 Q Good morning, Officer. Where do you work?

21 A I work for Las Vegas Metropolitan Police Department.

22 Q And how long have you worked there?

23 A Just a little over four years.

24 Q Did you become involved in a burglary investigation
25 on August 26th, 2020, through August 27th, 2020?

1 A Yes.

2 Q Okay. And were you working in your capacity as a
3 Las Vegas Metropolitan Police Department officer at the Casino
4 Royale?

5 A Yes.

6 Q Were you staged there with other officers?

7 A Yes.

8 Q Was it your knowledge that this was essentially an
9 undercover operation?

10 A Yes.

11 Q Okay. And where were you particularly staged?

12 A I was staged near the back door to Casino Royale,
13 leading out to the parking lot.

14 Q Okay. And who were you with?

15 A I was with the -- our Sergeant, Officer -- or
16 Sergeant (indiscernible), and then one other officer, but I do
17 not remember exactly who it was.

18 Q Okay. And were there two suspects that you were
19 looking for?

20 A Yes.

21 Q Okay. Were they males, females?

22 A One was a male, and the other was a female.

23 Q Okay. And did they arrive at the Casino Royale?

24 A Yes, they did.

25 Q What happened when they arrived?

1 A They arrived on the casino floor. And --

2 Q Were they together at first?

3 A I do not know.

4 Q Okay.

5 A And they arrived on the casino floor. Our officers
6 noticed them and went over and talked to at least the
7 gentleman. And then from there, once we detained the
8 gentleman, one of the other officers kind of looked up,
9 noticed that the female was over by the -- walking towards the
10 machine. She looked at him, and then she tried to scurry out
11 of the casino in a hurry.

12 MR. HART: Objection, hearsay.

13 THE COURT: Is this something you personally
14 observed, sir, or did someone tell you?

15 THE WITNESS: I saw it, sir.

16 THE COURT: Okay. I'm going to overrule the
17 objection.

18 BY MS COLE:

19 Q Okay. And sir, do you see that female here in court
20 today?

21 You can step off the witness stand, sir. And you
22 can come down and take a look if you need to.

23 A Yes, I do.

24 Q Okay. And can you please point to and describe her?

25 A She's sitting over there in the back corner.

1 Q Okay. And did you subsequently come into contact
2 with her?

3 A Yes, I did.

4 Q And did you complete a search?

5 A Yes, I did.

6 Q And was that a consensual search?

7 A Yes, it was.

8 Q Okay. And what did you recover?

9 A Inside, I found a couple screwdrivers, a window
10 punch, and a Victoria's Secret credit card.

11 Q Sir, showing you what's been marked as State's 98.

12 THE COURT RECORDER: One second. Okay.

13 BY MS COLE:

14 Q Is this, in fact, the screwdrivers that you located?

15 A Yes, it is.

16 Q Okay. And what are we looking at right there?

17 A It's a window punch with a seatbelt cutter.

18 Q Okay. And where were these items located?

19 A Inside the purse.

20 Q And that was of the female suspect?

21 A Yes, ma'am.

22 Q Who you've identified as Ms. Oliver?

23 A Correct.

24 Q Okay. Sir, showing you State's 100. What are we
25 looking at here?

1 A That's the Victoria's Secret credit card that I
2 found in the purse.

3 Q Okay. And show you State's 101, what are we looking
4 at here?

5 A That would be the backside of that same credit card.

6 Q Okay. And showing you what's 102.

7 A That's a backside of a different credit card that
8 was also inside that purse.

9 Q Okay.

10 MS. COLE: Court's brief indulgence.

11 No further questions for this witness, Your Honor.

12 THE COURT: Any cross-examination, Mr. Arnold?

13 MR. ARNOLD: We have none for Mr. Clark, Your Honor.

14 THE COURT: All right. Any cross-examination, Mr.
15 Hart?

16 CROSS-EXAMINATION

17 BY MR. HART:

18 Q And did you request the video from this interaction?

19 A I did not personally.

20 Q Okay. It was in a -- it was in the casino on the
21 floor; right?

22 A Yes, sir.

23 Q Okay. And along with the Victoria's Secret card and
24 etcetera, there was also a pipe -- or a pipe found to be in
25 that purse; correct?

1 A I do believe so, sir.

2 MR. HART: Nothing further.

3 THE COURT: Any redirect by the State?

4 MR. LEXIS: Nothing further.

5 MS. COLE: No, Your Honor.

6 THE COURT: Any questions by our jurors?

7 No -- no questions?

8 Thank you, officer. You are excused. Thank you.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Who is our next witness this morning?

11 MS. COLE: Your Honor, the State calls Detective
12 James Downing.

13 DETECTIVE JAMES DOWNING, STATE'S WITNESS, SWORN

14 THE CLERK: Thank you. Please have a seat.

15 And state and spell your first and last name for the
16 record.

17 THE WITNESS: It's James Downing, J-a-m-e-s,
18 D-o-w-n-i-n-g.

19 THE COURT: Go ahead, counsel.

20 MS. COLE: Thank you, Your Honor.

21 (Pause in the proceedings - Ms. Cole/Clerk confer.)

22 DIRECT EXAMINATION

23 BY MS. COLE:

24 Q Good morning, Detective. Where do you work?

25 A I work with the Las Vegas Metropolitan Police

1 Department.

2 Q And how long have you worked there?

3 A I've worked there going on 12-and-a-half years.

4 Q And what is your current position right now with
5 Metro?

6 A I'm a Detective in the Technical and Surveillance
7 Section.

8 Q Okay. The Technical and Surveillance Section?

9 A Yes.

10 Q Does that have an acronym?

11 A Yeah. We refer to it as TASS, T-A-S-S.

12 Q So what exactly does TASS do?

13 A We are essentially the electronic surveillance unit
14 for the Department, which means that we -- we maintain and
15 deploy all covert over cameras, covert listening devices, GPS
16 trackers, as well as phone -- any kind of phone surveillance,
17 whether it's Title 3 wire taps or pen registers.

18 Q Okay. So, Detective, are you responsible for
19 knowing the United States Code and statutory regulations
20 regarding electronic surveillance?

21 A Yes.

22 Q Okay. And you also have to be fairly proficient in
23 interpreting IP addresses, dealing with other networking
24 issues, and just generally with phones and computers?

25 A Yes. We're like -- we break ourselves into

1 specialties and I specialize in phone surveillance, so pen
2 registers and wiretap.

3 Q Okay, Detective, and from an investigation
4 standpoint, you're essentially receiving these records after
5 they've been subpoenaed or after a search warrant has been
6 given by a different Detective?

7 A Yes.

8 Q Okay. So when you got these specific records, that
9 are pertinent to today's testimony, you did not actually serve
10 the search warrant and get the records back?

11 A In this case, no.

12 Q Okay. And in this specific case that brings you
13 into court today, you received specifically records regarding
14 two numbers. Is that fair to say?

15 A Yes.

16 Q And do you recall the approximate time period for
17 these two numbers?

18 A We were researching August 20th, 2020, through I
19 believe it was August 28th, 2020.

20 Q Okay. And do you recall if the actual search
21 warrant range was wider?

22 A It was broader, yes.

23 Q Okay. Was it June 14th, 2020 through August 28,
24 2020?

25 A That sounds correct, yes.

1 Q Okay. And when you received these records, were
2 they in various formats, including Excel?

3 A Yes.

4 Q Okay. And when you see -- when you received these
5 records did you also receive the sworn affidavit from the
6 Custodian of Records from T-Mobile that accompanies these
7 records?

8 A I did.

9 Q Okay. And what does that certificate mean?

10 A It's -- it's from a representative from the company
11 saying it's their records that they keep in the normal course
12 of business, that they certify they're true and correct, and
13 they're duplicates of their original records.

14 Q Okay. And in most records that you receive, do you
15 receive that certificate of authenticity?

16 A Yes.

17 Q Okay. And you received that in this case?

18 A I did.

19 Q Okay. And you also have access to subscriber
20 information and activation date regarding the two phone
21 numbers?

22 A Yes.

23 Q Okay. And do you recall what date both of these
24 phone numbers were activated?

25 A They were both activated for these phone records was

1 August 20 of 2020.

2 Q Okay. And do you know who the subscriber
3 information was registered to?

4 A I can't remember the exact name off the top of my
5 head, but it was the same male.

6 Q Okay. It was --

7 A For both --

8 Q -- a male's name?

9 A -- for both numbers, yeah.

10 Q Okay. And let's just -- I'm going to pull up these
11 records.

12 MS. COLE: And for the record, I'm publishing what's
13 been marked as State's 175.

14 BY MS. COLE:

15 Q And Detective, specifically pulling up the Excel
16 document in regards to what's labeled as sub and docs
17 (phonetic).

18 Okay. Sir, what are we looking at here?

19 A So this is the subscriber information sheet that's
20 provided.

21 Q Okay. And which particular phone number is this
22 subscriber information related to?

23 A That's for 702-684-3090.

24 Q Okay. And the subscriber name for that phone
25 number?

1 A It is Darrell Clark.

2 Q Okay. And the address?

3 A It is 455 East Twain Avenue, Las Vegas, Nevada
4 89169.

5 Q Okay. And I believe you testified to the activation
6 date, that's also reflected in the statement?

7 A Yes.

8 Q Okay. And there was also another phone number that
9 you were dealing with, and again, pulling up the record that's
10 entitled Sub and Docs on phone number ending in 5174.

11 And can you tell us the subscriber name related to
12 this specific number?

13 A Darrell Clark, as well.

14 Q Okay. And what is this specific phone number?

15 A That's for 702-559-5174.

16 Q Okay. Okay. And Detective, did you learn that
17 these two specific numbers were associated with two different
18 people?

19 A Yes, I did.

20 Q Okay. And you conducted some mapping?

21 A Yes.

22 Q Okay. And did you learn that the number ending in
23 5174 was associated with Veneshia Oliver?

24 A I did. Yes.

25 Q Okay. And the phone number ending in 3090 is

1 associated with Darrell Clark?

2 A Yes.

3 Q Okay. And specifically, the raw records you
4 received and worked with were in this case, did you receive
5 records for incoming, outgoing calls?

6 A I did.

7 Q Okay. Did you receive any records for data
8 sessions?

9 A Yes.

10 Q Okay. Did you receive any other records?

11 A They usually provide other ancillary documents on
12 how to read the records, as well.

13 Q And then obviously, you received the cellular cell
14 site tower locations and sectors?

15 A Yes.

16 Q Okay. And Detective, we are going to start with
17 phone number ending in 3090. And I'm just going to pull up
18 the different records and have you explain what each one is.
19 So for -- I'm going to start with the phone number ending in
20 3090, and I'm going to be pulling up what's labeled as data.

21 Can you see that, Detective?

22 A Yes.

23 Q Okay. When we're looking at this Excel spreadsheet
24 what -- that's titled "data" can you explain what we're
25 looking at?

1 A Yeah. So this is a record that keeps track of all
2 the -- the data sessions that are -- all the activity -- the
3 data activity on a particular phone. And in this case, for
4 T-Mobile they log the -- the cell site that the phone accesses
5 when it accesses that Internet session, or data session. And
6 it provides the IP address that's assigned to the device at
7 the time by the carrier.

8 Q Okay. Detective, can you describe what a data
9 session is?

10 A So anytime you're using your device on -- on the
11 cellular network, it -- it logs -- it -- the data session is
12 the -- the log of the activity and it reaches out to the
13 Internet through the cellular network.

14 Q Okay. So this specific Excel spreadsheet, we're not
15 dealing with calls, incoming and outgoing calls, or text
16 messages. This is specifically data?

17 A Specifically, data, yes.

18 Q Okay. And then if you could just kind of explain
19 these columns and the significance of them, specifically when
20 we're seeing this address over here.

21 A Yep. So starting in the left, I mean, the IP
22 address is -- that's assigned to the phone for a particular
23 amount of time. You get into identifiers of the phone.
24 That's your MSI -- ISD and the IMEI and the Mz (phonetic) is
25 referring to the SIM card. The start date and end time is the

1 time of that data session.

2 Then you get into the -- the actual cell site
3 information that's being logged by T-Mobile. That's your node
4 and cell sector ID that's numbers that are assigned to towers
5 by the carrier. And that goes into the LTEID (phonetic), the
6 cell ID and the LAC.

7 What's nice about T-Mobile is they actually provide
8 you the address of the cell site, aside from the number they
9 assign to it internally. So that's where all those addresses
10 are. That's the address of the cell site.

11 Q Okay, Detective. So this column that has addresses,
12 this is essentially the address of a specific cell tower or
13 cell site?

14 A Yes.

15 Q Okay. And what -- what is a cell tower?

16 A So a cell tower or we call them more likely now cell
17 sites. Traditionally, they were on towers. Now, they're --
18 they can be on buildings, and light poles, on billboards. But
19 it's the traditionally three sided cell -- cell tower that you
20 guys see all around town. And it's -- it contains multiple
21 antennas that provide service in the cell network for mobile
22 devices.

23 Q Okay. And then specifically in regard to this
24 record, was there another individual associated with it before
25 August 20th?

1 A Yes, there was.

2 Q Okay. And so the records that you looked at in this
3 case, obviously, I've had it at the top to show the columns.
4 But none of these records are actually the correct date span
5 of records that you reviewed and mapped?

6 A Correct. Not until -- not until August 20th.

7 Q Okay. So we'd have to --

8 A Anything before that.

9 Q -- scroll down quite a bit.

10 A Yes. Yes.

11 Q Okay. Okay. And I'm going to pull up what is
12 labeled as CDR mediations. And again, I'm still on phone
13 number -- phone number ending in 3090.

14 Okay. And Detective, can you explain these records
15 and what we're looking at here?

16 A Sure. If you want to scroll all the way to the
17 left. These records always start scrolled to the right for
18 some reason.

19 Q The computer's thinking. Hang on. Okay.

20 A Okay. So these are -- they're T-Mobile call detail
21 records. The easy way -- easiest way to think of these is it
22 would be similar to your phone bill. It keeps track of your
23 incoming, outgoing calls, and text messages, at what time, for
24 how long, what numbers called you.

25 But in this case, they -- they have added

1 information that we get through the search warrant that
2 provides us, again, the tower that was accessed at the time of
3 the call being received or -- or made.

4 Q Okay. And so Detective, this is essentially, if you
5 call somebody or send a text, it's going to hit or be placed
6 on a specific cell site?

7 A Correct. And then T-Mobile will also, as far as
8 text messages, do not provide us locations historically on --
9 on the CDRs. So you're only seeing locations as far as
10 incoming and outgoing calls. And the call needs to be
11 received by the handset. So if the call is not answered,
12 we're not going to get locations on that either.

13 Q Okay. And then just scrolling more to the right, is
14 this information that's related to the specific cell site?

15 A Yeah. So like the data session, they give us the
16 number that's assigned to the tower by the carrier, but also
17 they break it down into GPS coordinates of the cell site as
18 well as the actual physical locations, address of the cell
19 site.

20 Q Okay. So for example, in Las Vegas, where there's
21 high density population, a lot of people in a small amount of
22 space, is there a lot of cell towers?

23 A Yes. There's lots of cell towers.

24 Q Okay. And is your phone normally going to connect
25 with a cell tower that you're closest to?

1 A Most likely, yes, the one it's closest to. The
2 exceptions that rule would be environmental factors that may
3 get in the way of seeing the one that is closest to you, your
4 device may get better service from a tower that's further
5 away, or that it sees better.

6 But most of the time, due to the high density of --
7 of cell sites in Las Vegas, you're going to connect to the one
8 closest to you, yeah.

9 Q Okay. And now, Detective, I also want to draw your
10 attention. So we are looking at Excel. This is an Excel
11 document?

12 A Yes.

13 Q Okay. And again, these records at the top are not
14 starting at August 20th, so I'll scroll down a little bit.
15 But essentially, what I'm going to point out is these numbers
16 all the way to the left. What's significant about these, I
17 guess you could call them line item numbers?

18 A In an Excel -- and in these records, it just
19 identifies each individual piece of activity in the CDR
20 record.

21 Q And there's those same specific line items in the
22 data sessions that we just looked at as well?

23 A Yes, there is.

24 Q Okay. Detective, when you take these records and do
25 what we call mapping, is there a certain program you use to do

1 that?

2 A Yeah. We use an Internet based software called
3 ZETX (phonetic) to map our records. We've used it for several
4 years now, I think -- believe going on four to five years.

5 We picked this software, in particular, because of
6 their research and the way that they portray the cell sites in
7 their approximate coverage area. But also, that when we
8 ingest the records to them, they do not change them in any way
9 when they're depicted on the map, except to convert time zones
10 for us, because a lot of these records are provided in
11 different time zones. That reduces the error when they're
12 being mapped and looked at. But they don't change anything.
13 And everything is depicted based on the line item that's
14 listed in the Excel format of the records.

15 Q Okay. So Detective, just to make sure I'm
16 understanding, when you get these records, what is depicted in
17 the line items there is essentially the data that you're
18 dealing with, you're not manipulating anything?

19 A No. Not at all.

20 Q The numbers are going to line up precisely to what
21 the numbers are in this specific Excel document?

22 A Yes.

23 Q Okay. And you said the only thing that changes is
24 the time conversion?

25 A That's right. And even though they're converting

1 it, they tell us what it was provided in originally, and that
2 they converted it. And that's based on what we tell it, to
3 which time zone to convert it to.

4 Q Okay. So, Detective, let's -- you did, in fact, do
5 some mapping in this case?

6 A Yes. I did.

7 Q And it was with these specific records that we have
8 been discussing; is that correct?

9 A Yes.

10 Q Okay. And with ZETX, the program that you've been
11 referring to, is it associated with Google Earth?

12 A It's associated with Google Earth in the fact that
13 it -- it overlays its mapping on top of Google Earth, because
14 that program is known for its extreme accuracy and -- and
15 updating and making it much more advantageous to look at a
16 real world satellite shot with these records.

17 Q Okay. And Detective, showing you what's been
18 marked, and this exhibit, for the record, is four pages,
19 showing you what's been marked as State's 180, page 1.

20 MS. COLE: Can we switch over?

21 THE COURT RECORDER: Oh, yes.

22 MS. COLE: Yeah. We're going to be using the
23 projector for a bit.

24 BY MS. COLE:

25 Q Okay. Okay, Detective. So can you tell us what is

1 stated in the top left-hand corner?

2 A August 21st, 2020, from 07:00 hours to 07:30, and
3 that's local time.

4 Q Okay. And now this is kind of -- we've got some
5 weird shapes and weird colors going on.

6 A Yes.

7 Q Can you describe the significance of what we're
8 seeing on here?

9 A Sure. So we'll start with the shapes. The -- the
10 pin drop in the middle of the shape is the location of your
11 cell site that's being referred to in the records.

12 Q Okay. And I'm just going to --

13 A And where it's mapped.

14 Q I'm going to point right there. Is that the pin?

15 A Correct.

16 Q Okay. And it's -- it's kind of hard to see, because
17 the outlining color is kind of the same color as the pin.

18 A Right. And the reason for that being when we mapped
19 the records we -- especially when we're doing multiple
20 different phone numbers, we assign them different colors, so
21 that when they're mapped we can see them being mapped, if
22 they're different, or the same, as other records.

23 But the pin -- the pins will -- will change
24 depending on which records we're looking at here. But the
25 numbers that are around that pin drop refers to some of the

1 records that are being mapped there in the line items that we
2 were speaking about earlier in this -- in the records.

3 Q Okay. So, Detective, like if I'm looking at Number
4 705, is that essentially corresponding with this line 705?

5 A Yes.

6 Q Okay. And this line 705, is directly referenced in
7 what?

8 A That would be in the -- in the data records of one
9 of the phone numbers.

10 Q Okay. And that's the -- that's the numbers all the
11 way on the left hand side?

12 A Yes.

13 Q Okay. So did you have a different color for each
14 phone number that you mapped?

15 A Correct. So 3090 is actually mapped in blue, 5174
16 is mapped in red. However, when you map these -- these
17 together in ZETX and they map them out on Google Earth, all
18 the colors will be layered on top of each other. So when you
19 start to get devices that are utilizing similar or the same
20 cell sites during the same timeframe you're going to get
21 layered colors which may be -- that are going to be different
22 than the colors you assign.

23 So in this case, with red and blue, we're going to
24 see some purples or darker reds, or darker, you know, darker
25 blues or -- in that effect, because of the layering of the

1 records.

2 Q Okay. Detective, this is from the time frame of
3 7:00 to 7:30 on August 21st.

4 A Yes.

5 Q And phone number ending in 3090 is represented in
6 what color?

7 A In blue.

8 Q Okay. And what about phone number 51 -- ending in
9 5174?

10 A That's represented in red.

11 Q Okay. And again, just so we can have the members of
12 the jury understand what number is associated -- or I guess
13 what color is associated with which person?

14 A It --

15 Q Or which person's phone, I should say.

16 A You'd like the -- the name of each one?

17 Q Yes.

18 A So Darrell Clark, I believe, is the 3090, and then
19 Oliver is 5174. And that's in red.

20 Q Okay. And then can you explain this, I guess,
21 circle? What is that representing?

22 A So that represents the coverage area of the -- that
23 sector of that cell site. So if you go back to when we were
24 talking about cell sites, traditionally there's three sectors
25 on every tower. And that, in essence, is to allow them, the

1 cell carriers, to use a sector type antenna because that's
2 really the most cost effective way traditionally to do it.

3 But so to get -- try not to get too deep into
4 radiofrequency theory and propagation of sector antennas, that
5 is the depiction of a horizontal lane of a sector antenna. So
6 that is what's used to depict the possible coverage area of
7 that same type of antenna on a cell site.

8 Q Okay. So if I'm understanding you correctly, when
9 I'm looking at this specific tower, what's being represented
10 in this dark shaded color is the coverage area of that
11 specific tower.

12 A Of that type of antenna that's on the tower, yes.

13 Q Okay.

14 A Of that sector of the tower.

15 Q And Detective, can you point -- and you can actually
16 circle on that screen that you have in front of you, where is
17 the Paris Hotel Casino?

18 A The Paris Hotel is right here.

19 Q Okay. And is part of the Paris Hotel even covered
20 under the kind of purple blob that we see?

21 A Yes. It's -- it's under the -- like the far east
22 side of that hotel casino would still be under the
23 approximately coverage area of that sector.

24 Q Okay. And it looks like we have two different
25 towers depicted here.

1 A Yes.

2 Q Okay. And is it fair to say that both of these
3 towers service the area of the Paris Hotel?

4 A Yes.

5 Q Okay. So essentially, what does that mean?

6 A You're going to have to --

7 Q If -- if it's servicing that area --

8 A Correct.

9 Q -- is that meaning that if you're calling or texting
10 that your phone is going to hit off that cell tower?

11 A Yes. If you're using your phone for a data session
12 to receive or make texts or calls, if you're in the area of
13 the -- those cell sites, then it will be utilizing those to
14 make -- to make your calls.

15 Q Okay. Moving on to State's page 2 of 180, are we
16 looking at a map of just one number or two numbers?

17 A If you'd be able to scoot it up for me, I will.

18 Q Oh, I'm sorry.

19 A That -- that's going to be of two -- two different
20 numbers.

21 Q Okay. Two different numbers. And can you tell us,
22 I believe this is -- can you read that date and time?

23 A Yeah. It's August 21st, 2020, from 07:45 hours to
24 08:30 hours.

25 Q Okay. And can you again indicate on the screen

1 where the Paris Hotel and Casino is?

2 A So the Paris is going to be kind of in this area,
3 okay, it's --

4 Q Okay. And again, we're looking at kind of a reddish
5 -- not bright, bright red, but kind of a mixed reddish color?

6 A Yes. So I -- I think the -- the projector is having
7 a hard time with the colors exactly, but it is a darker red.
8 And the reason it's favoring the red in -- in the mapping is
9 because there's more activity on the red mapped phone as
10 opposed to the blue mapped phone.

11 Q Okay. And when you -- when you're referring to
12 activity, are you talking about these numbers, we have more
13 numbers here than we do here?

14 A Correct.

15 Q So target 5174 had four lines of -- of data sessions
16 being mapped here as opposed to the one line data session
17 being mapped on the other -- on the blue color, on line 3090.

18 Q Okay. And so that's why we see that it's a little
19 bit more read?

20 A Yes.

21 Q Even though there is some blue in there?

22 A Yeah.

23 Q Okay. And showing you page 3 of State's 180. Can
24 you tell us what date and time we're looking at right here?

25 A It's August 21st, 2020, from 09:00 to 09:30 hours.

1 Q Okay. And can you indicated on the map where are
2 Target and Walgreens?

3 A Target and Walgreens are over here. It's not really
4 lining up with my finger, but off to the east.

5 Q Okay. And it's fair to say that this specific tower
6 that's being depicted services this entire area?

7 A So there they -- the cell companies have -- have
8 powered the different sectors that hear differently for
9 reasons that they determine, probably environmental and some
10 of the density. So but it's depicting two of the sectors of
11 that -- of the three in that -- on that cell site there.

12 Q Okay. And again, this we're seeing a red color?

13 A Yes.

14 Q Okay. And that's representative of the number
15 ending in 5174?

16 A Yes.

17 Q Okay. And this is the area that's being depicted of
18 where that tower services, essentially?

19 A Right. The approximate coverage area that --

20 Q The approximate coverage area.

21 Okay. And then looking at this blue circle area,
22 this is depicting phone -- the phone tower that 3090 is
23 hitting during this time period?

24 A Correct.

25 Q Okay. And what address is this?

1 A That's 455 East Twain Avenue.

2 Q Okay. Showing you page 4.

3 Okay. What date and time are we looking at right
4 here?

5 A August 21st, 2020, from 09:30 to 10:00 hours.

6 Q Okay. And again, we're seeing two kind of different
7 colors. So starting with this, again, can you indicate some
8 of the landmarks like Target, Walgreens?

9 A So Target is still in this area here and the
10 Walgreens.

11 Q Okay. And this timeframe is 30 minutes?

12 A Yes.

13 Q Okay. And then looking at this, why is this one red
14 and this one is more purple?

15 A Because solely, target 5174 is using the cell site
16 down by Target and Walgreens, whereas both of the targets are
17 utilizing the cell site later on that's servicing the -- the
18 455 Twain address.

19 Q Okay. So this cell site is being used earlier, and
20 this cell site is being used later.

21 A Correct. By both -- by both of us.

22 Q Okay. Showing you what's been marked as State's
23 181. And for the record, this exhibit is 4 pages.

24 MR. HART: (Inaudible).

25 MS. COLE: Oh. Can we [inaudible] going to work?

1 MR. ARNOLD: I got it.

2 MS. COLE: You got it? Okay. Perfect.

3 BY MS. COLE:

4 Q Let me pull this down so you can see.

5 All right. So what is the date and time stamp we're
6 looking at here?

7 A So we're looking here at August 23rd, 2020, from
8 21:15 hours to August 24th, 2020, at 00:15 hours.

9 Q Okay. And we are only seeing blue.

10 A Correct.

11 Q So in this case there were so -- there was so much
12 activity that was being mapped that it was almost impossible
13 to tell what was going on between each device here. So I
14 decided to map them separately.

15 Q Okay. So you mapped each device. So we're looking
16 just at --

17 A This is just --

18 Q -- the device ending in 3090 right now?

19 A Correct. Yes.

20 Q Okay. For this specific time frame, and this
21 specific time frame is 9:15 to 12:15?

22 A Yes. Between the 23rd and the 24th.

23 Q Okay. And can you tell us what is depicted right
24 here, if you can see.

25 A Yep. So Harrah's Hotel is -- there's an icon up in

1 this area for Harrah's Hotel and Casino.

2 Q Okay. So it would be fair to say that this tower
3 depicted right here services the Harrah's Hotel and Casino?

4 A Yes.

5 Q So essentially that means if you're at or around the
6 Harrah's Hotel and Casino and you're utilizing your phone it
7 could be hitting on that tower?

8 A Yes.

9 Q Okay. And showing page 3 and 4 of State's 181.
10 Now, what we were looking at before was just phone
11 number 3090.

12 A Yes.

13 Q Okay. And again, this is August 23rd, 2020?

14 A It's the same time frame, August 23rd, 2020, from
15 21:15, to August 24th, 2020, from 00:15. It's -- but of
16 target 5174.

17 Q Okay. And then in regular time, non-military time,
18 what time is this?

19 A So that's at 9:15 p.m. of the 23rd to midnight or
20 12:15 a.m. of the 24th.

21 Q Okay. And you indicated that there was too much
22 activity to display these, essentially, on the same map?

23 A Correct.

24 Q Okay. And that's why you chose to represent them on
25 separate maps?

1 A Yes.

2 Q And again, through this entire time period, is this
3 the only cell tower that's being hit?

4 A There's multiple cell sites within there, but due to
5 the density of the strip, there's many cell towers very close
6 together and it's not uncommon for cell sites to actually be
7 in casinos to increase connectivity for people. So it's not
8 the only one there, but it's the only in a very small area
9 there.

10 Q Okay. And Detective, that reminds me, we see a lot
11 of line items on here. And there's only a few depicted up on
12 here. Why is that? How come not every line item is depicted
13 up here?

14 A So again, that's -- that goes into trying to
15 declutter the mapping that you're seeing. That shows some.
16 If we were in the actual program, I could click on each
17 individual cell site and it would expand out on all the line
18 items where you could click on them individually.

19 But in an effort for the -- to declutter and make
20 the map more readable, the program automatically reduces
21 what's actually shown on the map.

22 Q Okay. So for example, if you were actually running
23 ZETX right now with your computer, you could click on those
24 specific line items?

25 A Yes.

1 Q And they would essentially pop up?

2 A Yes.

3 Q But because we don't have very good Internet, we're
4 -- we're doing this on paper?

5 A Yeah. So Google Earth runs -- I mean, it's all
6 Internet based and with a poor Internet service it's -- it's
7 impossible to use.

8 Q Okay. And then, Detective, briefly --

9 MR. HART: Your Honor, could we approach very
10 quickly?

11 THE COURT: All right.

12 (Bench Conference re: scheduling - not recorded.)

13 THE COURT: Ladies and gentlemen, we're just going
14 to take a ten minute break at this time.

15 During this recess, you are not to discuss or
16 communicate with anyone, including your fellow jurors, in any
17 way regarding the case or its merits, either by voice, phone,
18 e-mail, text, Internet, or other means of communication or
19 social media. You're not to read, watch, or listen to any
20 news or media accounts or commentary about the case. You're
21 not to do any research such as consulting dictionaries, using
22 the Internet or using reference materials. You're not to make
23 any investigation, test the theory of the case, recreate any
24 aspect of the case, or any other way to investigate or learn
25 about the case on your own. And you're not to form or express

1 an opinion regarding this matter until -- regarding this case
2 until it's submitted to you.

3 We'll see you back in about ten minutes.

4 THE MARSHAL: All rise for the exit of the jury.

5 (Outside the presence of the jury.)

6 THE COURT: Detective, if you want to have a seat in
7 the -- one of the holding rooms or out front.

8 THE WITNESS: Sure.

9 (Witness exits the courtroom.)

10 THE COURT: Ms. Cole, were you able to forward the
11 jury instruction to my law clerk?

12 MS. COLE: Oh.

13 MR. LEXIS: Judge, we don't -- we're using that
14 computer and -- and my -- the jury instructions are upstairs.

15 THE COURT: I'm sorry. I can't hear.

16 MR. LEXIS: The electronic version's upstairs,
17 Judge. So, no, I --

18 MS. COLE: Yeah. I just have hard copies, Judge.

19 THE COURT: All right. If you have the hard copies
20 I'll run upstairs.

21 MR. LEXIS: If we could just have a little bit more
22 of a break when we're -- when we're all done and I'll go up
23 there. I'll (inaudible) to your law clerk.

24 THE COURT: All right. I think he should be done
25 with his calendar.

1 (Court recessed at 10:00 a.m., until 10:15 a.m.)

2 THE MARSHAL: All rise for the entry of the jury.

3 (Inside the presence of the jury.)

4 THE COURT: All right. Welcome back, everyone.

5 Detective, do you understand you're still under
6 oath?

7 THE WITNESS: I do, yes.

8 THE COURT: All right. Go ahead, counsel.

9 MS. COLE: Thank you, Your Honor.

10 And for the record, I'm pulling out State's 181
11 again. Court's brief indulgence.

12 BY MS. COLE:

13 Q Okay. And for the record, I'm showing, again,
14 what's been marked as State's 181.

15 MR. HART: Can we have a page number?

16 MS. COLE: Yes. This is the -- the first page of
17 State's 181.

18 BY MS. COLE:

19 Q Now, Detective, you indicated that essentially some
20 of these numbers are going to be down here, some are not going
21 to be down here. But specifically, in relation to 536, is
22 this indicated below?

23 A Line 536 would be indicated below, yes.

24 Q Okay. And again, we're talking about line 536.

25 That's specifically corresponding with the call detail records

1 of the phone number ending in 3090.

2 A Yes.

3 Q So again, we're talking about the phone that's
4 associated with Darrell Clark?

5 A Yes.

6 Q Okay. And I am -- I have those specific call detail
7 records pulled up, as you can see here. Do those last four
8 numbers correspond to what you have depicted on the map being
9 -- are these the -- the CDRs for the phone number ending in
10 3090?

11 A Yes.

12 Q Okay. And specifically going down to line 536, does
13 that depict an incoming phone call?

14 A Yes, it does.

15 Q Okay. And would it be this line? This is line 536;
16 right? That I've highlighted?

17 MR. HART: We can't see, Your Honor, (inaudible).

18 MS. COLE: Oh, I'm sorry. Can we switch back to the
19 computer?

20 THE COURT RECORDER: Okay.

21 MS. COLE: I've got to get used to that. I -- my
22 apologies.

23 THE COURT RECORDER: You've got to log off.

24 (Pause in the proceedings.)

25 MS. COLE: Okay. So it looks like we are having

1 some Internet issues, so we'll come back to this.

2 Cynthia, can I have the overhead again?

3 BY MS. COLE:

4 Q Okay. And for the record, I'm showing you,
5 Detective, what's been marked as State's Exhibit No. 182,
6 specifically the first page of 182.

7 Okay. What is that date and timestamp in the top
8 left hand corner?

9 A So it's August 26th of 2020, from 10:30 p.m. to
10 August 27th, 2020, at 1:40 a.m.

11 Q Okay. Now, is this both numbers or just one number?

12 A This is just one number. So it's like the last one
13 we talked about. There was so much activity, I had to split
14 them apart to make them --

15 Q Okay.

16 A -- viable to see.

17 Q And this -- what is this specific address indicated?

18 A That's 455 East Twain Avenue.

19 Q Okay. And again, this is the range of this specific
20 cell tower, or the cell towers in this area?

21 A That's the -- the approximate coverage of that cell
22 site and the sector for that cell site.

23 Q Okay. And then showing you page 3 of State's 182.
24 This is the same exact time frame and date as the -- as the
25 photo that we just looked at?

1 A Yes.

2 Q Okay. And this is depicting target number ending
3 5174?

4 A Yes.

5 Q Okay. And now I'm going to just try to display
6 these -- so the shapes are -- are pretty similar?

7 A The shapes are, yeah, they're exactly the same.
8 It's the same coverage area. It's the same sector of the same
9 cell tower.

10 Q Okay.

11 A I think one just might be --

12 Q So this --

13 A -- slightly zoomed in a little more than the other.

14 Q This would likely indicate that these two phones are
15 hitting the same cell site, or cell sites?

16 A The cell site and sector, yes.

17 Q Okay. And then for the record, I'm showing you
18 what's been marked as State's 176. And I'm showing you the
19 first page.

20 Can you state that date and time period of the top
21 of (inaudible)?

22 A August 27, 2020, from 01:41 a.m. to 01:46 a.m.

23 Q Okay. And what is depicted right there?

24 A That's the Casino Royale.

25 Q Okay. And does this have both target numbers

1 mapped?

2 A Yes.

3 Q Okay. And if you could tell us, what does the red
4 represent?

5 A The red represents target 5174.

6 Q Okay. And what about the blue?

7 A Blue is target 3090.

8 Q Okay. And then showing you page 2 of 176, what is
9 the time range for this particular map?

10 A This is August 27th, 2020, from 01:47 a.m. to 02:30
11 a.m.

12 Q Okay. And what's being mapped here? Is this just
13 one number?

14 A Yes. This is target 3090.

15 Q Okay. And showing you page 3 of State's 176. That
16 is the same time period of 1:47 and 2:30 a.m.?

17 A Yes.

18 Q Okay. And what is being mapped here?

19 A And that's target 5174

20 Q Okay. And again, I know you didn't do these on the
21 same -- because there's -- there's too much data. So --

22 A Yeah. These -- they are so similar that again, they
23 -- they cover each other and make it difficult to see.

24 Q Okay. So, again, I'm going to just try to put them
25 side by side so we can see.

1 So that is depicting where the Casino Royale is?

2 A The -- the icon to the right, the red icon to the
3 right of the writing is.

4 Q Okay. This one right here?

5 A Yes. That's it right there.

6 Q Okay. And then on target number 5174, this is the
7 Casino Royale on this particular graph?

8 A Yes.

9 Q Okay. Let's see if we can get this working.

10 Okay. Detective, going back to State's 181.

11 MS. COLE: Sorry. Can we switch back?

12 THE COURT RECORDER: Yeah. Okay.

13 MS. COLE: Yeah. We're going to be right back in a
14 second.

15 BY MS. COLE:

16 Q Okay. I believe I was referring you to 536.

17 A Yes.

18 Q You can see that?

19 A Yep.

20 Q Okay. And again, we have that indicated on this
21 line?

22 A Yes.

23 Q Okay. And that corresponds, again, with the target
24 number 3090, and this line number would be that number in the
25 Excel spreadsheet?

1 A Yes.

2 Q Okay. And again, I'm publishing State's 175,
3 specifically, the call detail records from the target phone
4 number ending in 3090.

5 Is this line 536?

6 A Yes.

7 Q Okay. What does this information tell us on this
8 line?

9 A That's telling us the time that the call was -- was
10 incoming. You have to keep in mind that these records were
11 provided in UTC time which is similar to -- it's the same as
12 Greenwich Mean Time, so it's seven hours ahead of our local
13 time here.

14 Q Okay. So with the conversion, would you be able to
15 tell us what time that would be in pacific standard time?

16 A Yes. So that's -- it would be the 23rd, at
17 21:37:57.

18 Q Okay.

19 A So 9:37, 9:38'ish, approximately, p.m.

20 Q Okay. So this would be -- this call would take
21 place on August 23rd, 2020, at 9:37?

22 A Yes.

23 Q P.M.?

24 A Yes.

25 Q Okay. And what is the number that is calling the

1 target number ending in 3090?

2 A So a call was -- was started or initiated at 70 --
3 at the device, that 702-559-5174. And it shows it's received
4 by 684-3090.

5 Q Okay. And so it was -- the caller was 5174, and the
6 person being called was target number 3090?

7 A Yes.

8 Q Detective --

9 MS. COLE: Oh, I'm sorry, Cynthia. Can we switch
10 back?

11 BY MS. COLE:

12 Q Detective, can you tell us what we're looking at
13 here?

14 A This is a depiction of the location of the cell
15 sites that serviced the address at 455 East Twain Avenue.

16 Q Okay. And with these particular records, for the
17 dates that you have, which was, I believe, August 20th through
18 August 28, 2020?

19 A Yes.

20 Q Were these cell sites significant?

21 A Yes. I saw a majority of the traffic and activity
22 on the phones was utilizing these cell sites.

23 Q Okay. And what is being depicted right here?

24 A That's a depiction of the approximate coverage areas
25 of the three types of technologies that are on that cell site

1 that service that. It's very common for the cell sites out
2 here to -- to have different technologies meaning a data
3 technology, a voice technology, and in this case, an older
4 technology which is 3G. So we actually have a 4G LTE data
5 service, a 4G LTE voice services, and a 3G service on this
6 same cell site for the same carrier.

7 Q Okay. And that's --

8 A So that's what's being depicted here is the coverage
9 of all three of those technologies on that cell site.

10 Q Okay. And again, we're talking about that would
11 service 455 East Twain?

12 A Yes.

13 Q Okay. And Detective, when you looked at those
14 records dated from August 20th to August 28th, what did you
15 notice about the relationship between the amount of activity
16 with these numbers and the specific tower or towers, cell
17 sites, plural?

18 A Yeah. It's the same cell site, just different
19 technologies on the same cell site. But I noticed that a
20 majority, so over 50 percent of the activity on each device
21 was utilizing a sector off this cell site and one of the many
22 sectors off the cell site.

23 Q Okay. And is that -- does that usually tend to
24 correspond to where someone spends a lot of time?

25 A Yes. We usually correspond, you know, a -- wherever

1 the largest amount is spent is the person's residence or where
2 they -- where they spend a majority of their time.

3 Q Okay. So the area where you spend a majority of
4 time would look similar to this?

5 A Yes.

6 Q Okay. And then Detective, going back briefly.

7 Okay. Showing you what's been marked State's
8 Exhibit 180, page 4. Again, can you tell us the date and
9 timestamp in the top left hand corner?

10 A August 21st, 2020, from 9:30 a.m. to 10:00 a.m.

11 Q Okay. And drawing your attention, particularly to
12 line item 176, if we can see that here, right there.

13 Does that correspond to one of the line items below?

14 A Yes, it does.

15 Q Okay. And what does that indicate?

16 A That was an outgoing voice call to 702-283-4833, at
17 9:54 a.m.

18 Q Okay. And Detective, were you able to access who
19 that phone number was associated with?

20 A In a way, yes. We -- our ZETX program has a search
21 function that utilizes open source, so information readily
22 available --

23 MR. HART: Your Honor, I'm going to object as to
24 foundation on this.

25 THE COURT: I'm sorry? I'm sorry, I couldn't hear.

1 MR. HART: I'd object as to foundation. I've
2 already heard "in a way". And I'm not sure -- he doesn't run
3 ZETX.

4 THE COURT: Okay. Let's lay some foundation for his
5 ability to answer the question.

6 MS. COLE: Okay.

7 BY MS. COLE:

8 Q Detective, you have access to the raw call detail
9 records?

10 A Yes.

11 Q Okay. And what's indicated in here on line 176,
12 corresponds exactly to target number 5174?

13 A Yes.

14 Q Okay. And what this is essentially representing is
15 that target 5174 placed an outgoing --

16 MR. HART: Objection, leading.

17 THE COURT: Sustained.

18 BY MS. COLE:

19 Q What is line 176 depicting?

20 A It's depicting an outgoing voice call from target
21 5174, to a 702-283-4833, starting at 09:54, 21 seconds.

22 Q Okay. And again, looking at this shaded area, this
23 is another diagram that's not blue or red, and why is that?

24 A The layering effect of the mapping of -- of both of
25 the target numbers. So the blue and the red mixing off the

1 same cell site.

2 Q Okay. And again, this is depicting this specific
3 time frame?

4 A Yes.

5 MS. COLE: All right. Court's brief indulgence.
6 I'll pass the witness, Your Honor.

7 THE COURT: Any cross-examination, Mr. Arnold?

8 MR. ARNOLD: No questions for this witness, Your
9 Honor.

10 THE COURT: All right. Thank you.

11 Any cross-examination, Mr. Hart?

12 MR. HART: Yes.

13 You can just -- if you want to leave the exhibits up
14 there, I'll -- I may or may not use them (inaudible).

15 CROSS-EXAMINATION

16 BY MR. HART:

17 Q Detective, let's just give a quick tutorial to
18 everybody.

19 A Sure.

20 Q You talked about sectors --

21 A Yeah.

22 Q -- on a cell tower. What do you mean?

23 A Uh --

24 Q Well, here, let me -- I can lead. I'm allowed to.

25 A Okay.

1 Q You're not my witness.

2 A Sure.

3 Q It's my understand that tower, 360 degrees; correct?

4 A Yeah.

5 Q On a standard tower?

6 A Yeah.

7 Q And you have three antennas, each with 120 degree
8 where it reaches out?

9 A Traditionally, yeah.

10 Q Okay. And you can check and see if calls are
11 bouncing off that tower and that sector; correct?

12 A Yeah.

13 Q Okay. You said traditionally, yes.

14 Now, explain.

15 A Okay.

16 Q What's -- what do you mean, traditionally? What's
17 different now?

18 A So traditionally, cell towers would have three
19 sectors. In certain areas, high density areas, or places
20 where we can't get something that large in, or the cell phone
21 companies can't get something that large in, they'll put up a
22 360, an omni tower, with an omni antenna that is providing
23 coverages 360, so we can't break down the activity on a tower
24 to a specific sector, it would just be on a 360 degree.

25 Q How far can that cell tower reach for --

1 A That's -- that's depending on how it's tuned by the
2 phone carrier. And that's done by many factors. And mostly
3 environmental and density factors.

4 Q So a cell tower could reach ten miles?

5 A Yes.

6 Q Or further --

7 A Yes.

8 Q -- in certain cases? And you were asked if you
9 ordered the records in this case; correct?

10 A Correct.

11 Q And you were asked by her, when you said, you didn't
12 do it in this case, somebody else did; correct?

13 A Yes.

14 Q But you can order records from the phone companies
15 and the cell towers themselves; correct?

16 A Through a search warrant, yes.

17 Q Okay. What is a -- if I'm using the wrong term --
18 do you guys ever do cell tower dumps?

19 A Yes.

20 Q For a specific tower to find out what numbers are
21 using that tower?

22 A Yes.

23 Q Okay. Is that usually to find out who's in the
24 area, like if you have a series of crimes you can do a dump
25 for this day and a dump for this day --

1 A Yes.

2 Q -- and a dump for this day --

3 A Yeah.

4 Q -- and see if you get the same phone numbers popping
5 up?

6 A Yes.

7 Q Okay. Do you know if that was done in this case?

8 A I -- I'm not aware.

9 Q Okay. But that is one technique to find out, hey,
10 we've got a bunch of overlapping people; correct?

11 A Yes.

12 Q Okay. And you said you're using ZETX?

13 A Yes.

14 Q How do you spell that?

15 A It's Z-E-T-X.

16 Q Okay. And that is a software owned by an outside
17 company, not Metro; correct?

18 A Correct.

19 Q So you don't maintain it?

20 A No.

21 Q And it uses algorithms as well. Do you -- how does
22 it work, to the best of your knowledge?

23 A To the best of my knowledge, they take cell phone
24 lists that are made available by each carrier, cell site lists
25 of the location of all their cell sites, and direction of the

1 sectors. And they maintain a database of those and then
2 compare the records that we provide for each case to those
3 records and create a mapping file.

4 Q Okay. And you get the information back. Do you
5 individually then verify based on the CDRs and other data you
6 get?

7 A Yes. I do.

8 Q Okay.

9 A Not every call, but I -- I spot check to make sure
10 that they are lining up.

11 Q Spot. Okay.

12 A Correct.

13 Q You don't do every one?

14 A No.

15 Q You rely on the software to do it?

16 A Yes.

17 Q Now, you said that whether or not a particular tower
18 picks up anything or is used, depends on a number -- well,
19 what factors does it depend on?

20 A Proximity, a line of sites sometimes, but mostly
21 environmental factors, if you have buildings or trees or
22 things in the way, it might favor a cell site over another.

23 Q What about the amount of traffic load?

24 A Yes.

25 Q Okay. So if you're in a dense area, say the game

1 just comes out.

2 A Yeah.

3 Q From a -- the Golden Knights.

4 A Okay.

5 Q One where you're allowed to have people in the
6 building. Let's clarify. It might go to -- you might be
7 using a tower quite a ways away; correct?

8 A It depends. If it's able to see the signal, it's
9 possible. But it's also a possibility it would just deny your
10 service all together.

11 Q Okay. So you could try to find a tower that works,
12 or you could be (inaudible) too many people on the line?

13 A If -- if the device can see a tower, then it'll --
14 would try and place the call or receive a call through it. It
15 would use it.

16 Q Okay. And when you are looking at data information
17 on these, it could be apps you have running in the background?

18 A Yes.

19 Q So if somebody has their location on their phone,
20 you're there; correct? I mean, it's going to be --

21 A If -- if it's anything that's going to be reaching
22 out through the Internet, through the cell service, then yes.

23 Q And as far as location data, if you download the
24 phone itself, it's usually a lot more precise; correct?

25 A Yes. If they have that service turned on in the

1 phone, yes.

2 Q Okay. Just to be clear, this information tells
3 where a phone is; correct? Not a person?

4 A Correct. Where the device is.

5 Q You didn't run -- to the best of your knowledge
6 there was never cell tower data that's defined out, there was
7 other numbers corresponding throughout this --

8 A Not on a specific -- no, a dump -- a tower dump was
9 not run to the best of my knowledge.

10 Q Okay.

11 MR. HART: Nothing further.

12 THE COURT: Any redirect?

13 REDIRECT EXAMINATION

14 BY MS. COLE:

15 Q Detective, given the density, the population and
16 environmental factors regarding the Strip, is there any towers
17 that you are aware of that are ten miles apart?

18 A Down on the Strip?

19 Q Yes.

20 A Meaning that the next tower would be ten miles?

21 Q Yes.

22 A No. Towers are extremely dense down on the Strip
23 due to the -- the high density of people that's usually there.

24 Q Is the Strip the part of the Valley that is perhaps
25 the most highly dense -- the most highly populated with cell

1 sites?

2 A Yes.

3 MS. COLE: No further questions, Your Honor.

4 THE COURT: Any -- any questions, Mr. Arnold?

5 MR. ARNOLD: No, Your Honor.

6 THE COURT: Any questions, Mr. Hart?

7 MR. HART: No, Your Honor.

8 THE COURT: Any questions by our jurors?

9 No questions.

10 Sir, thank you for your testimony.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: You are excused.

13 Next witness for the State?

14 MR. LEXIS: Judge, can we approach?

15 THE COURT: Yes.

16 (Bench conference re: scheduling - not recorded.)

17 THE COURT: All right. State, will you be calling
18 any other witnesses today?

19 MR. LEXIS: The State rests, Judge.

20 THE COURT: The State rests.

21 All right. Thank you.

22 Mr. Hart, will you be calling any witnesses on
23 behalf of your client?

24 MR. HART: No, Your Honor.

25 THE COURT: Mr. Arnold, will you be calling any

1 witnesses on behalf of your client?

2 MR. ARNOLD: No, Your Honor.

3 THE COURT: All right.

4 All right. Ladies and gentlemen, the evidentiary
5 portion of this trial has been concluded. We are going to, as
6 we had mentioned before, at the end of the trial, I will read
7 to you the laws that apply to this particular case. And
8 thereafter, you will hear closing argument by the parties, and
9 then after that, you will commence your deliberation.

10 We're still putting together all the jury
11 instructions, and I want to give the attorneys an opportunity
12 to get their notes together for their closing arguments.

13 So we're going to take an early lunch. So if we can
14 just come back -- so take your lunch break now, and we'll come
15 back at noon for the jury instructions and closing argument,
16 and then deliberation; okay?

17 So, ladies and gentlemen, during this lunch recess,
18 you must not discuss or communicate with anyone, including
19 your fellow jurors, in any way regarding the case or its
20 merits, either by voice, phone, e-mail, text, Internet, or
21 other means of communication or social media. You're not to
22 read, watch, or listen to any news or media accounts or
23 commentary about the case. You're not to do any research such
24 as consulting dictionaries, using the Internet or using
25 reference materials. You're not to make any investigation,

1 test the theory of the case, recreate any aspect of the case,
2 or any other way to investigate or learn about the case on
3 your own. You're not to form or express an opinion regarding
4 the case until it's submitted to you.

5 We'll see you back at noon for closing argument.

6 THE MARSHAL: All rise for the exit of the jury.

7 (Outside the presence of the jury.)

8 THE COURT: All right. Counsel, I think Mr. Lexis
9 and -- is going to up and work with the law clerk to finalize
10 the jury instructions. So if we can just come back like five
11 minutes before noon, just to put the final, you know, stack
12 together and have those put on the record that there's no
13 objections or request for additional instructions, and then
14 we'll start at noon.

15 MR. ARNOLD: All right. Thank you, Your Honor.

16 MS. COLE: And, Your Honor?

17 THE COURT: Yes?

18 MS. COLE: If we could just make a brief record that
19 at this time, the State is striking Exhibit 119. And can we
20 just confirm for the record that all of our exhibits have been
21 admitted into evidence?

22 THE COURT: First off, Mr. Arnold, any objection to
23 the Court striking Exhibit 119?

24 MR. ARNOLD: No, Your Honor.

25 THE COURT: Mr. Hart, any objection to the Court --

1 MR. HART: No, Your Honor.

2 THE COURT: -- striking 119?

3 Okay. So when we come back, I'll advise the jurors
4 that that exhibit has been withdrawn.

5 MS. COLE: Yes. And that wasn't published or shown
6 to them.

7 THE COURT: All right.

8 THE CLERK: And everything else has been admitted,
9 so.

10 MS. COLE: Okay. What is our last number?

11 THE CLERK: 188.

12 MS. COLE: Perfect.

13 THE COURT: All right. I'll see everybody five, ten
14 minutes before noon.

15 Have a good lunch.

16 (Court recessed at 10:52 a.m., until 12:06 p.m.)

17 (Outside the presence of the jury.)

18 THE COURT: Okay. We've added a couple new
19 instructions, so now we have 1 through 43 jury instructions.

20 Mr. Lexis, do you have any objection to 1 through
21 43?

22 MR. LEXIS: No, Your Honor.

23 THE COURT: Do you request any additional?

24 MR. LEXIS: No, Your Honor.

25 THE COURT: Mr. Arnold, are you familiar with 1

1 through 43?

2 MR. ARNOLD: Yes, Your Honor.

3 THE COURT: Do you request any additional?

4 MR. ARNOLD: No, Your Honor.

5 THE COURT: Any objection?

6 MR. ARNOLD: None, Your Honor.

7 THE COURT: Mr. Hart, are you familiar with 1
8 through 43?

9 MR. HART: Yes, Your Honor.

10 THE COURT: Any objection?

11 MR. HART: No, Your Honor.

12 THE COURT: Do you request any additional?

13 MR. HART: No, Your Honor.

14 THE COURT: And any objection, Mr. Hart, to the
15 verdict forms, one for Oliver, and one for Clark?

16 MR. HART: As long as they're what we discussed.
17 When your law clerk gave us a copy a minute ago, the verdict
18 forms were not there. I'm sure they're fine. You said they
19 were good, the first (inaudible).

20 THE COURT: Any objection to the verdict forms, Mr.
21 Arnold?

22 MR. ARNOLD: No, Your Honor.

23 THE COURT: And the State has an objection putting
24 not guilty first, but overruled, okay?

25 MR. LEXIS: Hey, Judge, could -- if we could get one

1 more copy from Adam. He gave -- I have a copy, but --

2 THE COURT: Sure. They're -- he's copying them
3 right now --

4 MR. LEXIS: Oh, okay.

5 THE COURT: -- down the hallway.

6 (Pause in the proceedings - waiting for Jury Instructions.)

7 THE COURT: Are they good, Marshal?

8 THE MARSHAL: Yeah. They're good. All here except
9 for one, and one's in the restroom.

10 THE COURT: Pardon?

11 THE MARSHAL: One went to the restroom.

12 THE COURT: Okay.

13 (Pause in the proceedings.)

14 (Off the record at 12:18 p.m., until 12:27 p.m.)

15 (Outside the presence of the jury.)

16 THE COURT: Counsel, I will ask each of you, if you
17 stipulate that -- that I don't have -- that I'm not going to
18 read number 3.

19 THE MARSHAL: Please rise for the entry of the jury.

20 (Inside the presence of the jury.)

21 THE COURT: All right. Thank you everybody.

22 Have a seat.

23 Okay. Ladies and gentlemen, on your chair or in
24 your desk in front of you will be a packet of jury
25 instructions and also a packet of verdict forms. There are

1 two separate forms in that second packet. There is one form
2 for Ms. Oliver, and one for Mr. Clark.

3 All right. At this time, it is now my duty to read
4 to you the jury instructions.

5 (COURT READS JURY INSTRUCTIONS TO THE JURY.)

6 THE COURT: And ladies and gentlemen, you can follow
7 along or not, it's up to you, but you have your own packet
8 there to take with you to the jury room when you deliberate.

9 (COURT RESUMES READING OF JURY INSTRUCTIONS TO THE JURY.)

10 THE COURT: Ladies and gentlemen, Instruction No. 3
11 is the Indictment, the Second Superceding Indictment that was
12 previously read to you by the Court Clerk. And so Instruction
13 No. 3 is incorporated in these Jury Instructions. You are to
14 consider all the instructions during your deliberations; okay?

15 By stipulation of the parties, they've agreed that I
16 don't need to read Instruction No. 3 to you because it's been
17 read to you and you have it in front of you.

18 Is that correct, Mr. Lexis?

19 MR. LEXIS: Yes, Your Honor.

20 THE COURT: Is that correct, Mr. Arnold?

21 MR. ARNOLD: Yes, Your Honor.

22 THE COURT: Is that correct, Mr. Hart?

23 MR. HART: Yes.

24 THE COURT: Okay. We will go to Instruction 4,
25 ladies and gentlemen.

1 (COURT RESUMES READING OF JURY INSTRUCTIONS TO THE JURY.)

2 THE COURT: State are you ready for your closing?

3 MS. COLE: Yes, Your Honor.

4 THE COURT: Go ahead, State.

5 MS. COLE: Yes, Your Honor. I'm just pulling this
6 up on a thumb drive. It's a pretty big file.

7 (Pause in the proceedings.)

8 THE COURT: Court's brief indulgence. I'm just
9 having difficulty with this thumb drive.

10 (Pause in the proceedings.)

11 MS. COLE: Jude, I think we're having some WiFi
12 issues.

13 THE COURT: Do you want us to call IT?

14 MS. COLE: We're going to try one more time.

15 MR. LEXIS: Yeah. I keep trying, but it -- just in
16 case, if you can, Judge.

17 THE COURT: All right. Ladies and gentlemen, let's
18 just take a very quick recess. We just want to work out these
19 technical issues here in our courtroom.

20 So during this -- and again, leave all your items on
21 your -- on your desk there. During this break, you are not to
22 discuss or communicate with anyone, including your fellow
23 jurors, in any way regarding the case or its merits, either by
24 voice, phone, e-mail, text, Internet, or other means of
25 communication or social media. You're not to read, watch, or

1 listen to any news or media accounts or commentary about the
2 case, or do any research such as consulting dictionaries,
3 using the Internet or using reference materials. You're not
4 to make any investigation, test the theory of the case,
5 recreate any aspect of the case, or in any other way to
6 investigate or learn about the case on your own. And you're
7 not to form or express an opinion -- any opinion regarding
8 this case until it's submitted to you.

9 Just stay close by. It should just be five
10 minutes. We're going to call IT right now.

11 THE MARSHAL: All rise for the exiting of the jury.

12 (Outside the presence of the jury.)

13 THE COURT: Mr. Arnold --

14 We can be off the record, Cynthia.

15 (Court recessed at 1:03 p.m., until 1:23 p.m.)

16 THE MARSHAL: All rise for the entry of the jury.

17 (Inside the presence of the jury.)

18 THE COURT: All right. Welcome back, ladies and
19 gentlemen. Apologize for the IT problems. It's no one's
20 fault. Things just happen.

21 State, are you ready now for your closing?

22 MS. COLE: Yes, Your Honor.

23 THE COURT: And also, ladies and gentlemen, per
24 stipulation of the parties, State's Exhibit 119 is withdrawn.

25 Is that correct; State?

1 MS. COLE: That's correct, Your Honor.

2 THE COURT: Any objection, Mr. Arnold?

3 MR. ARNOLD: No, Your Honor.

4 THE COURT: Any objection, Mr. Hart?

5 MR. HART: No, Your Honor.

6 THE COURT: All right. Thank you.

7 So that's 119 is withdrawn.

8 STATE'S CLOSING ARGUMENT

9 MS. COLE: So the past few days, we've sat through a
10 lot of evidence. There's been a lot of testimony. We've had
11 several different experts get up here, officers, victims. And
12 so my job here today is to help you tie everything together.

13 We're going to go by events by events, and I'm going
14 to explain the law that corresponds with the counts that Mr.
15 Lexis and I are going to be asking you to find both defendants
16 guilty on.

17 So, the Paris events. We're going to start with the
18 Paris events, and I'm going to go in the same order, at least
19 somewhat of the same order of what we -- what testimony and
20 what evidence we started getting into.

21 So the Paris event was August 16th, with Mr.
22 Krusinski. And we know that he left his room at approximately
23 7:00 p.m. We know his credit card was used at Bally's, and
24 that was the Sbarro's inside the Bally's. And we know his
25 credit card was used at 7-Eleven. We saw a video of both

1 those things. You listened to custodian of records from
2 different banks. You heard the victims say that no one had
3 permission to use their cards.

4 Rebecca Finger and Brooke Bargholtz. This was also
5 at the Paris. And if you recall, there was several other
6 girls that were staying with Rebecca and Brooke, but you
7 actually heard testimony from both Rebecca and Brooke.
8 Marissa Metro, Inga Williams, those other girls were also
9 there.

10 And both Rebecca and Brooke told you that they left
11 their room, they were there in Las Vegas for a birthday
12 weekend. And they had left at 7:45 to go downstairs to have
13 breakfast. And when they returned their room had been
14 obviously damaged. They noticed their property was stolen.

15 And again, Brooke's card was attempted at Target,
16 and Rebecca's card was attempted three times at Target with
17 two different cards.

18 Now, the rest of the invents are involving Harrah's.
19 And you heard from Esther Chae, you got to hear from Bertha
20 Gerdeau, and you got to hear testimony from both Jewell Love
21 and Patricia Williams.

22 Now, speaking of Esther Chae, you heard her tell you
23 that she came back to her room. She heard voices. She
24 identified Darrell Clark not only in a photo lineup but she
25 did it in person in front of all of you.

1 And then we have Bertha Gerdeau and Latoya Gustus
2 who were sisters. Again, visiting in Las Vegas. All of our
3 victims were out of state. None of them lived here.

4 And you'll recall that there's a surveillance still
5 of two individuals that matched the general suspect
6 description of all of our events.

7 Bertha identified numerous very high value designer
8 property from Defendant Clark's Facebook photo. And you'll
9 recall Jewell Love and Patricia Williams, their event was
10 August 23rd.

11 And they -- the defendants are depicted on video
12 throughout the Harrah's. We're able to tell that Defendant
13 Clark does not have a backpack when he enters the elevators.
14 Then all of a sudden he has one when he comes off the
15 elevators. And that, in fact, was identified by Jewell Love
16 as her Louis Vuitton backpack.

17 Then when officers do the undercover operation
18 through the LetGo messages and they are able to essentially
19 lure Defendant Clark there under the guise that they want to
20 buy some Apple watches, he's wearing Jewell Love's shirt.

21 So Mr. Krusinski. Mr. Krusinski was in hotel room
22 2198. And he had his particular headphones stolen. And if
23 you remember, he was able to identify them, because of their
24 unique color. He was able to identify the knobs on the them.
25 And he was specifically able to tell you that those, in fact,

1 were there when he left, and they were gone when he came back.
2 He had his credit cards taken, his American Express was used
3 at Sbarro's inside the Bally's and at 7-Eleven.

4 So, residential burglary. What is a residential
5 burglary. Now, you might be thinking, well, how is this a
6 residential burglary if it's at a hotel. Well, the law says
7 that it doesn't matter. It doesn't necessarily have to be at
8 your home.

9 Any person, who by day or night, enters any dwelling
10 with the intent to commit a larceny, and/or obtain money under
11 false pretenses, is guilty of residential burglary.

12 So the crime occurs when you enter with felonious
13 intent.

14 So what is a dwelling? So a dwelling is defined as
15 something that somebody lives or which is customarily used by
16 a person for overnight accommodations, regardless of whether
17 the person is inside at the time of the events.

18 So it doesn't matter that none of our victims were
19 actually inside their rooms when this occurred. It doesn't
20 matter that these were at hotel rooms. As soon as the
21 defendants entered with the intent to steal their property, a
22 residential burglary had occurred.

23 Now, obviously, how do we know someone's intent? We
24 aren't like cartoons that have little thought bubbles walking
25 up beside us. We can't see people's thoughts. So how else

1 can we tell what someone's intent is? And that's by the
2 conduct and all other circumstances disclosed by the evidence.

3 Why would they be going in there? Well, we know why
4 they were going in there. Multiple stolen property was
5 recovered. In fact, Esther Chae came back a little too soon.
6 They weren't able to get out fast enough. And she was trying
7 to get in. And a robbery ensued.

8 Now, we're going to talk a lot about different
9 theories of liability. But in the context of burglary, when
10 two or more people participate in the commission of a
11 burglary, and one or more of them enters, it is not necessary
12 to prove the other individual actually entered, because one
13 who aids and abets another in the commission of a burglary is
14 equally guilty.

15 You're going to hear Mr. Lexis and I tell you a lot
16 throughout my closing and his rebuttal that the act of one is
17 the act of all. You do not get a benefit because you don't
18 want to get your hands dirty. And that is the same reasoning
19 in every case. That's the same law that's applied, even in
20 murders.

21 If you want to set up somebody, you want to hire
22 somebody to kill somebody, you're not even in the State, in
23 fact, you're across the country, you don't do anything but
24 tell the person, hey, I want you to do this. You are equally
25 as liable under the law. And when you think about it, when

1 you think about it, it makes sense. The policy behind it
2 makes sense.

3 When you're working together in a group of people it
4 makes it easier to point the finger at somebody else. It
5 makes it easier to get away. So you can understand why that's
6 why the law is what it is. You don't get a discount. You
7 don't get any sort of benefit because you don't want to be the
8 one to get your hands as dirty.

9 Now, home invasion. So again, we talked about the
10 damage and the unique nature of the marks that were found on
11 all these hotel room doors. And a home invasion under the law
12 is when somebody forcibly enters a dwelling, and we know what
13 the dwelling definition is. It's the same as what we
14 discussed with burglary.

15 And they enter without permission. And again, it
16 doesn't matter if the person is present or not. And this time
17 there has to be force.

18 So what is force? These pictures are force. There
19 is damage done to the structure of that residence, in an
20 attempt to gain entry.

21 So again, we heard a lot of testimony about, these
22 are types of marks that some sort of blunt force object has to
23 be used. We know that when Defendant Oliver was apprehended,
24 that she did, in fact, have burglary tools, that she had two
25 screwdrivers. That there was another tool that Officer Ellis

1 identified as being, you know, this type of tool that could do
2 damage like this.

3 So again, with a home invasion there has to be a
4 forcible entrance. Force has to be used. And we have that in
5 every single event. Every single event we saw that there are
6 these -- we saw and we heard testimony that there are these
7 distinct marks, and that that is how access was gained, was by
8 breaking in using those tools.

9 Now, we watched a lot of video. And so I'm going to
10 try to break it down and explain the pertinent parts.

11 So on August 16th at the Paris, we watched video
12 where we're able to see throughout the different video
13 surveillance that there's a certain pattern, there's a certain
14 MO that we see over and over and over again. And that's that,
15 you know, the defendants pretend like they don't know each
16 other. You know, they keep their distance.

17 At some point, they'll reconnect. But then again,
18 they don't want anybody to notice that they're working
19 together. And again, this goes back to the policy of why we
20 have aiding and abetting, conspiracy liability. It's easier
21 when you're a team. It's easier to get away. And so the law
22 recognizes that.

23 So here we have at 8:46, different stills of video
24 surveillance at the Paris, of the defendants entering the
25 elevator wells. And again, two hours later, they're back

1 here. So what happened during those two hours? We see them
2 on the elevator two hours later. They're back. And Mr.
3 Krusinski's room has been broken into.

4 So we see them walking out together at 10:17.
5 They're depicted in the left hand corner. We then see them
6 continue to make their way from Paris to the Bally's. And we
7 talked about that a lot. The Paris and Bally's are
8 essentially connected. You can be in one and not even realize
9 you've moved on to the next. They just flow seamlessly.

10 And so we see them take this path. They're there at
11 10:18, 10:19, 10:20, 10:21, 10:30. And this video is a little
12 blurry. We don't have the best surveillance video when it
13 comes to the food court, and specifically where Sbarro's is.

14 And if you'll notice, and you guys are going to have
15 access to all of the exhibits, all of the video, go back and
16 pull this video, because stills just don't do it justice. And
17 you will be able to see Clark and Oliver. Clark sits down in
18 that right hand corner. And Oliver comes over. It's the same
19 exact time as Mr. Krusinski's American Express card is used at
20 Sbarro. And they walk out together.

21 And you'll know, you know, just to refresh your
22 memory. And again, you'll have all these exhibits. You can
23 view all this evidence as much as you want. You can play the
24 video. You can pause the video. Don't take my word for it.
25 Watch it for yourself. And you will see they're depicted in

1 the right hand corner, right around the time that Mr.
2 Krusinski's card is being used.

3 And again, when we talk about the time frames. Is
4 it likely, is it probable, is it rational that somehow they
5 ended up with Mr. Krusinski's property and they weren't the
6 ones that did, in fact, break in? Maybe if it was days later,
7 hours later. But it's not.

8 And where they go is extremely close, and the time
9 frames all line up to Mr. Krusinski's room, to the surrounding
10 areas. Again, stills don't do this justice. Watch the video.
11 At 10:31, you see them walking out together. You can clearly
12 see their -- the description of their clothing. This is when
13 Defendant Oliver is in a black and white jumpsuit, and Mr. --
14 or Defendant Clark is in the light shorts, the white top, the
15 hat. Watch it for yourself.

16 So what is conspiracy? Conspiracy is an agreement
17 to -- or an understanding between two or more persons to
18 commit a crime. It's the actual agreement itself that is the
19 crime.

20 Now, again, this isn't like the movies. We don't
21 have video surveillance of people, you know, meeting in back
22 rooms, talking about all their criminal plans. That's not
23 realistic. But again, how do we know? How do we know if
24 someone has made an agreement to commit a crime, to commit
25 multiple crimes?

1 Well, we know by the circumstances surrounding their
2 conduct. And again, it doesn't matter if the ultimate crime
3 that they're conspiring and planning to commit is successful,
4 because the crime itself, when we're talking about conspiracy,
5 is the actual agreement.

6 And again, this is kind of what I'm discussing.
7 It's not necessary to have actual proof, video surveillance of
8 individuals talking about an unlawful purpose. It may be
9 inferred from all the circumstances. When we're talking about
10 people's intent, actions, we can tell from all the
11 circumstances surrounding them.

12 Now, larceny is taking away property with the intent
13 to permanently deprive. When these defendants broke into
14 rooms, stole people's property, what was their intent? Were
15 they planning on giving this stuff back? Were they planning
16 on, you know, just doing whatever? No, they went in with the
17 purpose that they were going to take that property, sell it,
18 use it for their own gain.

19 So you'll notice, we have conspiracy larceny, and
20 conspiracy burglary charged several times throughout the
21 Indictment. And that is the crime itself of the agreement.
22 It has nothing to do with whether or not the actual crimes
23 occur, although, in this case they did.

24 It's the fact that they conspired to steal property
25 and break into hotel rooms, and they did it over, and over,

1 and over.

2 Again, how do we know that? The same MO, carrying
3 out their plan the same way every time. What did they do?
4 They enter at different times. They come in the same cab, but
5 one will go in, and then one will wait five minutes before
6 they go. Then they meet up again.

7 Even if they divide and conquer, they are working
8 together for an unlawful purpose. What each one does, the
9 other one's on the hook for. Because remember, two is better
10 than one. Two is easier to remain undetected for.

11 It's easier if you're going to rob a bank if you
12 have a getaway driver who's ready to take off. It doesn't
13 mean that the getaway drive is any less liable. They're both
14 on the hook for everything that happens.

15 Now, there's also some charges of burglary of a
16 business. And that's when we're dealing with 7-Eleven,
17 Sbarro, any business structure is defined as a burglary of a
18 business.

19 And essentially, it's the same concept, entering
20 with the intent for an unlawful purpose. So if you are
21 entering, if you are going into a 7-Eleven, or a Sbarro's
22 pizza, and you know that you're going to use a card that's not
23 yours, that is burglary of a business. You don't even have to
24 use the card. If you enter with the intent.

25 Now, in this case, we don't have to speculate about

1 what happened, because it's on video. We can match up the
2 timestamps. And again, how close in proximity did this happen
3 to Mr. Krusinski's room getting broken into? And again, we
4 know his cards were in his room. We see the defendants in the
5 elevator wells. We see them go straight over to Bally's and
6 Sbarros. We see them then go to 7-Eleven, the ARCO, wearing
7 the same clothing.

8 Again, this is explaining the intent. That's what
9 matters for a burglary. What was the intent when you cross
10 that threshold of that room, of that business, whatever it
11 was.

12 So if you're in the commission of a burglary, and
13 you and your co-conspirators have decided, hey, we're going to
14 commit a burglary and another foreseeable crime happens.

15 For example, you enter -- you decide you're going to
16 break into a hotel room and you're going to steal a bunch of
17 property. And ultimately, the suspect -- or the -- not the
18 suspect -- the victim comes back early.

19 Is that foreseeable that when you're breaking into
20 someone's room that they could actually come back? Is that
21 foreseeable that violence could ensue if you're in someone's
22 essentially home? When you're out of town staying in a hotel,
23 your hotel room's your home.

24 You are on the hook for that. The foreseeable
25 possibilities based upon the conspiracy for the unlawful

1 purpose.

2 Now, again, the fraudulent use of credit card, we've
3 talked about this. We know that Mr. Krusinski's card was used
4 fraudulently. Now, was Defendant Clark the one that stuck it
5 in the machine? No. But that does not matter.

6 Did he benefit from it? Yes. Was he with Defendant
7 Oliver? Yes. And we've established that this is an ongoing
8 conspiracy. So everything that happens during this unlawful
9 plan, that they're working together to break into these rooms
10 to steal property, it doesn't matter that she's the one that
11 inserts the card. He's just as liable. The act of one is the
12 act of all.

13 Now, again, 7-Eleven, you can see the clothing. And
14 you can also see that Defendant Clark has a Sbarro Pizza bag.
15 So again, don't take my word for it. Go back. Watch the
16 video surveillance. Watch it over and over again. We're able
17 to track from the time Mr. Krusinski's room gets broken into,
18 where they go. They walk to the Bally's. They go use his
19 card at Sbarro's. Then they go to 7-Eleven.

20 We also have video surveillance of then at ARCO.
21 And now in this still I tried to highlight to direct you to
22 where they are in this, you know, exact surveillance video.
23 And in the right hand corner you can actually see Defendant
24 Oliver hand Defendant Clark a bag. What's Defendant Clark
25 carrying around the next time we see him? Again, look at the

1 bag in that left photo, red and white. It says, Sbarro clear
2 as day wearing the same clothing, again, same time line, all
3 very close in proximity. All these businesses and
4 establishments are very close the Paris Hotel.

5 It would be extraordinarily difficult to believe
6 that these people weren't, in fact, the ones that broke in,
7 and instead, they just happened to meet somebody else who's
8 broken into these rooms, who has all these -- who has all this
9 property, and then they just take the property. It's not very
10 reasonable.

11 So we've talked about entering with the intent to
12 commit, you know, fraudulent use of credit card. There's also
13 obtaining money under false pretenses. And that essentially
14 means if you enter with any unlawful purpose to gain something
15 under false pretenses, same thing. That is felonious intent,
16 the crime of burglary has been committed.

17 And again, here's some more still surveillance
18 photos from the relevant video at the Paris on 8/16. And this
19 is all related to Mr. Krusinski's room burglary. All of
20 these, using the credit card, surveillance video helps us tie
21 them back to the burglary that occurred in Mr. Krusinski's
22 room. And again, at this point, they've met up and they're
23 walking out together. Here is that surveillance again. I've
24 highlighted it for you.

25 So, you also heard from Rebecca Finger and Brooke

1 Bargholtz. They were here for a girls' weekend. It was
2 someone's birthday. And they were also staying at the Paris
3 when they came back from breakfast and noticed the damage to
4 their door.

5 And if you'll recall, Brooke said they were so upset
6 that two of them were crying. They're in Las Vegas for a fun
7 weekend and this is what happens. They realize that their
8 property is taken, their credit cards, they're traveling, they
9 don't have their wallets, they don't have identification.

10 And this is the Paris, Oliver and Clark, 7:30 and
11 7:45. And remember, this room burglary happens early in the
12 morning. They were gone for breakfast when they realize and
13 come back that their room has been broken into.

14 And both girls established the timeline of around
15 7:45 to 8:30, not even really an hour. And within that short
16 amount of time, their room was broken into by the defendants.

17 You can see Defendant Clark in the red shirt, red hat.
18 Defendant Oliver is in the black shorts, the black and white
19 striped tank top. And you'll also note that that item -- that
20 outfit that she has looks oddly familiar, because when
21 Detective Lopez testified, who had done the examination of the
22 phones that were recovered when Oliver and Clark were
23 apprehended by police, she has selfies of herself on her
24 phone, wearing that exact outfit.

25 So aiding, abetting conspiracy, you're on the hook

1 for the probably and natural consequences of the object of the
2 conspiracy.

3 Also, it's important to note that the State is not
4 required to prove precisely who did what, because again,
5 they're acting in concert. They're acting under this criminal
6 conspiracy, as co-conspirators, as aiders and abettors.
7 They're on the hook for everything.

8 And this is important to note, is that although you
9 must be unanimous in your deliberations to the charges, you
10 don't all have to agree on the same theory of liability. And
11 that's explained as the principal, the direct perpetrator, you
12 know, this would be like in a bank robbery, the shooter.

13 You know, if me, Mr. Lexis, and one of our
14 colleagues decided that, you know, we were going to rob a bank
15 and I was the one that offered the firearm, I decided to stay
16 at home, but Mr. Lexis drives one of our other colleagues.
17 Our colleagues goes in, commits the armed robbery --

18 MR. HART: Your Honor, I would object based on this
19 is, (a) a hypothetical, and (b) it's not necessarily clearly
20 the law.

21 MS. COLE: Your Honor, do you want me to respond, or
22 do you want to go outside.

23 THE COURT: No, just go ahead and your response.

24 MS. COLE: Your Honor, I think it's absolutely
25 appropriate. I'm demonstrating conspiracy liability. I think

1 it's appropriate to use examples and the examples that I'm
2 using are absolutely proper examples of the law.

3 THE COURT: All right.

4 MS. COLE: And it is closing arguments.

5 THE COURT: All right. I'm going to allow you to go
6 into your argument.

7 The jury is instructed that they -- that the law on
8 all these issues is contained in the jury instructions and you
9 are to follow those instructions.

10 Go ahead, counsel.

11 MS. COLE: That's correct.

12 So with that example, again, I'm not even there.
13 Doesn't matter. All three of us are equally liable under the
14 law.

15 And again, four of you could think, hey, it was
16 Oliver. She did all of it. Four of you could think, no, I
17 think it was him. He -- he was the aider and abetter. She
18 was the principal. You don't have to all be unanimous on the
19 theories of liability. Four of you could think they were co-
20 conspirators, four of you could think aider and abetter, four
21 of you think principal. Doesn't matter. You just have to be
22 unanimous on the charge.

23 Again, it's not necessary to prove that everybody
24 entered. That's important to remember. And again, that
25 demonstrates and illustrates the purpose and the law on the

1 different theories of liability. It's not necessary to prove
2 the other individual actually entered, because one who aids
3 and abets another in the commission of a burglary is equally
4 guilty.

5 So don't get hung up on that. Don't get confused
6 about that. Well, what if one of them didn't actually go into
7 the room? Doesn't matter.

8 So attempt fraudulent use of a credit card. This is
9 different in that if you remember Brooke and Rebecca, actually
10 had cancelled their cards. And so when you see the video
11 surveillance at Target, you'll notice, and when you saw the
12 receipt transaction, those cards weren't actually able to be
13 used. But they were attempted to be used.

14 And the three elements of the attempt to commit a
15 crime are the intent to commit the crime, performance of some
16 act towards its commission, and failure to consummate its
17 commission. So the performance of some act, that's sticking
18 the card in the card reader. And it doesn't matter if she
19 actually got the goods. That was the performance of the act.

20 And again, just to refresh your memories, there's
21 been a lot of surveillance video and a lot of different moving
22 parts. But these were -- and I think the timestamps are cut
23 off in some of them at the top. But again, you'll have the
24 video surveillance back. You can corroborate that these occur
25 approximately 9:28, 9:30, 9:32, lining up almost identically

1 with the credit card statements, or authorizations, should I
2 say.

3 And then we also know that when Rebecca Finger's
4 room was broken into, her Apple watch was taken. And she was
5 able to identify this as her Apple watch, because she still
6 had the box of the serial ID number and she was able to
7 provide that to officers, and detectives. And ultimately,
8 when they recovered it, they were able to link it back to her,
9 and her room burglary.

10 Now, when Brooke and Rebecca came back into the
11 room, they were scared, their other friends were freaking out,
12 and they noticed a phone. Brooke, I think, even mentioned
13 that she picked it up, because they didn't realize it wasn't
14 theirs at first.

15 And you heard the DNA expert talk about DNA and --
16 or excuse me, not DNA -- you heard the latent print examiner
17 talk about fingerprints and ridge detail, and all of that.
18 And you'll note that her fingerprint was, in fact, found on
19 the phone. The phone that was left in their room that wasn't
20 there when they left, that was back in there when they came
21 back from breakfast.

22 We had Detective Downing testify this morning. And
23 I know a lot of the stuff he says is a little complicated and
24 convoluted. But these maps really help get a depiction of
25 where the defendants are at certain times. Or if their phones

1 happen to just be hitting off the same tower that's servicing
2 the Paris. And they're using their phone. What does that
3 tell us?

4 And Detective Downing testified that the red
5 represents Oliver, the blue represents Clark, and in that left
6 map he talks about, you know, when it's both shaded, that kind
7 of tells us that both phones are hitting off the same tower.

8 Again, sometimes he couldn't map them right on top
9 of one another because it was just too dense. So we have the
10 same exact graph with the same time so we can how similar
11 those little bubbles look, which essentially he described as
12 the range of that specific tower.

13 And how do we know that this, in fact, is Veneshia
14 Oliver's phone number? Well, there's a lot of reasons. We
15 know that this is her phone number.

16 First off, James Methe testified to the phone number
17 she gave him. And we saw on video surveillance him typing her
18 name into his phone. He was asking how to spell her name.
19 And we know that she had a pink LG phone on her person when
20 she was arrested.

21 All these photos on the bottom, her in the black and
22 white tank top, the photo all the way to the left of the hat,
23 the photo of her and the defendant, these were all found on
24 that pink LG phone that's associated with the number ending in
25 5174.

1 Again, we heard some testimony today from Detective
2 Downing talking about how those two numbers talked to each
3 other, how there was an incoming call when Defendant Clark is
4 on video. And we'll get into that, because that's more
5 related to the August 23rd events.

6 But we know that the call detail records en masse,
7 corroborate what we see on video surveillance. When Oliver's
8 phone is hitting off the tower that services the Paris, or the
9 Harrah's, we saw that bubble. We saw that range. If you're
10 using your phone and it's hitting off a specific tower, that
11 little range gives us an idea.

12 And again, this T-Mobile receipt, which has the two
13 phone numbers circled depicting which is the black phone,
14 which is the pink phone. And again, 5174 is the pink phone.
15 That screen shot of that receipt from T-Mobile was found in
16 her phone.

17 And in the top right photo, you heard Detective
18 Lopez testify, he was able to forensically examine these
19 phones, he was able to do some extractions. And it was the
20 pink phone that he was able to establish was the number ending
21 in 5174. Based off the SIM card and all of that, he was able
22 to establish that that physical phone does, in fact,
23 correspond with 5174.

24 How do we know that this number belongs to Darrell
25 Clark? Well, there is a lot of reasons how we know. There's

1 a cab receipt. We had the custodian of record from Desert Cab
2 come. There was some video that you watched. There was a
3 call detail receipt record wherein he identifies himself as
4 Rico, and this is the number he gives.

5 And then we learned that Rico becomes relevant later
6 when we see on his Facebook the he also identifies himself as
7 Rico. He uses that name before. So he gives the name Rico,
8 gives that phone number, and we see them in the cab.

9 Again, Detective Lopez testified to the LG phone
10 that was on his -- that he forensically examined, as linking
11 up to the phone number ending in 3090. And we also learned
12 and heard that that number calls -- 3090 calls 5174, and vice
13 versa.

14 The last map Detective Downing demonstrated today
15 was the cell sites for the cell phone, essentially, the cell
16 phone towers or cell sites that are in the area of 45 East
17 Twain [sic] -- 45 -- 455 East Twain where the defendant are
18 getting picked up from, where they're coming and going from,
19 where they're residing.

20 He testified that over 50 percent of the usage or
21 how much that phone is operating is hitting off of those
22 towers. Again, that -- all those things help us to confirm
23 that those are, in fact, their numbers. They're hitting off
24 the towers where they live. When we see video surveillance of
25 them depicted, at the Harrah's, at the Paris. Their cell

1 phones are hitting off the same towers that service those
2 areas. That helps you establish that the person that you're
3 viewing in the video is, in fact, Darrell Clark and Veneshia
4 Oliver.

5 So now we're going into the Harrah's. Esther Chae
6 testified in front of everybody and she told everybody what
7 happened, how that made her feel, how she was just going up to
8 her room and she thought that her card key didn't work. And
9 again, the significant damage to the door, to the area that
10 she was able to notice. The room key wouldn't work. She
11 heard voices.

12 She testified that the Defendant Clark came out, he
13 pushed her up against the wall, and grabbed her neck. She
14 couldn't breathe. Even though Detective Mann did not do a
15 photo lineup with Ms. Chae in regards to Veneshia Oliver, when
16 Ms. Chae was giving a description, she was able to identify a
17 bag, which we know Veneshia Oliver carries a large tote that's
18 black and white, that's got a "C" on the side of it. That bag
19 is everywhere she goes. She was able to describe her as a
20 female suspect, thin frame, 5-5.

21 And we also learned that in the room across the hall
22 from Esther Chae's door there was some wrappers that were
23 placed in that keyhole. And that's odd. I mean, why would
24 there be wrappers placed --

25 MR. HART: Objection.

1 MS. COLE: Again, Your Honor --

2 MR. HART: That's not in evidence.

3 MS. COLE: -- this is closing arguments.

4 THE COURT: Hang on. What's your objection?

5 MR. HART: Stating facts not in evidence.

6 MS. COLE: It's absolutely --

7 MR. HART: The wrappers were on the ground.

8 MS. COLE: -- in evidence.

9 THE COURT: Okay. What was your last statement?
10 Please restate it.

11 MS. COLE: I'm talking about the wrappers that were
12 tested for DNA that the CSA testified were in -- or from --
13 she was directed when she got on scene that they had been
14 placed in the -- the keyhole of the room across from Esther
15 Chae's room. The facts are in evidence, Your Honor. The CSA
16 testified to that.

17 THE COURT: I don't have a specific recollection.
18 The jury will base their decision on how -- on their
19 recollection of the testimony in this case.

20 Go ahead, Ms. Cole.

21 MS. COLE: And again, those wrappers are tested and
22 they come back with Veneshia Oliver's DNA. We know she was on
23 that floor when Esther Chae was robbed.

24 And again, if the conspiracy was for Veneshia Oliver
25 and Darrell Clark to break into hotel rooms to steal property

1 are they both on the hook for the robbery? And absolutely.
2 Again it's a natural, foreseeable probable consequence of that
3 conspiracy.

4 Those are the wrappers. That's the keyhole. And
5 Esther was staying in room 44001. 44002 is right across the
6 way. It has a direct line of shot to 44001.

7 Again, for this incident, because of the date this
8 crime occurred, this is still a burglary. But a burglary in
9 June of '15 -- 2020 [sic] was any person who by day or night
10 enters any house, room, apartment, tenant (phonetic), shop,
11 warehouse, all of those other options, with the intent to
12 commit larceny and/or obtain money or property by false
13 pretenses, is guilty of burglary.

14 So same thing. They entered the room with unlawful
15 intent. That's a burglary. As soon as they crossed that
16 threshold. It doesn't matter if they don't even steal
17 anything. It doesn't matter if they decide not to go through
18 with it.

19 In regards to robbery, robbery is the unlawful
20 taking of personal property, but it's doing so by means of
21 force or violence or fear of injury.

22 So in this case, Defendant Clark was violent. He
23 didn't just threaten Ms. Chae, but he slammed her against the
24 wall, he grabbed her by the neck, he grabbed her phone out of
25 her hand. That's a robbery. He didn't even have to go that

1 far. If he threatened violence, if he came up to her, and
2 threatened her, do this or I'm going to do that. Give me your
3 money, or I'm going to hurt you, that would be just a threat.
4 That would be a robbery.

5 But obviously, in this case, there was force used,
6 there was violence used. He made physical contact with Ms.
7 Chae. He threw her against the wall, grabbed her neck, took
8 her phone out of her hand.

9 And subsequently, Defendant Oliver was walking out.
10 And Clark has a backpack, Oliver has a tote bag. And again,
11 the robbery, they're using force or violence. It can be also
12 for the defendants to obtain or retain possession of the
13 property.

14 They've got all the stolen goods. She's back. What
15 do they do if she tries to get her stuff back? That force or
16 fear can also be used to prevent or overcome resistance or to
17 facilitate escape. And in this case, it's all three.

18 And again, Esther told you that she was scared,
19 terrified, all of that. But even if she wouldn't -- even if
20 she hadn't done that, again, the law will presume it, in such
21 circumstances. And again, the value of the money or property
22 taken is not an element of the crime.

23 But we know, not only did he grab her phone and
24 throw it, but they were also leaving with her computer, other
25 personal property. She had a credit card that was taken.

1 And I touched on this a little bit earlier. But
2 again, that last part, even if it was not intended as part of
3 the original plan, and even if the co-conspirator was not
4 present at the commission of such act, it still counts,
5 because it's foreseeable consequence of that conspiracy, of
6 the conspiracy of burglarizing rooms, of stealing victims'
7 properties, committing home invasions to break into those
8 rooms.

9 Now, in regards to coercion. Coercion is the doing
10 something with the specific intent to compel or abstain from
11 doing an act which a person is entitled to do. So, when
12 Esther was on her phone trying to call security, trying to get
13 her room situation figured out, and Defendant Clark grabbed
14 her phone, ran off and then threw it, that was preventing her
15 from doing something she was lawfully allowed to do.

16 Under the law, she was allowed, she was permitted to
17 be able to be making a call and him preventing her from doing
18 that makes it a coercion.

19 And we know, again, this is focused on the viewpoint
20 of a reasonable person. She told us how scared she was. She
21 told us how it affected her. So in this case, you don't have
22 to worry about that. But under the law, it's the viewpoint of
23 a reasonable person.

24 Theft. We know that Mr. Chae's MacBook was taken.
25 She talked about the alerts that she got after it was taken.

1 Again, with this specific event, based off the date the crime
2 was committed, home invasion in relation to this event is this
3 definition, same thing, it's still a home invasion, even
4 though it says "inhabited dwelling" instead of "dwelling".
5 This is still the same elements.

6 You enter. You use force. There's some sort of
7 destruction to the property to the door. That's a home
8 invasion. And we know that in Ms. Chae's case, her room did
9 have those pry marks.

10 So again, theft is charged throughout the
11 Indictment, whether it's \$1200 or more. All of the victims
12 testified about the value of the property that they had taken.
13 Specifically, Esther was able to tell us that after her laptop
14 was taken, she had some sort of a way, some sort of a tracking
15 that she got a notification that a sound was played. Some
16 individual had been using or had opened her lap book -- or her
17 laptop. And then her credit card that was taken is found when
18 Oliver and Clark are arrested in Oliver's purse.

19 Bertha Gerdeau was staying at the Harrah's. This
20 was her room. Again, the photo is consistent with the same
21 type of damage that we had seem repeatedly over and over
22 again. And we have a still surveillance photo of the
23 defendants in the Harrah's on August 6th.

24 Detective Mann was able to go on Darrell Clark's
25 Facebook. That again is in evidence. You can review that.

1 And had made some sort of posting about all this stolen high
2 end property. When Detective Mann gave that to Bertha, she
3 was able to identify all of her property. And she was able to
4 tell you how much those items cost, what specifically she had,
5 how she recognized it was hers.

6 And again, look at the date stamp on Mr. Clark's
7 Facebook in relation to this event that occurs on 8/6. How
8 soon is that stolen property posted on Facebook? Take a look
9 at that. Again, we know that these were all very expensive
10 designer high end items that were taken from Bertha.

11 And then we have the Harrah's room number 15058.
12 Jewell Love and Patricia Williams testified, and they as well
13 had other individuals that were staying with them. They were
14 in Las Vegas vacationing. And they left their room around
15 9:15, and arrived back at 12:15 a.m.

16 And if you'll recall, Patricia testified that her
17 and Devonica (phonetic), her wife, had actually not come right
18 back to the room. They were down the hall. And Jewell and
19 Raven had got in the room, and had assumed that Patricia and
20 Devonica had just left it a mess.

21 And as soon as Patricia and Devonica got there, they
22 were shocked at the state that they saw. They were leaving
23 the next morning. Their suitcases were open. There was food
24 all over the floor. The door, again, had that same damage.
25 The scratches from the blunt objects. And Patricia Williams

1 described a little pouch pocket that she had that she kept
2 very important documents, including her social security card,
3 and the social security cards of her children.

4 Well, we know that there was a photo of Patricia
5 Williams' social security cards, and her children's social
6 security cards in Darrell Clark's phone, that was forensically
7 examined. And if you'll recall, Detective Lopez actually
8 pulled up the program and did it right here in front of you.

9 Those photos of those social security cards were on
10 his phone. Jewell Love talked about her Louis Vuitton
11 backpack that was taken, as well as a Tupac shirt out of her
12 room. And we know from Detective Downing's testimony and the
13 maps that he analyzed and explained, the cell site or the cell
14 tower that services Harrah's, both of their phones were
15 hitting off that tower during the entire duration of 9:15 and
16 12:15 a.m.

17 And Harrah's as a lot of video. Clear video, clear
18 dates, clear timestamps. We know, this is their MO. They
19 arrive together, but get out of the car separately. They try
20 to split up, avoid detection. We can see the black and white
21 bag that Defendant Oliver carries with her routinely with the
22 Gold "C". We can see the different still photos of them in
23 the Harrah's.

24 And if you'll notice, that t-shirt that Defendant
25 Clark is wearing, is also found on his Facebook photos. He's

1 seen on Facebook wearing that shirt. That light green and
2 white striped shirt.

3 Now, there was testimony regarding this from both
4 Detective Mann and Detective Downing today who had access to
5 the call detail records, who was able to plot and analyze
6 those call detail records using ZETX. And you can see on
7 August 23rd, 2020, 21:38, Darrell Clark's on the phone.

8 And I asked Detective Downing, was there a call
9 placed at that time, and there was an incoming call from 5174.
10 And if you'll notice on that last line on the mapping page,
11 you can see, and that line item matches up with one of those
12 numbers in the blue circle. And again, that blue circle is
13 indicating the range of that particular cell site or cell
14 tower.

15 And so when Darrell Clark answers that phone call,
16 he's on the phone with Veneshia Oliver. We have it on a
17 video, we have it on their call detail records. And that's
18 also depicted in the cell site tower mapping.

19 The photo to your right, that's another selfie that
20 was taken from the LG pink phone that is Veneshia Oliver's
21 phone. Again, the clothing she's wearing in that selfie look
22 exactly like the clothing that she's wearing in that
23 surveillance video, down to the tank top, down to the hat,
24 down to the hair.

25 And you'll know and recognize that in all these

1 photos on Facebook, on Oliver's phone, she changes her hair
2 color a lot. Her appearance changes a lot. And that's the
3 Facebook photo of Defendant Clark wearing that same t-shirt
4 that he's seen wearing in the Harrah's on the 23rd, the same
5 date and time.

6 And again, you can look. Harrah's has great video
7 surveillance. There's lots of angles. You can look. You can
8 compare it to that shirt. Again, we've got more mapping of
9 this specific time frame. That 9:15 to 12:15, that's the time
10 frame that Patricia Williams and Jewell Love were able to give
11 us in regards to when they left their room and when they came
12 back.

13 This map indicates blue. Blue corresponds with
14 Defendant Clark's phone of 684-3090. And in that blue tower,
15 in the left hand corner, we can see the Harrah's Casino. And
16 I'll point to it, because I got this wrong with the Detective.
17 But this little red dot, that depicts the Harrah's Casino.
18 And that's the exact time frame that is given by the victims
19 when they say when they were out of their room. And we know
20 that Defendant Clark's phone is hitting off that tower that
21 services the Harrah's.

22 Now, Oliver's phone. And again, this was one of the
23 maps that Detective Downing said it would have been great to
24 illustrate as one with the color so you could see the blue and
25 the red mixing. But because it was so dense, because there

1 was just too much data, it was easier to display them
2 separately.

3 So again, we have identical time frames. This is,
4 again, from 9:15 to 12:15, the same time frame that the
5 victims gave And this is Defendant Oliver's phone number
6 hitting off the same cell site tower that services the
7 Harrah's Casino.

8 So not only do we have both of their phones
9 utilizing that cell tower, but we have the video surveillance
10 of them in that hotel. We have the property that was taken.

11 Jewell talked about this Tupac shirt. Everybody
12 thought it was weird that it was a size large because she said
13 she wanted to wear it as a dress. She identified that shirt
14 as, in fact, her unique Tupac shirt that she had, that was
15 taken from her when her room was burglarized.

16 We also know, and in that still photo on the right,
17 that's more of a clear depiction of the coloring and what that
18 shirt looks like compared to the shirt that's on Darrell
19 Clark's Facebook, more than once, there's more than one photo
20 of that specific shirt.

21 And again, you'll have these Facebook photos. Take
22 a look at those. See what you think. See if it's the same
23 shirt. And he's wearing the backpack. We know that when he
24 enters the hotel -- or when he enters the elevator while up,
25 he does not have a backpack on. When he comes down, all the

1 sudden he has a backpack.

2 Possession of a credit card without cardholder's
3 consent. This is related to Esther Chae. But even if you
4 don't use someone's credit, with Mr. Krusinski, with Rebecca
5 Finger, with Brooke Bargholtz, their cards were actually used,
6 or attempted to be used. But it is still a crime just to
7 possess someone's credit card without the cardholder's
8 consent. And Defendant Oliver was in possession of this card
9 when she was arrested.

10 Burglary tools. Burglary tools are sharp metal
11 objects, something under circumstances invincing (phonetic) an
12 intent to use or employ.

13 Is that a coincidence? We have all these home
14 invasions, all these residential burglaries, that have very
15 distinct marks that we've heard testimony and evidence, some
16 sort of tool. That's what she's found with.

17 Carrying concealed firearm or other deadly weapon.
18 Officer Montalbano talked about when they did this setup
19 operation, and he was acting in a covert capacity. And it was
20 at that time that he was acting as if he wanted to buy two
21 Apple watches, one of which turned out to be Rebecca Finger's.

22 And when they approached the defendant, he notified
23 them that he had a firearm. Now, Officer Montalbano was clear
24 to state that he did not see him with a firearm before that.
25 It was concealed. It was underneath his clothing. It was

1 tucked under his waistband. He had a baggy shirt on. It
2 wasn't until he lifted up on the shirt that he was able to
3 discern that, in fact, it was a firearm.

4 And you heard from expert Bodily who testified that
5 this, in fact, you know, was operable, it functioned, it
6 expelled through the barrel by force of any explosion or other
7 form of combustion. We know that it was, in fact, a firearm.

8 Ladies and gentlemen, when you go back into
9 deliberations, take the time to put the evidence together.
10 There's a lot of moving parts and there's a lot of things, but
11 at the end of this trial, Mr. Lexis and I are going to ask you
12 to return verdicts of guilty on all counts to both defendants.

13 Thank you.

14 THE COURT: Thank you, counsel.

15 Mr. Hart, are you ready for your closing?

16 MR. HART: Can we take a brief recess?

17 THE COURT: All right. Ladies and gentlemen, let's
18 just take a quick -- quick break this afternoon.

19 During this recess, you are not to discuss or
20 communicate with anyone, including your fellow jurors, in any
21 way regarding the case or its merits, either by voice, phone,
22 e-mail, text, Internet, or other means of communication or
23 social media. You're not to read, watch, or listen to any
24 news or media accounts or commentary about the case. You're
25 not to do any research such as consulting dictionaries, using

1 the Internet or using reference materials. You're not to make
2 any investigation, test the theory of the case, recreate any
3 aspect of the case, or in any other way to investigate or
4 learn about the case on your own. And you're not to form or
5 express an opinion regarding this matter until it's finally
6 submitted to you.

7 We'll see you back in about ten minutes.

8 THE MARSHAL: All rise for the exit of the jury.

9 (Outside the presence of the jury.)

10 THE COURT: Counsel, I provided the jurors -- we're
11 outside the presence of the jury panel. I provided the jurors
12 with their own individual set of -- for the verdict form.
13 Obviously, we have the -- the official set, which is -- will
14 be in with the blue back -- blue backing on it.

15 On the verdict form for Mr. Clark, the caption says,
16 Mr. Clark, but the first paragraph says, "We the jury in the
17 above-entitled case find the Defendant Veneshia Oliver." So
18 we went ahead and made that change. So the verdict form that
19 will go back with the jury, the official one, has been changed
20 already.

21 I just wanted to advise you that the jurors did have
22 a verdict form with the two names on one form, and I'll
23 explain to them that we have a corrected form.

24 MR. LEXIS: Okay.

25 THE COURT: All right?

1 We'll see you back in ten minutes or less.

2 (Court recessed at 2:28 p.m., until 2:40 p.m.)

3 THE COURT: All rise for the entry of the jury.

4 (Inside the presence of the jury.)

5 THE COURT: All right. Welcome back, ladies and
6 gentlemen.

7 Mr. Hart, are you ready for your closing?

8 MR. HART: Yes, Your Honor.

9 All right. Go ahead.

10 DEFENDANT VENESHIA OLIVER'S CLOSING ARGUMENT

11 MR. HART: Hello. I'm Marty Hart and I'd like to
12 thank you all for your patience during this process. I
13 understand the Judge has given you a set of instructions, and
14 at the beginning it says, all the instructions are equal. But
15 I would like you to consider a couple specific instructions as
16 we go through this.

17 Instruction No. 34, okay. It says that the
18 defendant is presumed innocent until the contrary is proved.
19 It follows up with the presumption placed upon the State, the
20 burden of proving beyond a reasonable doubt every element of
21 the crime charged, and the defendant is the person that
22 committed it.

23 Okay. These crimes, as you've -- we kind of went
24 through, you know, the instructions, there's different
25 elements to the crimes. Kind of talk about burglary, entering

1 with the intent to commit a crime; okay?

2 Now, the important part of this is it talks about
3 who bears the burden. The defense is not required to present
4 any evidence. It's up to the State to prove their case.

5 It's also up to the State to charge their case
6 properly. So in that vein, you can consider all the evidence
7 presented, but if you look at Instruction No. 32, you're here
8 to determine whether the defendant is guilty or not guilty of
9 the evidence.

10 You're not required to go -- you're not supposed to
11 look at whether anybody is guilty or innocent. The only
12 people you're considering are the people charged in this
13 Indictment, this 38 pages of 38 counts of charges. You're not
14 to consider if Mr. Hart, or Mr. Arnold is guilty of anything.
15 It's not, Mr. Arnold did this, Mr. Arnold did this, or said
16 this or said that.

17 Or -- and there are no unnamed co-conspirators in
18 this. So it's not whether or not it's somebody else did stuff
19 that's not included in this -- in this case.

20 Because you heard a lot of one -- one for all, all
21 for one, or something to that; okay? If one of them did it,
22 well, not if somebody did it. But if one did it.

23 And number 39, I love this; okay? This
24 (indiscernible) really applied to you guys. I kind of
25 commented on it when we were picking the jury panel, that was

1 probably one of the most educated panels I've ever, you know,
2 dealt with. I don't know how many masters there were, running
3 though there, or Ph.D.'s, etcetera.

4 You know, but it says, as a jury, you don't leave
5 your common sense and knowledge at the door; okay? Although
6 you're only to consider the evidence in the case reaching a
7 verdict, you must bring into consideration your everyday
8 common sense and judgment as reasonable men and women.

9 And you are not limited solely to what you see in
10 here, what the witness testified, you may draw reasonable
11 inferences from the evidence, which you are justified in light
12 of your common experience; okay?

13 So you get to use the knowledge that you have and
14 put it in the frame work of everything.

15 Also, it says you're not allowed to come to a --
16 your verdict due to sympathy, prejudice or public opinion;
17 okay? Sympathy. Whether or not somebody cried because when
18 they came back to their room, that's not a basis for a
19 verdict; okay?

20 You're allowed to have empathy. You're not allowed
21 to base your verdict on that. This is -- this is -- this is
22 not supposed to be an emotional process. This is supposed to
23 be a logical process; okay?

24 So with that, like I said, you don't get to include
25 just what you were presented, because there is no burden of

1 proof on the defense. You also get to look at the lack of
2 evidence that was presented. The information that was not
3 presented. And as I stated before you get to only go through
4 what is charged.

5 Do you remember we talked of -- they were talking
6 about Mr. Krusinski's room being burglarized at one point in
7 here, and how there was a short time frame between it being
8 burglarized and a credit card being used.

9 Well, what do you know, or don't you know? You do
10 know that there are phone -- or I'm sorry -- lock
11 interrogation locks, which tells you when a door was opened,
12 when a door was closed, would have told you when a door was
13 opened, when a door was closed. If it was opened with a card,
14 if it was left open, etcetera.

15 There were also no cell dumps done as to other
16 people that were there during the time. There's a large
17 difference between, well, there's not -- there's a difference
18 between theft and possession of stolen property. We don't
19 have possession of stolen property here. We have one
20 possession of a credit card with intent to use. They are very
21 -- they are different crimes, different elements.

22 What else do we not have? Okay. We have DNA on a
23 gum wrapper outside a door, which tells you that someone --
24 that person who touched that gum wrapper at some time. And
25 when it was touched, except now I think you get to use your

1 logical inference. It couldn't have been sitting there for
2 two days. Even at Harrah's, the maid staff would have come
3 through and cleaned it up within a couple days.

4 But what don't you have? And we asked repeatedly,
5 did you fingerprint and where? Out of all these rooms, we
6 had, oh the CSA decided to fingerprint a door handle. They're
7 trained. You get to use your common sense. They are supposed
8 to use their common sense where you're likely to get evidence.

9 If you're going in and out of a door, a door
10 handle's pretty damn good place to start. Now, I understand
11 that, hey, if we powder it, it might be a problem for DNA.
12 There's a front and a back side to a door handle. There was
13 not DNA gathered, unless I missed something, from one door
14 handle in here.

15 There was not DNA gathered -- from -- we talked
16 about how there's difference surfaces. Oh, I could touch
17 this, and I wouldn't -- you know, maybe I'd leave a print,
18 maybe I'd not leave a print. Okay. Maybe I'll leave DNA, or
19 maybe I'll not leave DNA.

20 We asked, it's possible, is it probable? The answer
21 was no. It's not probable. Probably should have asked, is it
22 highly unlikely. But you saw a bunch of crime scene photos.
23 Surface -- we're not worried about the texture when we're
24 doing DNA. Hell, use your common sense and knowledge. I'm
25 sure somebody's -- somebody has spent a little -- thinking

1 about this sometime, just but I -- it seems like you're a
2 pretty curious group. The rougher the surface, generally
3 better for DNA, period.

4 Also, all the items that were taken in here. Okay?
5 We know a bunch of stuff was taken. Large amounts. Now,
6 you're pointing fingers at my client. You've got the videos.
7 She's carrying the same bag, it looks like, you know, the same
8 bag a lot. Does it get bigger? Does it get thicker? Does it
9 get wider because three computers have been put in there?

10 You're not here to decide if anybody else is guilty.
11 You're here to decide the charges against our clients here.

12 And that's part of where Instructions No. 30 and 6
13 come in. Number 30 is mere presence at the scene of a crime
14 or knowledge a crime is being committed is not sufficient to
15 establish guilt beyond a reasonable doubt; okay?

16 You know, they're merely a spectator. And also the
17 same with the conspiracies here. Mere knowledge
18 (indiscernible) prove (indiscernible) acquiescence a
19 conspiracy without a agreement to cooperate does not one make
20 -- make one a party to a conspiracy. You get to ask common
21 sense questions.

22 As I've stated, you don't -- going to -- going to
23 purchase stolen property is not the same as stealing the
24 property. You can -- there is possession. You also get to
25 use common sense.

1 Counts 34. Sorry. I lost my -- sorry. 15. The
2 credit card. Okay. It was used at the Target. I'm not going
3 to tell you nothing happened. Okay. The credit card got
4 used. Credit cards got used, or attempted to be used, or
5 should put attempt to be used. There (inaudible) at the
6 Target store.

7 But the fact that the credit cards were attempted to
8 be used does not show that my client broke into the room to
9 take the cards. Throughout these events, what was (inaudible)
10 something that was, you know, commented by co-counsel in a
11 second was how long is it going up and down the elevator and
12 coming out.

13 You don't have the video logs from the initial stuff
14 at Harrah's. You don't have the lock interrogations going
15 through there. We're not here looking at whether or not my
16 client had stolen property. (Inaudible) for it. We're here
17 for whether or not she took it. We're not here on co-
18 conspirators.

19 Remember as you're going through this and the
20 information we had, people who work at the hotel know when
21 people are going in and out. They can check the locks. It
22 goes on as people are checking out of there because it goes
23 through a central system.

24 We don't carry the burden of presenting the
25 evidence. The State does. To call the proper witnesses, and

1 present it to you. I don't know, maybe a glaring lack of
2 testimony from what many would consider the most important
3 witness in this case, the lead Detective. And all the Paris
4 stuff. We didn't hear a word about how that was done and
5 gathered.

6 We did hear from the lead Detective on Harrah's. He
7 couldn't remember when he was assigned the case. We don't
8 have video because in the ordinary course of business, he
9 didn't request it in time. We also heard the testimony, he is
10 not required to request it. The arriving officers can also
11 request it. Or shocker, Harrah's can (indiscernible) and save
12 it on their own, as the Detective testified, happens. Calls
13 up, oh yeah, we've already got it saved. We're ready to go.
14 Come down and get it because they've got people that work
15 there that know also.

16 So please, consider your obligations to consider
17 each and every count separate; okay? Please use your natural
18 curiosity and desire that I think you all have to read and
19 actually your -- read the charges. Read the elements. See
20 how they relate.

21 Ultimately, it's for you to decide if something was
22 proved beyond a reasonable doubt. You've got the jury
23 instruction we just read to you. Well, we didn't read the
24 whole thing. But talks about the weightier affairs in life, I
25 think it's Number 39, 38. No, 34. Sorry. And that tells you

1 what beyond a reasonable doubt is.

2 Just as an example, Count 36; okay? That is
3 possession of a credit card -- there was a possession of a
4 credit card without cardholder's consent, belonging to Esther
5 Chae, the Victoria's Secret credit card. And one of the
6 elements is, did somebody possess it with the intent to
7 defraud or use; okay?

8 And that credit card disappeared in June, and August
9 27th it was found. You didn't hear any testimony about
10 anybody trying to use it, or using it whatsoever.

11 Now, when it's all said and done, as we've just
12 talked about before, the burden's on the State. The
13 prosecutor gets to stand up here and lambaste everything I
14 said. And I don't get to say anything back. I assume it will
15 be Mr. Lexis, but who knows.

16 Evidence is not what we said, but you can use it,
17 because as you've got the instructions. We are here to help
18 guide you to look at the evidence. And that's what we're here
19 to do. We ask certain questions for certain reasons. Thank
20 you.

21 THE COURT: Thank you, Mr. Hart.

22 Mr. Arnold, are you ready for your closing?

23 MR. ARNOLD: Yes, Your Honor.

24 DEFENDANT DARRELL CLARK'S CLOSING ARGUMENT

25 MR. ARNOLD: Ladies and gentlemen of the jury,

1 possession of stolen property is not theft, possession of
2 property is not robbery, possession of stolen property is not
3 burglary. Those are completely entire different charges. And
4 I told you from the very beginning when I did my opening,
5 possession doesn't mean that these crimes were committed by my
6 client; okay?

7 Is before going into all the charges and everything
8 like that, it hasn't been narrow focused in regards to this
9 crime, the dates, everything like that. And it's like
10 everyone's been saying, you've got to use your common sense.
11 I want you to take some steps back. Not all the way back, but
12 a couple of steps back.

13 This happened in the months of June through August,
14 2020. It was the COVID summer. It happened at Harrah's and
15 at Paris. There is several room burglaries that occurred
16 during this time. My clients are charged with several of
17 those burglaries. Take your step back. Harrah's, huge hotel,
18 at least 20 floors. How did my clients -- and remember, this
19 is the COVID summer, still were not up to full occupancy;
20 okay?

21 We have 20 floors. How did my client know which
22 floor to go to? Which floors were being occupied by guests?
23 Each and every one of these room burglaries occurred when the
24 guests were out. How did my client guess the right floor, and
25 the right room each and every time. Does that make sense to

1 you? It shouldn't.

2 How did he know that these people were not going to
3 be in the room? How did he know that these people might have
4 valuable possessions? How did he come to all of this
5 knowledge? Or did he just run up and down each and every
6 floor, each and every room, and keep knocking on doors, oh,
7 nobody answered this door. I'm going to open the doors. And
8 through all that, to not have been discovered by any hotel
9 guests or reported by any hotel guests, that doesn't make
10 sense; okay?

11 Am I suggesting somebody else was involved? Yes, I
12 am. Why do the lock interrogations never make it into that
13 big pile of evidence? The reason why it's key, it's key, we
14 know when that door opens and closes. However, we don't have
15 that information in front of us. That's important
16 information, because like I said, you can look at when that
17 door open and closes, and then you can trace it back to that
18 floor, you can trace it back to that elevator opening and
19 closing on that floor and then you can see the video of who
20 popped out of that elevator at that time, a few seconds
21 before, a few minutes before, and broke into that room. It's
22 simple.

23 I mean, I don't watch CSI and I can figure that one
24 out. Okay. How come this Detective, how come -- what was his
25 name from Harrah's, Mr. Lemon, how come they didn't provide

1 that? It's not that they didn't want to provide it. It's
2 because it's as simple as that. It didn't show my client. It
3 didn't. For sure, if it did, you know we would have had a
4 still photograph sitting up there on this computer screen,
5 T.V. screen, whatever you call it, showing my client getting
6 out of this elevator at that specific time and boom, there's
7 the case.

8 It's not brain science. It's not a whole bunch of
9 DNA fingerprints and everything. That's simple detective work
10 which wasn't completed in this case.

11 I've got a I've got a lot to say, because we've got
12 to go through -- we've got work to do. I've got to go through
13 all 30 something charges, whatever. Please feel free to stand
14 up, walk around. I don't want anyone passing out, falling
15 asleep, because what I'm saying is very important, and it
16 needs to be discussed and taken back during these
17 deliberations.

18 So I'm not worried if you going to fall asleep.
19 I've a couple times during this trial have almost fell asleep.
20 I just want you to, you know, get back up and stay engaged
21 with me; okay?

22 The other thing is, like I said, I'm saying a lot of
23 stuff, but I'm just trying to like point you into a direction;
24 okay? A direction that's in favor of my client. But
25 regardless of anything coming out of my mouth, regardless of

1 anything that's come out of the State's counsel's mouth, or
2 even Mr. Hart's mouth, those are just statements.

3 THE COURT RECORDER: (Inaudible)?

4 MR. ARNOLD: Can we switch to this, ma'am?

5 I'm going to zoom down.

6 Just because I make a statement does not mean that
7 it's evidence. Just because the State has made a statement,
8 doesn't mean that it's evidence. Just because I look up at a
9 picture on that video on this screen that you've all been
10 looking at and I say, that's Darrell Clark, that's just their
11 opinion. What identifying features can you show me that
12 that's Darrell Clark? What identifying features in those, you
13 know, fuzzy videos, was that Ms. Oliver? Just because it's
14 being said, doesn't mean that it's true.

15 So this is what I'm asking you to do. Go back and
16 look at the evidence. Everything that I'm saying is guiding
17 you to look with scrutiny at the evidence. Don't take
18 anybody's word for it. Make your own opinions about all of
19 this. And then sit there and have a discussion in regards to,
20 is that evidence, in your opinion, beyond a reasonable doubt.
21 That's how these deliberations should work.

22 The act of one is the act of all. That is not the
23 law. Look at your jury instructions. I can tell you what the
24 law is, because I know the law. The jury instructions are the
25 law. And in nowhere does it say the act of one is the act of

1 all. Me and my buddies are walking down the street. My buddy
2 turns, pulls something out of his pocket, sells some marijuana
3 to a guy. Am I liable for conspiracy? Heck, no, I'm not
4 liable for conspiracy. Guess what? I'm there. My presence
5 is there. I'm standing right next to him.

6 I have knowledge that he did a crime. I just saw
7 him with my own eyes. But am I guilty of that crime? Hell,
8 no, I'm not guilty of that crime. Here's the thing is, I have
9 to do something -- read them all, don't take my word for it --
10 in furtherance of the conspiracy.

11 Meaning, I have to say, hey, that guy, go ahead and
12 hit him up because I think he'll buy this marijuana. That's
13 something in further of the conspiracy. But all these
14 charges, that's what we're going to go through. What act was
15 done in furtherance of the conspiracy.

16 Let's say you believe Ms. Oliver broke into all of
17 these rooms. Okay. Let's say you believe that. What act did
18 my client do in further of the conspiracy? Well, he was with
19 her. His name is tattooed on her -- on his arm. Their
20 phones, their phones are together in the same spot. They have
21 Facebook pictures together. They got out of the cab together.
22 They were in the hotel together. That is a mountain, a
23 mountain of evidence, but not to the specific thing.

24 And what's the specific thing that we need to see?
25 What act did he do in furtherance of the conspiracy? Did he

1 have a text message in his phone that said, hey, they just
2 left out of that room on 24, the number is 2486. We got to
3 meet there. I'll break into the room, put the stuff inside
4 your bag and we'll run out of there. There no text message
5 saying that. There's no conversations saying that.

6 There's no plan or anything that they were going to
7 do that. So right now what's happening is the prosecutor,
8 he's jotting down notes of what I'm saying. And so he's going
9 to come back up here and say, well, no, no, no, on August
10 23rd, they had a plan. Are you bringing the tools? Are you
11 doing -- are you doing this?

12 Listen, go ahead, don't take my word for it. Look
13 at that text. August 23rd, the crimes that were committed on
14 August 23rd were in the morning. Whatever they're talking
15 about, is what they're talking about. We don't have to sit
16 here and figure it out. But what I do know is the times on
17 those text messages are later on that evening; okay?

18 So I say that example to say this. In your gut,
19 man, these people must have done something wrong, in my gut, I
20 feel that. This is not a gut feeling kind of thing. This an
21 evidence kind of thing; okay? And so you have to look at
22 every little piece of evidence with the thought process, does
23 that equate to this -- how many counts, 41 page Indictment,
24 and does it match up to my client being guilty.

25 THE COURT: Excuse me, Mr. Arnold. Make sure we

1 provide six feet social distancing.

2 MR. ARNOLD: Your Honor, I forgot about that.

3 Sorry, Your Honor.

4 The other thing is, it doesn't matter who entered
5 into the room. Lord Jesus, it does matter who entered into
6 that room. That's the whole basis of the home invasion
7 charge, the whole basis of the burglary charge. You have to
8 first have an entering, and if you don't have the entering,
9 you can't even get to those charges.

10 So who was the person that made the entrance? Was
11 it Mr. Clark, was Ms. Oliver, or was it both? Remember, in
12 regards to my client, Mr. Clark, not one single thing, not
13 one. In regards to my client, there is no DNA. None. In
14 regards to my client, there's no photograph, not one single
15 one showing him getting off on any of the floors where this
16 happened.

17 All they've got is possession. Possession. That's
18 all they have, ladies and gentlemen.

19 All right. Let's start doing the work.

20 Count No. 1, Conspiracy to commit larceny. What's
21 larceny? Larceny is the theft of property with the intent to
22 take it away permanently. There's no proof of a larceny,
23 because again, you have to have proof of somebody going into
24 the room and taking that property out of the room. They do
25 not have proof of that.

1 They do have proof that there were certain items, an
2 orange shirt, and iPhone watch, and maybe I'll get to that
3 backpack that's seen on my client. Well, I'll get to that.
4 But those are three items. Not the rest of all those entire
5 items.

6 So then in regards to this Count 1, it relate to
7 Gary, Gary Krusinski. So, we go to the AMEX card. Who was in
8 possession of the AMEX card? You don't have evidence as to
9 who's in possession of the AMEX card.

10 You have evidence of the AMEX card being used. But
11 nobody found the AMEX card on my client's possession, or Ms.
12 Oliver's possession.

13 What they're saying is, well, they were sitting
14 right outside of the place where the AMEX card was being used.
15 Look at the receipt. The receipt says that they used it at --
16 well, it was -- I believe it was 10:30. Again, that's a
17 receipt that they pulled up with the AMEX card number on it.

18 However, you have conflicting evidence. You also
19 have evidence -- again, don't take my word for it. You've got
20 to review it, and go back and look at what the AMEX person
21 provided us.

22 What the AMEX person provided us was a detailed list
23 of when the card was being used. In that, we also see that
24 the card was used at 20 -- it 22:30 mountain time. Why is
25 there a difference? I don't know why there is a difference.

1 I don't know if -- I would imagine AMEX wouldn't be able to
2 doctor a receipt. I don't think Sbarro's would doctor a
3 receipt. What I do know, there's a doubt in regards to when
4 that AMEX card was being used.

5 Why is there such a conflict in evidence? I don't
6 know. Don't need to sit here and explain it. It's not my
7 burden of proof. It's the State's burden of proof to show why
8 there's a difference between the card being used in mountain
9 time, and the card being used in pacific time.

10 Not only that, is well, they're going to say my
11 client's walking around with a Sbarro's bag. Use your common
12 sense. Well, use common sense. What is in the Sbarro's bag?
13 We don't know if the specific food items on that list were in
14 my client's bag. What we do know is, whoever had that bag, in
15 the next videos, I believe it's the 7-Eleven videos, they take
16 a phone out of that bag. How do we know there were any food
17 items in that bag? We don't.

18 We would have to guess, and we would have to
19 speculate that those food items that were on the receipt were
20 the same food items that were in the bag, and we just don't
21 have that information in front of us.

22 Not only that, go ahead and look at the videos.
23 Still, it's my basis that in those videos you cannot clearly
24 see that it's my client. He has a mask on, he has -- that
25 person has his hat pulled down, the same identifying clothes

1 that we have in the videos that are clear, are not present in
2 this video of 8/16. So again, look at the evidence to
3 determine if there's sufficient basis to find that that was
4 even my client at the Sbarro -- at the Sbarro's.

5 So again, that's conspiracy to commit larceny.

6 It's the same thing -- same arguments with
7 conspiracy to commit burglary. Again, that requires my client
8 to have entered the room. Again, conspiracy to commit
9 residential burglary, invasion of the home. Again, that
10 requires my client to have entered into the home, or at least
11 aided and abetted into the entry of the home.

12 Remember, if you need to stand up, please stand up.
13 Don't fall asleep on me here; okay?

14 So bottom line is, they don't have evidence of my
15 client entering into this place. What evidence do they have
16 that he aided and abetted into the entry of the place? They
17 don't have any.

18 So that's Count 1, 2, 3, 4, all not guilty.

19 Count 5 is the burglary of the business. That's
20 using the credit card at Sbarro's. Absolutely, no footage of
21 my client using the card at Sbarro's.

22 More so, if you believe that it was Ms. Oliver in
23 the videos that used the cards at other times, guess what? It
24 was always Ms. Oliver. Look at the video immediately after
25 the 7-Eleven video. Whoever that individual is, is -- was

1 sitting -- was moving around in the front of the store. He
2 came up to the register. Whoever the female was in that video
3 is rummaging through stuff. Something dropped out of her
4 purse.

5 In the beginning of that video, she was going to the
6 front of her purse.

7 MR. HART: And, Your Honor, I will reserve our right
8 for a motion.

9 THE COURT: Okay. Go ahead, Mr. Arnold.

10 MR. ARNOLD: Again, I don't know who is in that
11 video. But I do know that that person was in the front of
12 their purse, something dropped. My client bends down, picks
13 it up, hands it to that person. Steps back, walks away. Then
14 whoever that person is in using the purse, goes to the back of
15 her purse, pulls out a card, and uses that card.

16 Okay. How did my client aid and abet in that, if
17 that is my client in the video? He didn't know what card she
18 was going to use. Cards dropped on the floor. Multiple cards
19 are in that person's purse. Again, if you believe that's my
20 client, what knowledge does he have? That's the first thing
21 that the card was being used. That's the first element.

22 The second element is, how does he aid and abet in
23 the use of that card? He didn't say, hey, use that AMEX card
24 that we just got out of the room. Of course he didn't. It's
25 not on video. So again, not guilty.

1 That's the burglary of the business.

2 Same argument, you could use at Sbarro's, it's the
3 same argument for the 7-Eleven.

4 Count 7, fraudulent use of the credit card or debit
5 card, same argument. The only person that was using the
6 credit card was whoever that female was in the video. My
7 client did not use the credit card, nor did he suggest what
8 credit card to use. That's completely wrong what the State
9 said about, well, he benefitted from it.

10 Again, he did not know what card she was going to
11 use. If he gave her a counterfeit bill and said, go ahead and
12 use this and make payment, that's aiding and abetting. Of
13 course, he's going to be liable for that crime, because she
14 actually used it, but he's getting the benefits from that.

15 There is nothing in that video that suggests that he
16 knew what form of payment that she was going to use. In fact,
17 look at the video. He wasn't even standing there when that
18 form of payment was being used.

19 Not guilty, count 7.

20 Same argument, not guilty, count 8.

21 Count 9, conspiracy to commit larceny.

22 Count 10, conspiracy to commit burglary.

23 Count 11, residential burglary.

24 And now we're at the Paris Hotel room with Marissa
25 -- Marissa Metro, Brooke Bargholtz that came and testified and

1 Rebecca Finger that came and testified.

2 Again, the only connection my client has to this
3 case is Rebecca Finger's stolen watch which he was attempting
4 to sell. If you recall though, obviously, my client is in the
5 business of selling watches, because not only did he bring one
6 stolen watch, he brought another watch which was not stolen.
7 Trust me. If it was stolen, they would have told us that it
8 was stolen.

9 But the same serial number that they looked at on
10 the second watch that he brought to this transaction at Casino
11 Royale, that one wasn't stolen, and nor is he being charged
12 with it; okay?

13 Again, possession of stolen property as opposed to,
14 he stole the property, which I say he didn't. And again, the
15 thing with this one is what's very important in the room. In
16 the room, again, we have this cell phone on the bed. The CSAs
17 picked up the cell phone, and what did they find? Not my
18 client's fingerprint on it, but they did find another male's
19 fingerprint on it.

20 Why is that relevant? It's very relevant. Agin,
21 these were four women, two of them were repeatedly asked, did
22 anybody else come into the room? No. There were no other
23 males in that room. They were all four females.

24 That report, and you can go back and look at it, it
25 says, the fingerprint lady specifically excluded my client as

1 having any fingerprints in that room. And more specifically,
2 on that phone. So whoever that idiot was that left that phone
3 on the bed, that's the person that we should have been
4 investigating and charge, and tried to figure out how did he
5 get into that room. But it wasn't my client.

6 MR. HART: Your Honor, I'm going to object as to
7 stating facts not in evidence. I believe there was male DNA
8 in the room.

9 THE COURT: I believe Mr. Arnold has stated it
10 wasn't his client's DNA. Is that correct, Mr. Arnold?

11 MR. ARNOLD: Correct, Your Honor.

12 THE COURT: Okay.

13 MR. ARNOLD: And whether it be a DNA or it be a
14 fingerprint, neither of them were my client's. Whether it be
15 DNA of a male, whether it be the male's fingerprint, they were
16 not my client's. They were excluded. Excluded means there's
17 no way that he was in there. Okay? This stuff about touch
18 DNA, well, my fingerprints could be in there, but they
19 couldn't be in there.

20 Listen, there's where you use your common sense.
21 You did one, two, three, four different room burglaries, and
22 there is no DNA? There's no fingerprint stuff in you, and
23 four of them, that just doesn't make sense. Somebody's going
24 to make a mistake and their stuff is going to be in those
25 rooms.

1 Count 10, conspiracy to commit burglary, residential
2 burglary of the four girls' room at the Paris Hotel. Invasion
3 of the home, of that same room, all not guilty for my client.

4 Same with count 13, theft. No proof that my client
5 entered that room to take anything out and to keep it. The
6 evidence, again, suggests my client was in possession. How he
7 came into possession, don't sit up in here and wrack your
8 brain. That was for the DA to prove how he came into
9 possession of that.

10 And just because it's stolen doesn't mean that he
11 entered into the room and got it.

12 14, my client is not charged in that. That's
13 burglary of a business. That's Ms. Oliver going into a Target
14 and using the credit cards.

15 The only thing I want to mention about this is, my
16 client wasn't around. This was Ms. Oliver, or whoever it was,
17 going into the business and doing this all on her own. This
18 is a person with free independent will, committing a crime,
19 that only is she committing a crime, it's like I told you, the
20 DA can't even sit here and charge her, charge my client with
21 that crime, because he was nowhere around.

22 In no form and no fashion did he aid or abet in the
23 commission of her using that card.

24 MR. HART: Your Honor, I'm going to object. This
25 does not relate to his client.

1 THE COURT: Well, overruled. Go ahead, Mr. Arnold.

2 MR. ARNOLD: Thank you. Again, I'm just using this
3 for an example, to show that the DA can't even charge my
4 client for that, because there was no conspiracy. They
5 couldn't figure out how they conspired to agree for her to use
6 the card, if it's her. Or that he benefitted in some way from
7 her use.

8 So Count 14, not guilty.

9 Count 15, attempted fraudulent use. That would be a
10 not guilty for my client. He's not charged in there.

11 Same with Count 16, it'd be a not guilty. He's not
12 even charged in it.

13 Same as 17. Same as 18.

14 Now, we're down to 19. Esther Chae. Let's start
15 here with Esther Chae. That photo lineup that Esther Chae did
16 was 2 months and 15 days after this whole entire thing
17 happened. How she fortuitously picked out my client is beyond
18 me to this day.

19 However, she did. She picked number four; okay?
20 But what did she tell you? And this is the only thing you
21 need to know, to find my client not guilty. She, herself, is
22 only 50 percent knowingly that it's him. Fifty percent.
23 She's not 100 percent sure. She's not 80 percent sure. She's
24 50 percent sure; okay?

25 She has doubt. With her having doubt, you should

1 have doubt. And why should you have doubt? Because, again,
2 no DNA, no fingerprints, no video, nothing. And you had an
3 officer, what do you call him, a TACK (sic) officer, you had
4 an officer come into here today, and I don't know if you
5 caught it, it's like, you know, I do this for a living, and so
6 I heard it. But I was like, I wonder if the jury heard it.

7 And what he said was, he had a warrant from
8 6/14/2020 to August 27, 2020, for these phones and then the
9 locations and everything like that. Not once through all
10 their exhibits do we see where my client's alleged phone was
11 at on 6/15. You know why? There ain't no evidence. Just
12 like we don't have any evidence of any video of my client at
13 6/15. Just like we have no evidence of DNA, or fingerprints.
14 My client wasn't there; okay?

15 And think about this. I'm sitting here choking you
16 choking you, hands around your neck, and I'm looking at your
17 nose and your mouth. That just doesn't make any sense. I'm
18 looking at the eyes. The eyes. And I don't know if you guys
19 can see it from there, but that's clear as day, my client
20 doesn't have any eyebrows. That alone would have been
21 shocking to me.

22 She came into this courtroom from this door, walked
23 up here, got all the way up there, and then you know, the DA
24 waits until the very last couple of questions, do you see that
25 person in the courtroom today? She looks at you guys first.

1 Like, what was that? And then she looks at their table. This
2 guy choked her.

3 Supposedly, she was in fear of her life. That's
4 easy. I know where that person was sitting. I don't have to
5 look all over the courtroom. It was for you. That wasn't for
6 me. That was for you. That was dramatics. Okay?

7 Remember, each and every one of these witnesses,
8 before they get up on the stand, are prepped by the DA.
9 That's their job. Remember that one witness who came in here,
10 he told us that the social security photo, well, that came
11 from what we associated with her phone, the lady's phone in
12 this case. He leaves, walks out of here. And then what was
13 it, an hour later, and he hustles back in here and tells us,
14 oh, I made a mistake. Do you see how this is working?

15 These people are being fed the answers. These
16 people are being reminded of what their testimony is. This is
17 what's happening. That's why I'm asking you, just don't
18 swallow it, review it. Look at the evidence for what it is;
19 okay?

20 Esther Chae, 50 percent. That alone. You know, and
21 here's the thing. Like you hear these charges, you know,
22 fraudulent use of a credit card, commit larceny, commit
23 burglary, you know. If it was a murder case, and this -- they
24 said, well, the person that shot me, I'm only 50 percent sure
25 that he shot and caused the murder, the jury would be like,

1 no, I can't put this person away for life.

2 Here's the thing, the standard that's in a murder
3 case is the same standard here; okay? It's beyond a
4 reasonable doubt. She has doubt. She told you she had doubt.
5 She wrote it down that she had doubt. She's only 50 percent
6 sure that it could be him. And there's no other evidence on
7 the face of the planet that is going to corroborate that it's
8 him. There isn't. Just isn't.

9 He didn't have possession of any of her items. Not
10 one. You know why? It wasn't my client. Not guilty.

11 Where are we at, 17, 18, 19, not guilty. 20, not
12 guilty. 21, 22, 23, not guilty. 24, I have a little note to
13 myself, look at the piece of evidence with the laptop. It
14 shows that on that date, June 15th, that the laptop, you know,
15 I guess she had some other Apple device. And you can figure
16 out where your laptop is by hitting it, and its signal where,
17 the signal at the flamingo.

18 Is my client's phone coming from the flamingo? No.
19 Is my client's video at the flamingo? No. Is there any
20 evidence that my client was at the flamingo? No. The person
21 that choked her, was at the flamingo with her laptop, a few
22 hours later. Don't take my word for it. Look at it.

23 Coercion, not guilty.

24 26, this is the Harrah's Hotel with Bertha Gerdeau.
25 Again, I'm not going to repeat all the arguments that I made.

1 But I do want to use a common day life experience. Okay.
2 Let's say your house was burglarized. Your house is
3 burglarized. The insurance adjuster comes in. You give him a
4 list. He's going to ask you for an inventory of what was
5 stolen out of your house; right?

6 In this list, you can sit there and you can say,
7 well, I had a 72 inch T.V. You're going to sit there and say,
8 well, I had that leather couch, you know that one that leans
9 back and it has two cup holders in it. You're going to sit
10 there and say, I have this expensive crystal clock that was up
11 on the wall. You can put whatever you want on that list;
12 okay?

13 But the insurance adjuster is going to say, well,
14 thank you for that list. Now, can you provide us with
15 receipts? Can you provide us with proofs of purchase? Can
16 you provide us with serial numbers? Because the insurance
17 company is not stupid. They're just not going to give you
18 full replacement of all those items that you just put on the
19 list, just because it came out of your mouth; okay?

20 And you, as jurors, should not just accept Ms.
21 Gerdeau's testimony, or anybody else's testimony in regards to
22 what was exactly stolen out of their room, unless there is
23 some type of photograph to show that it was in their
24 possession. Unless they show there was some type of receipt
25 that it was in their possession. Unless they show some type

1 of serial number that it was in their possession. You have
2 nothing. You have someone saying, well, I had these two
3 Gucci, you know, pairs of shoes, and they cost \$300, \$400.

4 And the DA is going to come up here and say, well,
5 Ms. Gerdeau, well, she didn't have any reason to lie. Well,
6 yeah, she does. She made a police report and now she can
7 claim that stuff. Is it going to be verified? It has to be
8 verified.

9 And the other reason that it has to be verified is
10 they're asking you to accept the values of those various
11 items. I don't know if Ms. Gerdeau got a knockoff. I don't
12 know if Ms. Gerdeau really went to the Gucci store, or the
13 Louie Vuitton store, or whatever store she went to, to buy her
14 fancy glasses and everything.

15 All I needed was a receipt. All I needed was a
16 credit card transaction to show that she actually purchased
17 those things. You need proof beyond a reasonable doubt. And
18 again, he didn't even enter into the room.

19 28, not guilty.

20 29, not guilty.

21 30, not guilty.

22 31, this is Jewell Love. Jewell Love that came up
23 here and said, no, I don't think my cousin was involved, but
24 had the Detective, Detective Mann still check to see if that
25 cousin was involved. But she told us something different.

1 Jewell Love, she's the one with the Louie Vuitton
2 bag. She's looking at a blurry photo, the photo that they
3 keep putting up there every single time. And for the life of
4 me, I mean, you review the evidence, but I can't see LXV on
5 that. The initials for Louie Vuitton. I can't see it. Maybe
6 you guys can see it. Okay.

7 But again, what does it go back to? That's
8 possession. That's just possession, how he came into
9 possession of that is not before you and does not need to be
10 decided by you. Because there is not one single shred of
11 evidence that my client was in the room.

12 And in this room, guess what? The person that broke
13 into the room, that guy or woman was a dummy, too, because
14 they left the beanie right there. The beanie on the bed. And
15 I'm still wondering how we didn't pull DNA out of the beanie
16 and figure out who was involved in that. All kind of hair
17 should have been in that beanie.

18 But regardless of the point, they did tests on it,
19 and what did it do? Excluded my client. No fingerprints in
20 the room. Again, not my client. No video of him getting off
21 that floor. Not my client.

22 The video that we do see, is some bag hanging off of
23 him in the -- in front of a machine. Again, we don't know
24 that's the bag.

25 Here's the thing which how we know that it was my

1 client in that video. The cab video. The cab video was as
2 clear as day. Look at it. You can zoom in on that one, and
3 you can look at that one, remember what my client's face
4 looked like, and you can see clear as day, that's my client.

5 But the next videos, the ones in the Harrah's are
6 not that clear. But they can match the clothing. And the
7 clothing is consistent. Not only can they match the clothing,
8 what do you know? One of the pieces of clothing that was
9 upstairs was on my client's back when the police took a photo,
10 that orange shirt. Again, how he came into possession of it,
11 I don't know. Did he go upstairs? No, he didn't, because
12 there is no vide of him going upstairs to that room.

13 There's no entry of him going into that room. And
14 no DNA, no fingerprints, not guilty.

15 Do I see possession of stolen property on this
16 Indictment? No, I do not

17 32, not guilty.

18 33, not guilty.

19 34, not guilty.

20 35, theft. Here's the issue that we come to.

21 Again, Tupac shirt, that's maybe \$20. I'll give
22 them \$50. Let's go on the high end. Louie Vuitton backpack.
23 I do not know if that's a Louie Vuitton backpack. She came in
24 here and said it was. Then I asked her some very specific
25 questions about, was that the only backpack like that, she

1 said yes. Do -- was that the certificate of authentication
2 with that backpack? She said yes.

3 I go, is that the only backpack like that made in
4 the whole world? She said yes. The prosecutor, she knew, oh
5 boy, she knew Ms. Jewell Love messed up. So she had to come
6 up here and what we call rehabilitate her, and you know, go
7 through what I just asked her, and then she went back on all
8 of her previous answers.

9 Oddly, and the evidence is not clear, as you can
10 see, she have a Louie Vuitton backpack on his back. There's
11 no proof of it. So how do we know that it equated to the
12 value of \$1,200 or more?

13 They threw in jewelry. What jewelry? My client
14 wasn't in possession of any jewelry. And where's the proof
15 that that jewelry cost "X" amount? Again, is that a diamond
16 ring in your house? It was stolen. You can't sit here and
17 say that's a \$50,000 diamond ring without some kind of proof
18 and expect the adjuster to replace that ring. It's not
19 possible.

20 Not guilty, Count 35.

21 Count 36, not guilty, because that's not my client
22 and he wasn't in possession of a Victoria's Secret card.

23 Count 37, possession of burglary tools. Never,
24 because my client, he didn't burglarize any establishment, and
25 he didn't have any tools, nor is his fingerprints or DNA

1 anywhere on those doors, around the doors, on that same floor,
2 nothing,

3 Count 38, guilty, carrying a concealed weapon. I
4 have no reason to dispute the officers picked him up, he had a
5 weapon at the time.

6 Did I get all the counts?

7 MR. HART: 38. (Inaudible).

8 MR. ARNOLD: Yeah, I did 38. Was that the last one,
9 Marty?

10 MR. HART: Yes.

11 MR. ARNOLD: So, my closing remarks.

12 Instruction 39, you may draw reasonable inferences
13 from the evidence which you feel are justified in the light of
14 common experience, keeping in mind that such inferences should
15 not be based on speculation or guess.

16 Here are my notes. You will have to guess that my
17 client and Ms. Oliver had any agreement to go into rooms and
18 steal items out of rooms. You would have to guess on that.
19 You would have to guess that he had knowledge. If you contend
20 that she went into the rooms, you would have to guess that he
21 had knowledge that she went into those rooms, as opposed to
22 maybe receiving stolen property and giving it to him to put on
23 sale at LetGo like he did.

24 And lastly, you will have to guess, because there is
25 not one scintilla of evidence, which I told you from the

1 beginning, that he ever entered into those rooms.

2 So I went through the charges. I gave you reasons
3 why it should be not guilty on every single charge.

4 And the last thing, you know, I like that word that
5 Mr. Hart used, the prosecutor's going to come up here and
6 lambaste everything that I said. Well, I don't know if he's
7 going to lambaste everything I said. He is going to dispute
8 everything I said. But again, it's just all statements. All
9 I'm asking you to do is, there is evidence, look at it.
10 Review it. But just don't accept it and don't accept my
11 statements, or don't accept his statement for it.

12 Make reasonable inference as to what is the logical
13 conclusion of that. And what I'm going to tell you for each
14 and every piece of evidence that they offered, the logical
15 conclusion is not that they entered into the rooms. Just
16 because they have phone evidence doesn't mean they were in the
17 rooms.

18 Between Harrah's and Paris, you all know if you've
19 been down on the Strip, there must be at least a hundred
20 businesses, there must be at least, you know, 50, 60 floors in
21 between these places. Use reasonable inferences. Just
22 because the phones were there doesn't mean my clients were
23 there. Or where they're saying they were.

24 So scrutinize that evidence, and the logical
25 conclusion is, not guilty. Thank you for your time.

1 THE COURT: All right. Thank you, Mr. Arnold.

2 Ladies and gentlemen, let's just take a five minute
3 recess before State's rebuttal argument.

4 During this recess, you are not to discuss or
5 communicate with anyone, including your fellow jurors, in any
6 way regarding the case or its merits, either by voice, phone,
7 e-mail, text, Internet, or other means of communication or
8 social media. You're not to read, watch, or listen to any
9 news or media accounts or commentary about the case. You're
10 not to do any research such as consulting dictionaries, using
11 the Internet or using reference materials. You're not to make
12 any investigation, test the theory of the case, recreate any
13 aspect of the case, or in any other way to investigate or
14 learn about the case on your own. And you're not to form or
15 express an opinion regarding this matter is -- this matter is
16 submitted to you.

17 We'll see you back in just a few minutes.

18 THE MARSHAL: All rise for the exit of the jury.

19 (Outside the presence of the jury.)

20 THE COURT: All right. We're outside the presence
21 of the jury panel. Mr. Hart, did you have a motion to make,
22 or something --

23 MR. HART: Yeah. I'm going --

24 THE COURT: -- you want to put on the record?

25 MR. HART: -- to ask for a mistrial or severance. I

1 mean, I guess, I got -- my client just got lambasted, I guess,
2 would be the term to use, during Mr. Arnold's closing
3 argument. And, you know, the rule is, there's not supposed to
4 be an extra prosecutor in the room. I'm pretty sure my
5 client's not getting a fair trial at this point based on
6 having a co-defendant point the finger at her as to what
7 happened, not knowing what happened here, and Mr. Clark not
8 having any knowledge or information.

9 There's my motion.

10 THE COURT: All right. Thank you.

11 State?

12 MR. LEXIS: Judge, I -- the State's position is they
13 can't create their own mistrial among --

14 THE COURT: I'm sorry, you know, I just can't hear.

15 MR. LEXIS: The State can't -- the defense can't
16 create their own mistrial between the two. In addition, Mr.
17 Arnold was like interpreting the evidence as he saw it, for
18 his client, and I believe he was commenting on the evidence.

19 THE COURT: Do you have anything further, Mr. Hart?

20 MR. HART: He was interpreting the evidence and
21 pointing a -- pointing a finger at my client, Your Honor. I
22 mean, we had the discussion earlier where we can't open a door
23 against my client by cross-examination by Mr. Arnold. And
24 it's one thing for me to cause a problem for my client. It's
25 another for co-counsel to do it. Or I guess, not co-counsel,

1 counsel for the co-defendant.

2 THE COURT: All right. Thank you.

3 MR. LEXIS: And Judge, can I just add, Mr. Arnold
4 did not bring up any bad acts that were previously ruled upon
5 that were not allowed into evidence.

6 THE COURT: All right. Thank you.

7 Any comments that Mr. Arnold may have made regarding
8 the co-defendant does not rise to the level of antagonistic
9 defenses that warrant a severance of this case or a mistrial.
10 So I am going to deny the motion.

11 If anyone needs to take a personal break, please do
12 so. And I'm going to bring the jury back in as soon as
13 possible.

14 (Court recessed at 4:00 p.m., until 4:06 p.m.)

15 (Inside the presence of the jury.)

16 THE MARSHAL: All rise for the entry of the jury.

17 THE COURT: All right. Welcome back, ladies and
18 gentlemen. Before Mr. Lexis presents his rebuttal argument,
19 on your chairs or on your desk area we've given you a verdict
20 form for each defendant.

21 The verdict forms that you have for Mr. Clark, in
22 the body of it, it said -- it references Ms. Oliver. That's a
23 typographical error. The -- going back with you when you
24 deliberate this case will be the official verdict form
25 attached to the blue piece of paper.

1 This will be signed by your foreperson. And so you
2 will have one for Ms. Clark -- I mean, excuse me -- Clark and
3 Oliver separate. And so like I said, just disregard the
4 typographical error in Mr. Clark's verdict form that was given
5 to you as a worksheet. The one in blue is the official
6 verdict form for both defendants.

7 Mr. Lexis, are you ready?

8 MR. LEXIS: Yes, Your Honor.

9 STATE'S REBUTTAL CLOSING ARGUMENT

10 MR. LEXIS: Ladies and gentlemen, there's a mountain
11 of evidence in this case, so it's no surprise what you heard
12 from the defense. Not at all.

13 Before I give you my PowerPoint, I wrote down
14 everything they just talked about. And I'll try to be brief
15 folks, because I know you guys have heard a lot.

16 I first want to bring up the fact that both defense
17 counsels come up here and had a hard time understanding why
18 Ms. Cole would say the act of one is the act of all.

19 As you know, she was talking about aiding and
20 abetting and conspiracy when she said that. And right from
21 your jury instructions it states, "The act of one co-
22 conspirator pursuant to in furtherance of a common design or
23 conspiracy is the act of all conspirators."

24 In addition, defense counsel just came up here and
25 kept referring several times to, well, my client benefit, a

1 benefit, a benefit. Well, straight from your jury
2 instruction, "The crime is the agreement to do something
3 unlawful. It does not matter whether it was successful or
4 not."

5 Folks, when defense counsel opened -- did their
6 opening statement, I took down everything he was telling all
7 of us. He came out right out of the gate several times with,
8 all the evidence the State is going to present is to show that
9 the defendant entered the room.

10 Actually, no, not at all. That's part of the
11 reason. The evidence shows that both of these individuals
12 went in that room. So they would both be liable with the
13 crimes they're both charged with under theory one, directly
14 committed the crime. But you will note, he did not mention
15 about theories two and three, which the evidence shows as
16 clear as day they're guilty of both.

17 In your Indictment, if you go to any charge that
18 they're both charged with, you will see, as Ms. Cole tried to
19 explain, I just picked one at random, Count 5, since it's in
20 the middle of the page. You will see at the bottom of each
21 one of these charges, they both charged with, that there's
22 three forms of liability, folks.

23 Where it says, the defendant is being criminally
24 liable under one of the following principals of criminal
25 liability, one, directly committed the crime and/or by aiding

1 and abetting in the commission of the crime, and/or pursuant
2 to a conspiracy.

3 Once again, four of you could believe theory one
4 happened, four of you could believe theory two happened, four
5 of you could believe theory three happened. All that you need
6 is to find one of the three, and they're guilty.

7 He goes to great length to try to focus on the first
8 theory, even though once again, the State believes all 12 of
9 you should find him guilty by way of all three theories. And
10 Ms. Oliver, as well. But he goes to great lengths not to
11 mention aiding and abetting or conspiracy, during his opening
12 statements, and his closing. He's trying to get you to focus
13 on, oh, the enter -- just -- he's got to enter, he's got to
14 enter.

15 Well, the evidence showed he did enter, but it even
16 -- the evidence is overwhelming as far as aiding and abetting
17 and a conspiracy.

18 He tells you in opening statement, you will hear of
19 no fingerprints and no DNA evidence. Fails to mention though
20 that his co-conspirator, an aider and abetter, just so
21 happened to leave a print behind in one of the rooms. And
22 that DNA evidence couldn't have been in a more damning place,
23 the same room Esther Chae identifies this man as 50 percent,
24 right out in the hallway is DNA evidence of his co-conspirator
25 and aider and abetter. No mention of that.

1 Then he closes with this. The only piece of stolen
2 property that was in my client's possession was a watch. Well
3 what about the shirt on his back, when caught? Went to great
4 length to cross-examine that woman. What'd she say? Yeah, I
5 use it as a nightshirt, as well. It's a large. The Detective
6 told you the same thing.

7 No mention of the stolen cards on his phone. No
8 mention of the backpack, and surely no mention of the LetGo
9 and Facebook account with stolen property all over it. Why?
10 Because all that is evidence of aiding and abetting and
11 conspiracy liability.

12 Another thing. Mr. Hart came up here and talked
13 about a lot of things regarding possibilities and speculation.
14 You will see possibilities and speculation -- that's not my
15 word for it, but we'll get to it when we get to the law -- is
16 not reasonable doubt. We could do that and go round and round
17 and round in every case about what it could've, should've,
18 would've, this person could've done that, we would've, this
19 would've happened.

20 He brings up lock interrogation. Well, you heard
21 the Detective say, you know, sometimes when you breach the
22 room it doesn't -- it doesn't register. You heard as far as
23 this isn't an abandoned room. The victims give time frames.
24 But we want to engage in possibility. Well, what if this,
25 speculate as to if we had that. That's not reasonable doubt.

1 Same with the blanket comment. What we -- what do
2 we not have? That couldn't be more of possibilities and
3 speculation. Attack the CSA for not doing door handles and --
4 these CSAs told you their trained in this. They take into
5 account mixtures, textures, frequency it's been touched.

6 And they also told you when it comes to DNA of
7 latent prints, there's no guarantee you've going to leave one
8 behind. And that's just the first thing. You have one of
9 these rooms with just one latent print lifted. Do you think
10 that person in that room, and the person before them, only
11 have one person touch something with one finger? No.

12 Went around with Clorox everywhere and the -- and
13 she came in there with gloved up the entire time? Come on.
14 These people know, and they told you, it's no guarantee you're
15 leaving DNA behind. There's no guarantee you're leaving
16 latent print behind, so they do the best they can.

17 But once again, we're going back to speculating this
18 -- what's it -- what were the -- you don't speculate as to
19 maybe there is more prints, or maybe it's possible they could
20 have dusted more things, even though they didn't see anything
21 on the surface to texture.

22 And then by the way, again, the next step which is,
23 is it a good enough quality for the analyst to even analyze?
24 Defense counsel also wanted to make -- says, well, we should
25 have heard from more Detectives, as well. Well, folks, the

1 Detectives that interpreted the warrants in this case, after
2 Mann, you heard from. The TASS Detective, who told you that
3 he was getting the phone data, the mapping, and talking about
4 those warrants, as well as the takedown officers.

5 (Indiscernible) came in here and talked about the
6 Facebook and the Letgo. More warrants. More warrants.
7 Those, as far as the State's concerned, are your important
8 Detectives this jury needs to hear from. Once again,
9 possibilities and speculation. Well, what if we would have
10 heard from this guy, speculate as to this. No. That's not
11 reasonable doubt, folks.

12 Mr. Arnold comes up, once again, possibilities and
13 speculation. He tells you, does it make sense that he's going
14 to just -- they're going to go up there and keep knocking on
15 doors? When you're engaged in this type of behavior, yes.
16 You see on the video them just wandering around, not to
17 mention all the other records you've got.

18 Then, of course, speculate as to the video from
19 Lemons and what if they got more, speculate as to that. Maybe
20 it's possible they could have done this.

21 He comes to you and then says, trust me, it was not
22 stolen. Well, first of all, what he has to say is not
23 evidence. DNA and fingerprints, again, these don't come with
24 timestamps and they don't come with expiration dates. And you
25 heard the CSA analyst tell you, sometimes you leave them,

1 sometimes you don't, as you heard from the experts as well.

2 I made that clear to get that out, because I know
3 there's a lot of times a notion is, just because my hands are
4 here, sure enough, DNA and fingerprints. That's not how it
5 works. Again, folks, you see how many latent prints were
6 lifted. Not just analyzed, but lifted in total. One of the
7 rooms just had one.

8 Then he keeps saying it's excluded. Excluded.
9 Which once again, you heard me go back to it several times.
10 And even though I'm sure you got sick of hearing it, I wanted
11 to make sure I brought it up with every expert. Excluded does
12 not mean they didn't touch it.

13 Then they talk -- the cousin, once again, is it
14 surprising that these women tried to first point the finger at
15 somebody they've (indiscernible) in an argument with? Use
16 your common sense. Right off the bat, what are they telling
17 them concerning their wrapper. Soon thereafter, they
18 (indiscernible) up and they're together and they don't even
19 want the person to confront them. And once again, that's
20 speculation of possibilities, of evidence that doesn't point
21 to any of that direction, that came from that stand.

22 Then he goes on to say, don't consider items that
23 are stolen. Really? Would you burglarize your house, or
24 anybody's house, and the person's caught soon thereafter with
25 it, do you think the law says don't take that into

1 consideration? No, folks.

2 As the Judge told you, we'll get to it, direct and
3 circumstantial evidence. Often these cases are proved by
4 circumstantial evidence, even though you didn't see it
5 raining, and you get out in the morning, and you see the
6 street's wet, etcetera, often these cases are proved by a
7 string of circumstances and conduct before, during and after,
8 for you to draw that conclusion.

9 Esther, he then goes on to attack Esther. Folks,
10 it's shocking that that woman was able to identify anybody,
11 given the situation of the interaction, catching her by
12 surprise, the immediacy of it, and them talking off. The
13 Detective told you in his professional opinion he didn't even
14 bother with the female given the interaction with that, even
15 though he saw her.

16 But yet sure enough, he identifies her. Identifies
17 him, excuse me, at 50 percent. And then goes on to insinuate
18 that there's some type of coercion going on with Metro and the
19 DA's office.

20 Ask yourself, first of all, you heard from her and
21 the Detective when I had her up there, I asked the same thing,
22 and then the Detectives asked the same thing. She moved on.
23 And then when asked, do you have anything else to add? That's
24 when she went back. She says, you know what, I think number
25 4, and then gave the 50 percent.

1 If this -- if -- did she appear to be giving you an
2 academy award winning performance up there, to take down these
3 two individuals? If she was so coached by the District
4 Attorney's Office, do you think we would have told her when
5 asked to identify the defendant if you see them in court, that
6 they're -- she's going to look off to all of you in the jury?

7 Then attacks TASS. And help their -- TASS come up
8 here and only tell you about events after August 20th. What
9 did he tell you, folks? That's when those phones were first
10 subscribed. That was when the phones were subscribed. So
11 obviously, that's the only data he has, from their -- that
12 point on.

13 Oh, then the last part too, that I noted of
14 significance was more coercion by the phone (indiscernible).
15 Yeah, you better believe the State has an obligation if
16 somebody misrepresents something on the stand because they
17 forget something, that yes, what did he tell you? Go back,
18 review your file. The double-check and come back. That's
19 exactly what he did.

20 And when he was crossed again, what did I have him
21 do? There's the document, there's the data came -- that came
22 from Metro. Do it in front of the jury.

23 Could we switch it over, please?

24 And once again, when you have this type of evidence
25 you do this; right? And then when that doesn't work, do this.

1 Blame the cops, blame the witnesses. Could've, should've,
2 would've, possible this, speculate as to that. And when that
3 doesn't work, as you just saw, blame each other. And then if
4 all else fails say, hey, man, as Mr. Arnold came up here and
5 told you, is this a case where they're walking and he engages
6 in a -- some marijuana transaction without her knowing? And
7 they just keep on going?

8 Is this a case where me and Madilyn are walking to
9 Subway and I recognize someone I don't like, and so I go over
10 there and start punching them? Well, mere presence at the
11 scene of a crime or knowledge that a crime is being committed
12 is not sufficient to establish that a defendant is guilty of
13 an offense unless you find beyond a reasonable doubt the
14 defendant was a participant and not merely a knowing
15 spectator.

16 Of course, Madilyn's not guilty of that.

17 However, "The presence of a person at the scene of a
18 crime and companionship with another person engaged in the
19 commission of the crime and a course of conduct before and
20 after the offense are circumstances which may be considered to
21 determine whether the person directly committed or aided and
22 abetted in the commission of the crime.

23 What's that telling you? And we'll get to it, this
24 before and after stuff, and -- and what's happening, going on
25 at the time, is direct and circumstantial evidence.

1 You look at the direct and circumstantial evidence
2 to see if this person is just merely an only spectator. Is
3 that what they are?

4 We will -- Madilyn went over these, but I just want
5 to highlight some as they were up here doing their closing, I
6 was typing and including some that they -- that are relevant.

7 Where two or more persons are accused of committing
8 a crime together, their guilt may be established without proof
9 that each personally did every act constituting the offense
10 charged.

11 Once again, five people in the room, one decides to
12 -- they decide to do a bank robbery, one provides the gun,
13 another one provides the car. One person is just the -- the
14 brain master that concocted all this up. The other person
15 goes in the bank and does it, and the other person is the
16 aftermath guy that just launders the money.

17 Guess what? You don't need to prove which one did
18 what. Of course, and you understand why the law says that. A
19 lot of times people commit crimes. They can't come in here
20 and say, oh, well, you got the right guys, but can't prove who
21 was the getaway drive and who actually went in. You can't
22 prove, you know, who actually went in and who actually
23 benefitted or if no one even benefitted, who got the property,
24 or who -- so we split up the property. You get what I'm
25 saying.

1 All persons concerned in the commission of a crime
2 who either directly and actively committed the act constitute
3 the offense, or who knowingly and with the criminal intent,
4 aided and abet in the commission of, whether present or not,
5 just goes to show you folks, you don't even have to be
6 present.

7 Who advise and encourage its commission with the
8 intent that the crime be committed are regarded by the law as
9 principals in the crime that's committed and are equally
10 guilty.

11 Look how broad these words are and they're orals.
12 Okay, when you see them all lined up like this to say, at a
13 minimum, these two were encouraging each other, or aiding each
14 other, is an understatement.

15 A person aids and bets the commission of a crime if
16 he knowingly and with criminal intent aids, promotes,
17 encourage, or instigates, by act or advice, or by act or
18 advice the commission of such crime with the intention that
19 the crime be committed.

20 To say these two are aiding one another or
21 encouraging one another is an understatement. The State is
22 not required to prove precisely which defendant actually
23 committed the crime and which defendant aided and abetted.

24 This isn't me just repeating the law to you. You're
25 probably up here saying, well, why do you keep repeating the

1 same thing? These are straight from your jury instructions.
2 These are not from me. And it keeps saying the same thing
3 over and over.

4 Now, the reason why I want to put this up here is
5 because some of you might think, well, you know, Esther said
6 that with regards to the robbery, that Clark is the one that
7 came out and did this to her, but the female isn't the one
8 that put her -- her hands on her. She didn't use force.

9 Well, folks, you want to engage in criminal
10 activity, it's risky business. And you have to take on that
11 risk which comes from natural and probable consequences from
12 getting in that activity.

13 The act of on co-conspirator pursuant to or in
14 furtherance of a common design of the conspiracy is the act of
15 all conspirators. Every conspirator is legally responsible
16 for an act of a co-conspirator that follows as one of the
17 probable and natural consequences of the object of the
18 conspiracy, even if it was not intended as part of the
19 original plan, and even if he or she was not present at the
20 time of the commission of the act.

21 If you want to tell somebody, hey, man, why don't
22 you, or encourage somebody, or either aide and abet, or
23 pursuant to a conspiracy, have somebody go and burglarize
24 something, and guess what? It's a pretty probable or natural
25 consequence that when you're going into the hotel room, they

1 might come back. And they might have to use some force to get
2 away, which is exactly what he did.

3 And it is -- this -- these next ones, the reason why
4 I put them in here, is because as you'll see, they keep
5 telling you in different ways to take in the direct and
6 circumstantial evidence of the case, from start to finish.

7 Conspiracy is seldom susceptible of direct proof.
8 And is usually established by inference from the conduct of
9 the parties.

10 What's that telling you? The law recognizes that
11 you're -- a lot of times not going to have video surveillance
12 or somebody telling you, or DNA, or fingerprint evidence,
13 seeing somebody go in and out of that room. Oftentimes,
14 you're not going to have forensic evidence in that room.

15 (Indiscernible) the conspiracy, well, I told you.
16 Conspiracy is seldom susceptible to direct proof and is
17 usually established on an inference of the conduct of the
18 parties. In particular, a conspiracy may be supported by a
19 coordinated series of acts in furtherance of the underlying
20 offense sufficient to infer the existence of an agreement.

21 It is not necessary in proving a conspiracy to show
22 a meeting of the alleged co-conspirators or making of an
23 express or former agreement. The formation and existence of
24 the conspiracy may be inferred from all circumstances tending
25 to show the common intent and may be proved in the same way as

1 any other fact may be proved, either by direct testimony of
2 the fact or by circumstantial evidence, or by both direct and
3 circumstantial evidence.

4 You are instructed, presence, companionship, conduct
5 before, during, and after an offense or offenses are
6 circumstances from which one participation in the criminal
7 intent may be inferred.

8 From start to finish.

9 Now, what is direct and circumstantial evidence?
10 What is the instruction the Judge went over before this trial
11 started and read to you at the end?

12 Direct evidence is testimony of a person who claims
13 to have personal knowledge of the crime such as an eye
14 witness.

15 Forensic evidence, DNA evidence, fingerprint
16 evidence. Circumstantial evidence is proof from a chain of
17 facts and circumstances which tend to show whether the
18 defendant is guilty or not. The law makes no distinction
19 between the weight to be given to either direct or
20 circumstantial evidence, therefore, all the evidence in the
21 case, including circumstantial evidence, should be considered
22 by you in arriving at their verdict

23 Arrogance and greed is what usually catches up to
24 defendants. If we just had one of these defendants, you
25 better believe, we'd still be right here, telling you that

1 those are your people, right there. But a mountain of
2 evidence comes to be when it has a snowball effect when they
3 can't help themselves and do the same thing over, and over and
4 over again. And it's a luxury for a jury, because guess what?
5 When you're determining each and every charge, charged by,
6 charge whatever, you consider every act and take all that
7 evidence into account when determining whether or not they're
8 guilty or not.

9 Let's just go over some of the circumstantial
10 evidence, folks. And I'm not going to break it down as -- as
11 hard as Madilyn did. Just to refresh your memory, all of the
12 circumstantial evidence in the case, the same MO. They break
13 in using a hard tool type object around the key lock, which by
14 the way, they objected when I asked specifically what it was.
15 It was defense counsel himself who impressed with one of the
16 CSA's, and what did she say? Oh, yeah, a screwdriver.
17 Shrugging when they're caught with that, with two screwdrivers
18 in the bag.

19 Hotel res burgs, the commercial burgs are in the
20 same general area on the Strip. The Hotel video, seen
21 together multiple times. The Paris and these women are out.
22 The cab video. You saw. That's how we got definitive proof
23 linking their phone numbers to them.

24 And then in addition, the Walgreens, and where they
25 reside. The credit cards. Oliver uses the stolen cards for

1 the remaining events are present with some of those
2 transactions. The arrest, sure enough, they're caught
3 together, and Clark's phone links them, not only the phone,
4 the -- Clark's phone that links them with the phone number, it
5 verifies it and links him to it. He has a gun. He's wearing
6 a stolen shirt and watch from two different events.

7 And then Oliver, of course, links her to the phone
8 and the phone number, has the burglary tools in her
9 possession, screwdrivers, and stolen cards.

10 The phone mapping expert places both defendants in
11 the same area on the Strip at each event that occurred after
12 they obtained the phones. That's why it was that date.
13 That's when they were subscribed to those phones.

14 Those two events, obviously, 8/21 and 8/23, as well
15 as the takedown, the sting operation.

16 The phone expert, continuous communications, the
17 text messages relating to suspicious behavior, this is from
18 all there in green, Whats up, ready to work or what? Clark, I
19 got tools, etcetera. Also shows photo of them, as with
20 regards to Oliver, photos of them all together, photos of
21 clothes depicted on the video surveillance, with regards to
22 him, more photos of stolen items taken from an event, and the
23 social security cards. And we could go on and on with the
24 Facebook and LetGo accounts, which are under his account,
25 Clark. They gave no mention of that in their opening

1 statements or just now. Multiple photos of both of them
2 together. Multiple pictures of stolen property remained and
3 the multiple items, and clothing that he's wearing that
4 matches video surveillance.

5 Folks, you better believe, is it all we had is
6 circumstantial evidence, which is the law, that flat out tells
7 you, a lot of times that's all we have to rely on. It allows
8 you to infer their intent. If that's all we had, we'd be
9 right here, guaranteed, telling you, those are your two people
10 that are guilty of the -- all crimes charged.

11 But it gets better. Rarely do we have hard direct
12 evidence. What do we got? Esther Chae. Attack her all you
13 want. The woman picked him out of a six pack line up, 50
14 percent, identified in court, saw both of them come out of a
15 room. She gave an accurate description of the female with a
16 tote bag, describe her (indiscernible) bag, and the male, the
17 person she identified in the six pack photo lineup with a
18 backpack.

19 And folks, once again, the DNA evidence that came in
20 this case, couldn't have been at a better location for the
21 prosecution, and for the jury to tie these two up. Sure
22 enough -- and by the way, defense counsel objected. You're
23 entitled to a playback if you want one or need one. You heard
24 from that CSA that took the stand, why she took those. It was
25 believed to be in the peephole.

1 And even if it wasn't even if it was just on the
2 ground, can you imagine the DNA evidence showing up, comes
3 back to Oliver? 16.4 octillion times more likely to have
4 originated from her than an unknown.

5 And just for an extra bonus, we -- she left back an
6 extra print on that Motorola of a right index finger on
7 another event.

8 Folks, the law makes no distinction between the
9 weight to be given to either direct or circumstantial
10 evidence. Therefore, all the evidence in the case, including
11 circumstantial evidence, should be considered at you when
12 you're arriving at your verdict, from the very first piece of
13 evidence to the very last.

14 The evidence in this case, what you are to consider,
15 consists of testimony of the witnesses, the exhibits and any
16 facts admitted to or agreed to by counsel.

17 Sitting back in the jury deliberations, someone say,
18 you know what, speculate as to, you know, what if we had this
19 evidence, speculate and say, what if he said that, you know,
20 it's possible that this could have happened, you know, it's
21 possible if this -- if this would have played out. Maybe --
22 maybe they could have done this. All that stuff is not
23 reasonable doubt.

24 And folks, once again, it's not my spin on it. It's
25 the law. This is your reasonable doubt instruction. A

1 reasonable doubt is one based on reason. It is not mere
2 possible doubt but is such a doubt as would govern or control
3 a person in the more weighty affairs of life. If in the minds
4 of the jurors, after the entire comparison and consideration
5 of all the evidence, are in such a condition that they can say
6 they feel an abiding conviction of the truth of the charge,
7 there is not a reasonable doubt.

8 It goes on to say, doubt to be reasonable must be
9 something actual you could grasp onto, not mere possibility or
10 speculation.

11 The State of Nevada asks that you hold these two
12 defendants accountable for their actions and find them guilty
13 of all counts. Thank you.

14 THE COURT: All right. Thank you, Mr. Lexis.

15 Ladies and gentlemen, we're just -- we're
16 approaching the 5:00 o'clock hour and we had told you that we
17 expect the trial to take six or seven days. We have completed
18 everything now. So we're going to have you come back on
19 Monday morning at 9:00 a.m. for deliberations. You won't wait
20 for us. As soon as you arrive, you can deliberate --
21 deliberate on this case.

22 You're to come back on Monday, wait outside this
23 courtroom like you've been doing all along, and the Marshal
24 will escort you in at that time.

25 So, ladies and gentlemen, during this weekend

1 recess, you must not discuss or communicate with anyone,
2 including your fellow jurors, in any way regarding the case or
3 its merits, either by voice, phone, e-mail, text, Internet, or
4 other means of communication or social media. You're not to
5 read, watch, or listen to any news or media accounts or
6 commentary about the case. You're not to do any research such
7 as consulting dictionaries, using the Internet or using
8 reference materials. You're not to make any investigation,
9 test the theory of the case, recreate any aspect of the case,
10 or any other way to investigate or learn about the case on
11 your own. And you're not to form or express an opinion
12 regarding this case until this matter is submitted to you.

13 Have a safe drive home. We'll see you back Monday,
14 9:00 a.m.

15 THE MARSHAL: Leave your instructions and your
16 notepad on your desk. Leave everything here. Leave
17 everything that -- yep.

18 All rise for the exit of the jury.

19 No, leave everything. Leave your -- well, take all
20 your personal items with you, but your notepads and your jury
21 instructions, leave right on your desk or on your chair.

22 (Outside the presence of the jury.)

23 THE COURT: All right. Can all counsel provide my
24 Court Clerk with your contact information for Monday?

25 MR. HART: We already did.

1 THE CLERK: I got their cell phone numbers.

2 THE COURT: You already -- you already did? Oh,
3 everyone's efficient. Thank you. Have a good weekend.

4 MR. HART: You, too.

5 (Jury recessed 4:42 p.m., until Monday,
6 April 19, 2021, at 9:07 a.m., to begin deliberations.)

7 * * * * *

8 (Court and recessed at 4:42 p.m., until Monday,
9 April 19, 2021, at 3:12 p.m.)

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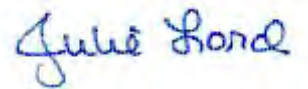
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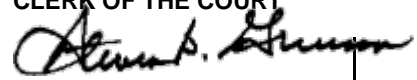
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* * * * *

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case.

A handwritten signature in blue ink, reading "Julie Lord".

VERBATIM DIGITAL REPORTING, LLC



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	CASE NO. C-351676-1
)	C-351676-2
Plaintiff,)	
vs.)	DEPT. NO. XVII
)	
VENESHIA LANETTE OLIVER,)	
and DARRELL CLARK,)	
)	
Defendants.)	

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

MONDAY, APRIL 19, 2021

TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 6

APPEARANCES:

FOR THE STATE:	CHAD N. LEXIS, ESQ. <i>Chief Deputy District Attorney</i>
	MADILYN M. COLE, ESQ. <i>Deputy District Attorney</i>
FOR DEFENDANT OLIVER:	MARTIN W. HART, ESQ.
FOR DEFENDANT CLARK:	CARL E. ARNOLD, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, CLARK COUNTY, NEVADA, MONDAY, APRIL 19, 2021

2 (Court, counsel, defendants not present.)

3 (Jury reconvened at 9:07 a.m. for deliberations.)

4 THE MARSHAL: All rise for the entering jury.

5 Jury, be seated.

6 (CLERK SWEARS MARSHAL TO TAKE CHARGE OF THE JURY.)

7 THE CLERK: Thank you.

8 THE MARSHAL: All rise for the exit of the jury.

9 (Jury retires to begin deliberations 9:09 a.m.)

10 (Court in recess until 3:12 p.m.)

11 (Outside the presence of the jury.)

12 THE COURT: On the desk there, next to Mr. Hart.

13 And Mr. Hart has a copy of the Jury Instructions if you want
14 to refer to those.

15 (Pause in proceedings - attorneys review juror's question.)

16 THE COURT: All right. Is there an agreement?

17 MR. LEXIS: Your Honor, the State would request that
18 the word "indeed", the Court refers you back to Count 25 of
19 the Indictment.

20 THE COURT: Mr. Arnold?

21 MR. ARNOLD: I agree with that.

22 THE COURT: Mr. Hart?

23 MR. HART: And if you want to add supplemental,
24 where it is referring to the count of coercion. Count 25 is
25 the count of coercion.

1 MR. LEXIS: It's just without supplementing the jury
2 instructions, Judge, I mean, I think referring them back to
3 Count 25 is as clear as it could be.

4 THE COURT: Mr. Hart, I wasn't quite clear what
5 you're requesting.

6 MR. HART: We could put on there that each Count, or
7 you could -- that each count is included in each instruction,
8 to lead them back to this crime, being the coercion, not the
9 burglary, not the robbery, because I think that's their
10 confusion.

11 THE COURT: Well, they identify Count 25 and 3 in
12 their note.

13 MR. HART: Yeah. It says, "What is the term for
14 crime related to coercion or the others." And the crime it's
15 related to is coercion.

16 THE COURT: I think everyone's in agreement on -- in
17 agreement on that specifically referring to Jury Instruction
18 -- is that 3?

19 MR. HART: They're asking about Section 3, the
20 conspiracy to commit a crime.

21 MR. LEXIS: And I think it may refer to the crime --

22 MR. HART: This crime.

23 MR. LEXIS: -- in Count 25, coercion,
24 (indiscernible).

25 THE COURT: Well, it says, "Does the term apply to

1 coercion or other acts during the overall crimes."

2 MR. HART: And in a count, and it applies to this
3 count.

4 THE COURT: You're referring to Count 25?

5 MR. HART: Yes.

6 THE COURT: Well, that's what I'm saying, that say
7 the Court refers you to Jury Instruction 3, Count 25,
8 coercion.

9 MR. HART: Well, no. Their -- we believe they're
10 asking about Section 3, so line 16, 17 and 18 of that page,
11 under Count 25.

12 THE COURT: All right. Say that again? I wasn't --
13 I couldn't follow.

14 MR. HART: I believe they are referring to the third
15 alternative theory of prosecution, which is conspiracy to
16 commit this crime, the coercion.

17 What they asked, is the term crime related to
18 coercion, or other acts during the overall crimes?

19 THE COURT: So you're proposing what, Mr. Hart?

20 MR. HART: That, yes, it's -- this is as to this
21 crime. It is responding to -- referring to coercion, the
22 coercion count.

23 THE COURT: Well, that's what we were saying.

24 MR. HART: I was just saying it with a little
25 specificity.

1 THE COURT: Why don't you start typing.

2 Repeat that, Mr. Lexis or Ms. Cole, whoever. She's
3 going to type as you speak.

4 THE COURT RECORDER: And speak loudly, Mr. Lexis,
5 please.

6 MR. LEXIS: Do you want my (indiscernible)?

7 THE COURT: Yeah. Just -- just repeat it again for
8 the Clerk who is going to type up --

9 MR. LEXIS: The State requests that the Court say,
10 The Court refers the jury back to Count --

11 MS. COLE: 25.

12 MR. LEXIS: -- 25 of the Indictment.

13 THE COURT: Isn't that what you were asking for, Mr.
14 Hart?

15 MR. HART: And I would say, which is the coercion
16 count.

17 THE COURT: Well, it says it right there.

18 MR. HART: The crime of coercion.

19 THE COURT: We'll say, Count 25 of the Indictment,
20 see Jury Instruction No. 3.

21 THE CLERK: Okay.

22 THE COURT: Because that's what it is.

23 MR. HART: Well, Jury Instruction 3 is the
24 Indictment.

25 THE COURT: Correct. I'm saying, look to Count 25

1 in Jury Instruction 3.

2 MR. HART: Okay.

3 THE COURT: Any objection by the State?

4 MR. LEXIS: What was that? What were saying again?

5 THE COURT: Okay. Repeat it.

6 THE CLERK: See Jury Instruction No. 3.

7 THE COURT: No, no, I mean, the whole thing.

8 THE CLERK: Oh. The Court refers the jury back to
9 Count 25 of the Indictment. See Jury Instruction No. 3.

10 MR. LEXIS: Oh, the jury (indiscernible)?

11 MS. COLE: Is the Indictment.

12 THE COURT: Yeah.

13 MR. LEXIS: (Indiscernible).

14 THE COURT: Yeah.

15 MS. COLE: Yes.

16 THE COURT: Okay.

17 MR. LEXIS: Carl, are you good with that?

18 MR. HART: I think it does -- I don't think it
19 answers their question.

20 MR. ARNOLD: You guys are confusing it. All they're
21 looking at is subsection (3) of number 25. I think what Mr.
22 Lexis said initially, and just refer to the coercion count in
23 Count 25, in regards to any theory of liability, period.
24 Done.

25 MS. COLE: But that's explicitly what the Indictment

1 says.

2 MR. ARNOLD: Right.

3 MS. COLE: So there's no need for us to supplement.
4 I mean, that's what it says.

5 MR. ARNOLD: Yeah. But they're not saying --
6 they're not referring to Number 3 Jury Instruction. They're
7 referring to Number 3 --

8 MS. COLE: Number 3 is the --

9 MR. ARNOLD: -- subsection --

10 MS. COLE: -- Indictment. Yes.

11 MR. HART: Yeah.

12 MR. ARNOLD: It's subsection 25.

13 MS. COLE: Yes.

14 THE COURT: Or is this -- or is it --

15 MS. COLE: Yes.

16 THE COURT: -- alternative -- or is it theory number
17 three of Count 25?

18 MR. HART: Yeah.

19 MS. COLE: Yes.

20 MR. HART: That's what they're --

21 MS. COLE: Yes. Theory No. 3 --

22 MR. HART: -- asking about.

23 MS. COLE: -- of Count 25.

24 MR. ARNOLD: So refer them back to --

25 THE COURT: Should we send a note in just to say,

1 are you referring to --

2 MR. HART: Theory Number --

3 MR. LEXIS: Judge, that's the only place where it
4 has (indiscernible) --

5 MS. COLE: The -- yeah -- yeah, that's pretty clear.

6 MR. LEXIS: (indiscernible).

7 MS. COLE: That's what they're referring to.

8 MR. LEXIS: Yeah. They put -- they put number 3
9 here. Unless -- if you want --

10 THE COURT: Okay.

11 MR. LEXIS: -- to go even more specific, I guess we
12 could say --

13 MR. HART: This crime is conspiracy.

14 MR. LEXIS: -- the -- the term crime in Count 25
15 refers to --

16 MR. HART: Coercion.

17 MR. LEXIS: -- coercion. That's fine. Are you good
18 with that?

19 MR. ARNOLD: Yeah.

20 THE COURT: Okay.

21 MR. HART: Yeah.

22 THE COURT: Type that up, Samantha. Did you hear
23 what they said?

24 THE CLERK: Yeah. The term in Count 25 refers to
25 coercion.

1 MR. LEXIS: The term crime --

2 THE COURT: The --

3 THE CLERK: The term crime. Okay.

4 MS. COLE: But say specifically --

5 MR. ARNOLD: Say 25, subsection (3).

6 MR. LEXIS: In Count -- yeah, in Count 25,
7 subsection (3).

8 MS. COLE: Line 17.

9 MR. ARNOLD: Refers to the coercion count.

10 THE COURT: Can you print it here now?

11 THE CLERK: No.

12 THE COURT: Just send it up --

13 THE CLERK: I'll send it to Cory.

14 THE COURT: Does it go to the printer next to Cory?

15 THE CLERK: Yeah. It --

16 THE COURT: And then have it bring it down.

17 THE CLERK: -- I can send it to him, yeah.

18 MR. LEXIS: Could you repeat it one more time now?

19 THE CLERK: Sure. The Court refers the jury back to
20 Count 25 of the Indictment. See Jury Instruction No. 3. The
21 term crime in Count 25, subsection (3), line 17, refers to
22 coercion.

23 MR. ARNOLD: You've got to strike out that whole
24 first part.

25 MR. LEXIS: Yeah. The first part, forget it.

1 MR. ARNOLD: Because that's going to confuse them.

2 MR. LEXIS: Yeah.

3 THE CLERK: So, the Court refers the jury back to
4 Count 25 of the Indictment?

5 THE COURT: Slower. Read it slower. Go ahead.

6 THE CLERK: Oh. The Court refers the jury back to
7 Count 25 of the Indictment. See Jury Instruction No. 3. The
8 term crime in Count 25, subsection (3), line 17, refers to
9 coercion.

10 MR. LEXIS: Okay. It's going to start with "the
11 crime". We're going to start with -- the sentence, "The
12 crime." Correct, Arnold?

13 MR. ARNOLD: Right.

14 THE CLERK: Okay.

15 MR. ARNOLD: So, say it --

16 THE CLERK: So get rid of it.

17 MR. ARNOLD: -- one more time, that sentence that
18 you said.

19 MR. LEXIS: And start with "The crime".

20 THE COURT: Read it slower.

21 THE CLERK: Okay. "The term crime in Count 25,
22 subsection (3), line 27, refers to coercion."

23 MR. LEXIS: Correct.

24 THE CLERK: Is that --

25 MS. COLE: Perfect.

1 THE COURT: There you go. Okay.

2 THE CLERK: All right. Let me send this to Cory
3 real quick.

4 THE COURT: Is there a phone here? Let's call Cory
5 to make sure he's there so we aren't -- we're not waiting.

6 (Pause in the proceedings.)

7 THE COURT: In the event that we have a bifurcated
8 trial that goes forward, are the parties ready?

9 MR. LEXIS: Yes, Judge. Whether -- whether it's --

10 MR. ARNOLD: Yes.

11 MR. LEXIS: -- not guilty or guilty, the -- the
12 State's ready to proceed.

13 THE COURT: Mr. Arnold?

14 MR. ARNOLD: Yes, Your Honor.

15 THE COURT: Because that would only apply to your
16 client, not to Mr. Hart's; correct?

17 MR. ARNOLD: Right.

18 MR. HART: That means I get to leave; right?

19 THE COURT: Correct.

20 MR. HART: Okay.

21 THE COURT: I'm not assuming anything.

22 (Clerk/Marshal conferring.)

23 THE COURT: Counsel, is this -- everyone agrees to
24 -- Mr. Arnold, if you can hand that out to your colleagues.

25 (Pause in the proceedings.)

1 MR. ARNOLD: Yeah. It's perfect.

2 MR. HART: Yeah.

3 THE COURT: And State?

4 MS. COLE: Yep.

5 MR. LEXIS: Yes, Judge.

6 THE COURT: Okay. Then we'll give this to the
7 Marshal to give to the jurors.

8 Is everyone going to be within ten minutes of the
9 Courthouse?

10 MR. LEXIS: Yes, sir.

11 MR. ARNOLD: Yes, Your Honor.

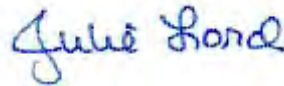
12 THE COURT: All right.

13 MR. HART: Yeah.

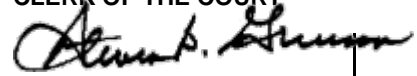
14 (Court recessed at 3:28 p.m., until Tuesday,
15 April 20, 2021, at 10:19 a.m.)

16 * * * * *

ATTEST: I hereby certify that I have truly and correctly
transcribed the audio/visual proceedings in the above-
entitled case.



VERBATIM DIGITAL REPORTING, LLC



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	CASE NO. C-20-351676-1
)	C-20-351676-2
Plaintiff,)	
vs.)	DEPT. NO. XVII
)	
VENESHIA LANETTE OLIVER,)	
and DARRELL CLARK,)	
)	
Defendants.)	

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

TUESDAY, APRIL 20, 2021

TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 7

APPEARANCES:

FOR THE STATE:	CHAD N. LEXIS, ESQ. <i>Chief Deputy District Attorney</i>
	MADILYN M. COLE, ESQ. <i>Deputy District Attorney</i>
FOR DEFENDANT OLIVER:	MARTIN W. HART, ESQ.
FOR DEFENDANT CLARK:	CARL E. ARNOLD, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, CLARK COUNTY, NEVADA, TUESDAY, APRIL 20, 2021

2 (Case called at 10:19 a.m.)

3 (Outside the presence of the jury.)

4 THE COURT: All right. Counsel, we're on the record
5 right now. I've been advised --

6 THE MARSHAL: Sorry.

7 THE COURT: It's okay. I've been advised that we do
8 have a verdict for the defendants. I've been advised by the
9 Marshal that after the jurors told the Marshal that they had a
10 verdict, they were about to leave the courtroom and maybe take
11 their personal break. While on their personal break, I guess
12 some maintenance workers came into the courtroom. There was
13 three or four of them, and were standing here, I guess
14 discussing what work they have to do in the courtroom.

15 The Marshal came in and advised them, or asked them,
16 what are you doing here? We're in the middle of a trial. And
17 they said, we were told to do some work in the courtroom.

18 The Marshal advised them to leave the courtroom
19 because we were in the middle of a trial.

20 And so I just wanted to advise all the parties that
21 there was someone in this courtroom, obviously, not when the
22 jury was here, it's just when the jurors were on the their
23 break they came in, to like I said, look at something they had
24 to fix. And thereafter, the Marshal told them to leave the
25 courtroom, which they did.

1 So any issues -- State, do you have any questions or
2 same --

3 MR. LEXIS: No, Judge.

4 THE COURT: Mr. Arnold?

5 MR. ARNOLD: No, Your Honor.

6 THE COURT: Mr. Hart?

7 MR. HART: No, Your Honor.

8 THE COURT: Okay. Let's call the jury in.

9 THE MARSHAL: Please rise for the entering jury.

10 (Inside the presence of the jury.)

11 THE COURT: All right. Good morning, ladies and
12 gentlemen. I have been advised that we do have a verdict.

13 Who is our foreperson?

14 All right. Ma'am, would you please hand the two
15 verdict forms to the Marshal?

16 (Pause in the proceedings.)

17 THE COURT: The Clerk will now read the verdict form
18 relating to Veneshia Oliver. Counsel and Ms. Oliver, please
19 stand.

20 VERDICT RE: DEFENDANT VENESHIA OLIVER

21 THE CLERK: District Court, Clark County, Nevada,
22 State of Nevada, plaintiff, versus Veneshia Oliver, Defendant.
23 Case No. C-20-351676-1, Department 17.

24 Verdict. We the jury in the above entitled case
25 find the defendant, Veneshia Oliver, as follows:

1 Count 1. Conspiracy to Commit Larceny, Gary
2 Krusinski; guilty of Conspiracy to Commit Larceny.

3 Count 2. Conspiracy to Commit Burglary, Gary
4 Krusinski; guilty of Conspiracy to Commit Burglary.

5 Count 3. Residential Burglary, Gary Krusinski;
6 guilty of Residential Burglary.

7 Count 4. Invasion of a Home, Gary Krusinski; guilty
8 of invasion of a home.

9 Count 5. Burglary of a Business, Sbarro; guilty of
10 burglary of a business.

11 Count 6. Burglary of a Business, 7-Eleven; guilty
12 of Burglary of a Business.

13 Count 7. Fraudulent use of a debt or credit card,
14 Gary Krusinski at Sbarro; guilty of fraudulent use of debt or
15 credit card.

16 Count 8. Fraudulent use of a debt or credit card,
17 Gary Krusinski, 7-Eleven; guilty of fraudulent use of debt or
18 credit card.

19 Count 9. Conspiracy to commit larceny, Inga
20 Williams and/or Kate Berry, and/or Marissa Metro, and/or
21 Brooke Bargholtz, and/or Rebecca Finger; guilty of conspiracy
22 to commit larceny.

23 Count 10. Conspiracy to commit burglary, Inga
24 Williams and/or Kate Berry, and/or Marissa Metro, and/or
25 Brooke Bargholtz, and/or Rebecca Finger; guilty of conspiracy

1 burglary.

2 Count 11. Residential burglary, Inga Williams
3 and/or Kate Berry, and/or Marissa Metro, and/or Brooke
4 Bargholtz, and/or Rebecca Finger; guilty of residential
5 burglary.

6 Count 12. Invasion of a home, Inga Williams and/or
7 Kate Berry, and/or Marissa Metro, and/or Brooke Bargholtz,
8 and/or Rebecca Finger; guilty of invasion of a home.

9 Count 13. Theft, Inga Williams and/or Kate Berry,
10 and/or Marissa Metro, and/or Brooke Bargholtz, and/or Rebecca
11 Finger; guilty of theft, \$1200 or more.

12 Count 14. Burglary of a Business, Target; guilty of
13 burglary of a business.

14 Count 15. Attempt fraudulent use of a credit or
15 debit card, Rebecca Finger, Target; guilty of attempt
16 fraudulent use of a credit or debt card.

17 Count 16. Attempt fraudulent use of a credit or
18 debit card, Rebecca Finger, Target; guilty of attempt
19 fraudulent use of a credit or debt card.

20 Count 17. Attempt fraudulent use of a credit or
21 debit card, Rebecca Finger, at Target; guilty of attempt
22 fraudulent use of credit or debt card.

23 Count 18. Attempt fraudulent use of credit or debit
24 card, Brooke Bargholtz, Target; guilty of attempt fraudulent
25 use of credit or debt card.

1 Count 19. Conspiracy to commit larceny, Esther
2 Chae; guilty of conspiracy to commit larceny.

3 Count 20. Conspiracy to commit larceny, Esther
4 Chae; guilty of conspiracy to commit burglary.

5 Count 21. Residential burglary, Esther Chae; guilty
6 of residential burglary.

7 Count 22. Invasion of home, Esther Chae; guilty of
8 invasion of home.

9 Count 23. Theft, Esther Chae; guilty of theft,
10 \$1200 or more.

11 Count 24. Robbery, Esther Chae; guilty of robbery.

12 Count 25. Coercion, Esther Chae; guilty of
13 coercion.

14 Count 26. Conspiracy to commit larceny, Bertha
15 Geradeau and/or Latoya Gustus; guilty of conspiracy to commit
16 larceny.

17 Count 27. Conspiracy to commit burglary, Bertha
18 Gerdeau and/or Latoya Gustus; guilty of conspiracy to commit
19 burglary.

20 Count 28. Residential burglary, Bertha Gerdeau
21 and/or Latoya Gustus; guilty of residential burglary.

22 Count 29. Invasion of the home, Bertha Gerdeau
23 and/or Latoya Gustus; guilty of invasion of the home.

24 Count 30. Theft, Bertha Gerdeau and/or Latoya
25 Gustus; guilty of theft, \$1200 or more.

1 Count 31. Conspiracy to commit larceny, Jewell Love
2 and/or Raven Hough, and/or Devonica (phonetic) Jones, and/or
3 Patricia Williams; guilty of conspiracy to commit larceny.

4 Count 32. Conspiracy to commit burglary, Jewell
5 Love, and/or Raven Hough, and/or Devonica Jones, and/or
6 Patricia Williams; guilty of conspiracy to commit burglary.

7 Count 33. Residential burglary, Jewell Love and/or
8 Raven Hough, and/or Devonica Jones (phonetic), and/or Patricia
9 Williams; guilty of residential burglary.

10 Count 34. Invasion of the home, Jewell Love and/or
11 Raven Hough, and/or Devonica Jones, and/or Patricia Williams;
12 guilty of invasion of the home.

13 Count 35. Theft, Jewell Love, and/or Raven Hough,
14 and/or Devonica Jones, and/or Patricia Williams; guilty of
15 theft, \$1200 or more.

16 Count 36. Possession of debit or credit card
17 without cardholder's consent, Victoria's Secret card; guilty
18 of possession of document or personal identifying information.

19 Count 37. Possession of burglary tools; guilty of
20 possession of burglary tools.

21 Dated this 20th day of April, 2021, by Renae
22 Decesare.

23 Ladies and gentlemen of the jury, are these your
24 verdicts as read, so say you one, so say you all?

25 MEMBERS OF THE JURY: Yes.

1 THE COURT: Does either party, the State or Mr.
2 Hart, do you wish to have the jury polled?

3 MR. LEXIS: No, Your Honor.

4 MR. HART: Please, Your Honor.

5 THE COURT: All right.

6 THE CLERK: Did he say yes?

7 THE COURT: Pardon?

8 THE CLERK: Did he say yes?

9 THE COURT: He said yes.

10 THE CLERK: Juror No. 1, is this your verdict as
11 read?

12 JUROR NO. 1: Yes.

13 THE CLERK: Juror No. 2, is this your verdict as
14 read?

15 JUROR NO. 2: Yes.

16 THE CLERK: Juror No. 3, is this your verdict as
17 read?

18 JUROR NO. 3: Yes.

19 THE CLERK: Juror No. 4, is this your verdict as
20 read?

21 JUROR NO. 4: Yes.

22 THE CLERK: Juror No. 5, is this your verdict as
23 read?

24 JUROR NO. 5: Yes.

25 THE CLERK: Juror No. 6, is this your verdict as

1 read?

2 JUROR NO. 6: Yes.

3 THE CLERK: Juror No. 7, is this your verdict as

4 read?

5 JUROR NO. 7: Yes.

6 THE CLERK: Juror No. 8, is this your verdict as

7 read?

8 JUROR NO. 8: Yes.

9 THE CLERK: Juror No. 9, is this your verdict as

10 read?

11 JUROR NO. 9: Yes.

12 THE CLERK: Juror No. 10, is this your verdict as

13 read?

14 JUROR NO. 10: Yes.

15 THE CLERK: Juror No. 11, is this your verdict as

16 read?

17 JUROR NO. 11: Yes.

18 THE CLERK: Juror No. 12, is this your verdict as

19 read?

20 JUROR NO. 12: Yes.

21 THE COURT: All right. The Clerk will record the
22 jury verdict. And we'll set a sentencing date as follows.

23 THE CLERK: It will be June 3rd at 8:30 a.m.

24 THE COURT: Defendant is remanded with -- held
25 without bail. She may be removed from the courtroom.

1 Now, we have a verdict form for Darrell Clark, which
2 the Clerk will now read.

3 VERDICT RE: DEFENDANT DARRELL CLARK

4 THE CLERK: District Court, Clark County, Nevada,
5 State of Nevada, plaintiff, versus Darrell Clark, Defendant.
6 Case No. C-20-351676-2, Department 17.

7 Verdict. We the jury in the above entitled case
8 find the defendant, Darrell Clark, as follows:

9 Count 1. Conspiracy to Commit Larceny, Gary
10 Krusinski; guilty of Conspiracy to Commit Larceny.

11 Count 2. Conspiracy to Commit Burglary, Gary
12 Krusinski; guilty of Conspiracy to Commit Burglary.

13 Count 3. Residential Burglary, Gary Krusinski;
14 guilty of Residential Burglary.

15 Count 4. Invasion of a home, Gary Krusinski; guilty
16 of invasion of a home.

17 Count 5. Burglary of a Business, Sbarro; guilty of
18 burglary of a business.

19 Count 6. Burglary of a Business, 7-Eleven; guilty
20 of Burglary of a Business.

21 Count 7. Fraudulent use of a debt or credit card,
22 Gary Krusinski, Sbarro; guilty of fraudulent use of debt or
23 credit card.

24 Count 8. Fraudulent use of a debt or credit card,
25 Gary Krusinski, 7-Eleven; guilty of fraudulent use of a debt

1 or credit card.

2 Count 9. Conspiracy to commit larceny, Inga
3 Williams and/or Kate Berry, and/or Marissa Metro, and/or
4 Brooke Bargholtz, and/or Rebecca Finger; guilty of conspiracy
5 to commit larceny.

6 Count 10. Conspiracy to commit burglary, Inga
7 Williams and/or Kate Berry, and/or Marissa Metro, and/or
8 Brooke Bargholtz, and/or Rebecca Finger; guilty of conspiracy
9 burglary.

10 Count 11. Residential burglary, Inga Williams
11 and/or Kate Berry, and/or Marissa Metro, and/or Brooke
12 Bargholtz, and/or Rebecca Finger; guilty of residential
13 burglary.

14 Count 12. Invasion of a home, Inga Williams and/or
15 Kate Berry, and/or Marissa Metro, and/or Brooke Bargholtz,
16 and/or Rebecca Finger; guilty of invasion of a home.

17 Count 13. Theft, Inga Williams and/or Kate Berry,
18 and/or Marissa Metro, and/or Brooke Bargholtz, and/or Rebecca
19 Finger; guilty of theft, \$1200 or more.

20 Count 19. Conspiracy to commit larceny, Esther
21 Chae; guilty of conspiracy to commit larceny.

22 Count 20. Conspiracy to commit burglary, Esther
23 Chae; guilty of conspiracy to commit burglary.

24 Count 21. Residential burglary, Esther Chae; guilty
25 of residential burglary.

1 Count 22. Invasion of a home, Esther Chae; guilty
2 of invasion of a home.

3 Count 23. Theft, Esther Chae; guilty of theft,
4 \$1200 or more.

5 Count 24. Robbery, Esther Chae; guilty of robbery.

6 Count 25. Coercion, Esther Chae; guilty of
7 coercion.

8 Count 26. Conspiracy to commit larceny, Bertha
9 Geradeau and/or Latoya Gustus; guilty of conspiracy to commit
10 larceny.

11 Count 27. Conspiracy to commit burglary, Bertha
12 Gerdeau and/or Latoya Gustus; guilty of conspiracy to commit
13 burglary.

14 Count 28. Residential burglary, Bertha Gerdeau
15 and/or Latoya Gustus; guilty of residential burglary.

16 Count 29. Invasion of the home, Bertha Gerdeau
17 and/or Latoya Gustus; guilty of invasion of the home.

18 Count 30. Theft, Bertha Gerdeau and/or Latoya
19 Gustus; guilty of theft, \$1200 or more.

20 Count 31. Conspiracy to commit larceny, Jewell Love
21 and/or Raven Hough, and/or Devonica Jones, and/or Patricia
22 Williams; guilty of conspiracy to commit larceny.

23 Count 32. Conspiracy to commit burglary, Jewell
24 Love, and/or Raven Hough, and/or Devonica Jones, and/or
25 Patricia Williams; guilty of conspiracy to commit burglary.

1 Count 33. Residential burglary, Jewell Love and/or
2 Raven Hough, and/or Devonica Jones, and/or Patricia Williams;
3 guilty of residential burglary.

4 Count 34. Invasion of the home, Jewell Love and/or
5 Raven Hough, and/or Devonica Jones, and/or Patricia Williams;
6 guilty of invasion of the home.

7 Count 35. Theft, Jewell Love, and/or Raven Hough,
8 and/or Devonica Jones, and/or Patricia Williams; guilty of
9 theft, \$1200 or more.

10 Count 38. Carrying -- is that right -- carrying
11 concealed firearm or other deadly weapon; guilty of carrying
12 concealed firearm or other deadly weapon.

13 Dated this 19th day of April, 2021, by Renae
14 Decesare.

15 Ladies and gentlemen of the jury, are these your
16 verdicts as read, so say you one, so say you all?

17 MEMBERS OF THE JURY: Yes.

18 THE COURT: Does either side wish to have the jury
19 polled; State?

20 MR. LEXIS: No, Your Honor.

21 THE COURT: Mr. Arnold?

22 MR. ARNOLD: No, Your Honor.

23 THE COURT: All right. Thank you.

24 The Clerk will record the verdict.

25 Ladies and gentlemen, I need to meet with the

1 attorneys for one brief moment on a procedural matter, so I'm
2 going to meet with the attorneys in the back hallway. So if
3 you can please just keep your seat.

4 Mr. Arnold, State?

5 (Bench conference - not recorded.)

6 THE COURT: Ladies and gentlemen, we just have to
7 resolve a procedural matter and we just need to put it on the
8 record, and we have to put it on the record outside the
9 presence of the jury panel.

10 So what we're going to do is, we're going to take
11 just a five-minute recess, and we'll call you back in, and
12 then we'll -- we'll finalize the case; okay?

13 So ladies and gentlemen, during this morning recess,
14 you are not to discuss or communicate with anyone, including
15 your fellow jurors, in any way regarding the case or its
16 merits, either by voice, phone, e-mail, text, internet, or
17 other means of communication or social media.

18 You're not to read, watch or listen to any news or
19 media accounts or commentary about the case. You're not to do
20 any research such as consulting dictionaries, using the
21 Internet, or using reference materials. You're not to make
22 any investigation, test the theory of the case, or recreate
23 any aspect of the case, or in any other way investigate or
24 learn about the case on your own. You're not to form or
25 express an opinion regarding this matter until it's finally

1 submitted to you.

2 Again, just stay close by. It will be just five
3 minutes.

4 THE MARSHAL: All rise for the exit of the jury.

5 (Outside the presence of the jury.)

6 THE COURT: All right. Mr. Arnold, we do have a
7 bifurcated count, the ownership or possession of firearm by
8 prohibited person. I've been handed a Guilty Plea Agreement.
9 Would you please put on the record the negotiations?

10 MR. ARNOLD: Your Honor, I don't have a copy.

11 THE COURT: Oh.

12 MR. ARNOLD: Unless you put them on the --

13 THE COURT: Okay. And Mr. Clark, the Guilty Plea
14 Agreement that's been handed to me says that you're agreeing
15 to plead guilty to the charge of ownership or possession of
16 firearm by a prohibited person.

17 That both parties, you, your attorney and the State
18 stipulate to a 19 to 48 month term in the Nevada Department of
19 Corrections. That this case, this ownership of possession of
20 firearm by prohibited person, would run concurrent with all of
21 the other counts in this case, and that you agree to forfeit
22 the items listed in the Stipulation for Compromise of Seized
23 Property.

24 Is that correct, Mr. Clark?

25 DEFENDANT CLARK: Yes, sir.

1 THE COURT: And do you wish -- and do you want to go
2 forward with the negotiations contained in the Guilty Plea
3 Agreement?

4 DEFENDANT CLARK: Yes, sir.

5 THE COURT: All right. Sir, for the record, what is
6 your -- what is your legal name?

7 DEFENDANT CLARK: Darrell Adam Clark, Jr.

8 THE COURT: How old are you?

9 DEFENDANT CLARK: 41.

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

11 DEFENDANT CLARK: High school diploma.

12 THE COURT: Do you read, write and understand the
13 English language?

14 DEFENDANT CLARK: Yes, sir.

15 THE COURT: And sir, are you pleading guilty to the
16 charge of ownership or possession of firearm by a prohibited
17 person?

18 DEFENDANT CLARK: Yes, sir.

19 THE COURT: Before I can accept your plea of guilty,
20 I want to make sure it is freely and voluntarily entered. Has
21 anyone forced you to plead guilty?

22 DEFENDANT CLARK: No, sir.

23 THE COURT: Has anyone threatened you or anyone
24 closely associated with you in order to get you to plead
25 guilty?

1 DEFENDANT CLARK: No, sir.

2 THE COURT: Sir, do you understand the sentencing
3 range of this particular charge that the Court can sentence
4 you to no more than six years, no less than one year in
5 prison, and you can also be fined up \$5,000; do you understand
6 that; sir?

7 DEFENDANT CLARK: Yes, sir.

8 THE COURT: Do you understand that sentencing is
9 strictly up to the Court? No one can promise you probation,
10 leniency, or any special treatment?

11 DEFENDANT CLARK: Yes, sir.

12 THE COURT: And sir, is one of the reasons you're
13 pleading guilty to the charge of ownership or possession of
14 firearm by prohibited person is that you are guilty of that
15 offense?

16 DEFENDANT CLARK: Yes, sir.

17 THE COURT: All right. Sir, I have a copy of the
18 Guilty Plea Agreement in front of me. Is this your signature
19 on page five of the agreement?

20 DEFENDANT CLARK: Yes, sir.

21 THE COURT: Sir, did you read the Agreement or was
22 it read to you?

23 DEFENDANT CLARK: Both.

24 THE COURT: Both? Okay. Did you understand
25 everything that you read, and everything that was read to you?

1 DEFENDANT CLARK: Yes, sir.

2 THE COURT: If you had any questions regarding the
3 agreement, were they answered by your attorney?

4 DEFENDANT CLARK: Yes, sir.

5 THE COURT: Sir, based upon all the facts and
6 circumstances of your case, are you satisfied with the
7 services of your attorney for this charge?

8 DEFENDANT CLARK: Yes, sir.

9 THE COURT: And sir, are you a U.S. Citizen?

10 DEFENDANT CLARK: Yes, sir.

11 THE COURT: All right. Sir, I'm going to read the
12 allegation contained in the Second Amended Superceding
13 Indictment and ask you if you committed this criminal offense.

14 It says that on or between August 16, 2020, and
15 August 21, 2020, here in Clark County, Nevada, that you
16 wilfully, unlawfully, and feloniously own or have in your
17 possession and/or your custody or control a firearm --

18 DEFENDANT CLARK: Yes, sir.

19 THE COURT: -- to wit: a Sig Sauer P229 Elite
20 bearing serial number AM168509, that you have been a convicted
21 felon, having in 2019, been convicted of attempt burglary in
22 Case No. C-19-338605, in the Eighth Judicial District Court,
23 Clark County, which is a felony, under the laws of the State
24 of Nevada.

25 Did you do these things, sir, I just read to you?

1 DEFENDANT CLARK: Yes, sir.

2 THE COURT: And are you entering your plea freely
3 and voluntarily?

4 DEFENDANT CLARK: Yes, sir.

5 THE COURT: The Court so finds.

6 Now, sir, attached to the Guilty Plea Agreement
7 there's a document called, Stipulation for Compromise of
8 Seized Property.

9 Actually, we need to -- the defendant didn't sign
10 this one.

11 Mr. Arnold?

12 MR. ARNOLD: Oh.

13 THE COURT: And we need your signature and Mr.
14 Clark's signature.

15 (Pause in the proceedings.)

16 THE COURT: Thank you.

17 And sir, did you just now sign the Stipulation for
18 Compromise of Seized Property?

19 DEFENDANT CLARK: Yes, sir.

20 THE COURT: And sir, did you read this document or
21 was it read to you?

22 DEFENDANT CLARK: I read it.

23 THE COURT: You read it. Okay.

24 And are you signing this document freely and
25 voluntarily?

1 DEFENDANT CLARK: Yes, sir.

2 THE COURT: All right. The Court so finds.

3 Sir, do you have any questions for me whatsoever
4 before I officially accept your plea of guilty to this charge?

5 DEFENDANT CLARK: No, sir.

6 THE COURT: And you wish to go forward with these
7 negotiations, sir?

8 DEFENDANT CLARK: Yes, sir.

9 THE COURT: All right. The Court finds that the
10 plea is freely and voluntarily entered, as well as the
11 Stipulation for Compromise of Seized Property. We will file
12 this with the Court.

13 And you have a sentencing date as follows.

14 THE CLERK: June 3rd at 8:30 a.m.

15 THE COURT: All right. Thank you, sir.

16 Thank you, counsel. And the defendant's remanded
17 without bail.

18 And counsel, as I mentioned, I'm going to call the
19 jury back in. I'm going to have the attorneys excuse
20 themselves. I'm just going to personally thank them for their
21 jury service like I would in the jury room, and then if the --
22 if the attorneys wish to speak with the jurors after, they can
23 do so in the hallways, so there's more of an opportunity for
24 social distancing.

25 MR. ARNOLD: Your Honor, I have to go back upstairs

1 to finish a misdemeanor trial in front of Judge
2 (indiscernible).

3 THE COURT: Okay.

4 MR. ARNOLD: So can I excuse myself?

5 THE COURT: Yes. Yes, please.

6 MR. ARNOLD: Thank you, Your Honor.

7 MR. LEXIS: And Madilyn --

8 MR. ARNOLD: (Indiscernible).

9 MR. LEXIS: Madilyn wants to talk to them, Judge, so
10 we'll be --

11 THE COURT: Sure.

12 MR. LEXIS: -- in the hallway.

13 THE COURT: All right. And the Marshal will bring
14 the jury back in.

15 THE CLERK: (Indiscernible).

16 THE COURT: Or Ms. Cole or Mr. -- we need to have
17 the Amended Indictment filed with the Court.

18 MS. COLE: Oh, for the filing?

19 THE COURT: Yeah.

20 THE CLERK: The Third Amended is not in Odyssey. Do
21 you want (indiscernible) file it.

22 MS. COLE: Oh, okay.

23 THE COURT: Just file it today, please.

24 MS. COLE: Yes. We'll file it today.

25 THE COURT: Okay.

1 THE CLERK: (Indiscernible).

2 THE COURT: All right. Thank you.

3 (Pause in the proceedings.)

4 THE MARSHAL: All rise for the entry of the jury.

5 (Inside the presence of the jury.)

6 THE COURT: All right. Ladies and gentlemen, the
7 reason why I had you come in and I excused the attorneys, the
8 case is over. On behalf of the Court system and my particular
9 Department, I appreciate your service.

10 Clearly, you've taken your time, yesterday, you were
11 very methodical and considered each of the counts. So that's
12 exactly what we want you to do, and so we appreciate that.

13 Oftentimes after a jury trial, the attorneys want to
14 speak with the jurors, not to question the wisdom of your
15 decision, but just to -- for you to critique their case,
16 critique their presentation, give them any suggestions you may
17 have. Maybe you've got some questions, why did you do this,
18 why did you ask a particular question.

19 I believe one of the District Attorneys is going to
20 be in the hallway. If you have any questions for them,
21 they'll be more than happy to answer those for you. If you
22 have any critique for the case, or their presentation, I'm
23 sure that would be very helpful for them, so they can always
24 learn, you know, to do a better job; okay?

25 Mr. Arnold has another hearing, so he won't be

1 outside, because he's -- he has to run to another courtroom.
2 But I just wanted to personally thank you for your service. I
3 know it's -- it's easy to try to get out of jury duty, but all
4 of you took your job seriously. And it is important that we
5 have people such as yourselves willing to serve on juries and
6 perform your civic duty.

7 I just have one question for you. Is there anything
8 that the Court system could have done to make your service
9 anymore pleasurable? Hopefully, it's pleasurable. But is
10 there anything we could have done, or the system, or any
11 suggestions, critiques?

12 Yes, sir?

13 JUROR NO. 11: Could you explain if -- it would have
14 been nice to know who the alternate jurors were. We were
15 assuming it would've --

16 THE COURT: Right.

17 JUROR NO. 11: -- been 13 and 14.

18 THE COURT: Right.

19 JUROR NO. 11: A lot of rumors were going around. I
20 don't know if you could have told us that or not. I don't
21 know.

22 THE COURT: We -- we don't typically tell you that
23 because if you know you're an alternate you might think, I
24 don't have to pay attention, because I'm an alternate.

25 Sometimes we randomly picked maybe Juror 4 or

1 something. But this time, the parties just agreed they'd have
2 Jurors 13 and 14. And that's the way we did it.

3 Now, the reason why we sent you out of the room for
4 a few minutes, there was another charge that you were not
5 advised of. We can't advise you of that during the first
6 portion of the trial.

7 The charge was possession of a firearm by a
8 prohibited person, basically, meaning possession of firearm by
9 an ex-felon. And during the trial, we can't tell you either
10 one of the defendants are ex-felons. Okay. So that could
11 prejudice your (indiscernible), you know, he's an ex-felon so
12 he must have done this case.

13 So what happens is if you find someone guilty of any
14 charge with a firearm, so now you can determine he had a
15 firearm. So we have a little mini trial, which we were
16 planning to do, but the State just has to prove he's an ex-
17 felon. And the way they would prove it is, have a certified
18 copy of a Judgment of Conviction that he was an ex-felon. You
19 deliberate for about 30 seconds, because you've already found
20 that he had a gun. And now we have proof that he's an ex-
21 felon. You return your jury verdict, and then we just do --
22 do the same thing that we just did here, as far as make sure
23 that's your verdict.

24 But he decided to go ahead and plead to that charge
25 since you -- since the jury found him guilty of possessing a

1 firearm relating to the other counts. And obviously, there's
2 documentation that he was an ex-felon. So that's why we had
3 to do that. And we don't tell you up-front, because again,
4 that could prejudice you to that.

5 JUROR NO. 3: Makes sense.

6 THE COURT: Any other questions? Yes?

7 UNIDENTIFIED JUROR: Just one thing. The statement
8 I've made a couple times. The Summons, can you put report to
9 the third floor? Because I don't know to go like, read the
10 directories and all that stuff. So I was like,
11 (indiscernible) carry this (indiscernible) third floor.

12 THE COURT: Okay.

13 UNIDENTIFIED JUROR: But they've -- they've -- seen
14 it a lot of times.

15 THE COURT: All right. I'll -- I'll pass that
16 along.

17 Anything else, or any -- again, thank you very much.
18 Your -- your check for your services will be in the mail. The
19 check's in the mail. And so, I assure you, it will be in the
20 mail. And so, again, thank you.

21 Yes, ma'am?

22 JUROR NO. 2: I just have one question. Is our name
23 on any kind of public records out there, you know, our full
24 names?

25 THE COURT: The jury list is a public record. We

1 don't have -- we don't release your phone numbers, your
2 address, or anything like that. We've been doing juries in --
3 you know, in this -- in our State for hundreds of -- you know,
4 a hundred years or so or more. Obviously, we've never had an
5 issue on that.

6 I know some people, I mean, particularly when we
7 have gang cases, gang murder cases, we might have issue with
8 that, where people are more concerned. This is -- you know, I
9 can't -- I mean, there's no guarantees in the world. But just
10 never had -- I have never had an issue. I've done about 215
11 jury trials. We've never had that issue.

12 Yes, ma'am?

13 JUROR NO. 2: I just want to thank you, because I've
14 been to a lot of court hearings for my mom's situation that I
15 mentioned in that following Monday, in the Summons, and I just
16 want to say, you make it very easy. You're so easy to talk
17 to, and just make me feel comfortable.

18 THE COURT: No, I appreciate that.

19 JUROR NO. 2: Yeah.

20 THE COURT: And one good -- I don't know if it's
21 good or bad, maybe you're going to be happy or sad. Since
22 you've served on a jury, we take your name out of the computer
23 for the next 18 months.

24 JUROR NO. 2: Oh, good.

25 THE COURT: Okay?

1 JUROR NO. 2: I thought it was ten years.

2 THE COURT: So you should not be getting a jury
3 summons for the next 18 months. But no, again, we do
4 appreciate your service. And if there's ever anything we can
5 do, please don't hesitate to contact us.

6 So, yes, ma'am?

7 JUROR NO. 8: I just have a quick question.

8 Even though our names and things are not going to be
9 out there, if -- because obviously if they ever get paroled or
10 released, and this is a small town, are we going to be
11 informed of their release?

12 THE COURT: I believe -- no, you -- you won't.

13 JUROR NO. 8: Okay. Because I'm just concerned --

14 THE COURT: You can contact the District Attorney's
15 Office --

16 JUROR NO. 8: Um-h'm.

17 THE COURT: -- and they can put you on the list to
18 be advised of that.

19 JUROR NO. 8: Um-h'm.

20 THE COURT: There again, we've -- we've -- as long
21 -- I've been an attorney since 1982. I was in the DA's office
22 in '84, for a couple years --

23 JUROR NO. 8: Right.

24 THE COURT: -- and I did defense work. Never had a
25 situation.

1 JUROR NO. 8: Well, the reason I'm concerned is
2 because when I was a victim, as I said last week, they
3 released this person and he lived in this area --

4 THE COURT: Okay.

5 JUROR NO. 8: -- for more than three years, before I
6 went I went to a second trial and testified. And I was never
7 informed.

8 THE COURT: So you can follow up with the District
9 Attorney's Office, they're more than happy to do it, because I
10 mean, I'm sure they will --

11 JUROR NO. 8: Okay.

12 THE COURT: -- be more than happy to keep you
13 advised of what's going on with it.

14 JUROR NO. 8: Okay.

15 THE COURT: And we've just never had a -- typically,
16 they're mad at their attorney.

17 JUROR NO. 8: Yeah.

18 THE COURT: Then the DA. Then the Judge.

19 JUROR NO. 8: Right.

20 THE COURT: Okay? And so, but again, thank you very
21 much for your service. I appreciate it. And now you can talk
22 to anyone you want. Okay?

23 JUROR NO. 8: And I just want to say thank you for
24 understanding, too.

25 THE COURT: Well, thank you. And as I said, we -- I

1 think we might have the Deputy DA out there.

2 If you want to talk with them, fine. If you don't,
3 fine.

4 MEMBERS OF THE JURY PANEL: Thank you.

5 THE COURT: Thank you very much. Have a great day.

6 (Court adjourned at 10:53 a.m.)

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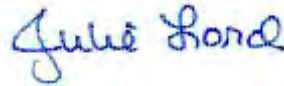
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