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IN THE SUPREME COURT
OF THE STATE OF NEVADA

DARRELL CLARK,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

}
} Docket No. 83303
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APPELLANT'S APPENDIX

VOLUME 4

Alphabetical Index to Appendix

Indictment	Pgs.	1-18
Amended Indictment	Pgs.	19-36
Superseding Indictment	Pgs.	37-57
Reporters Transcript	Pgs.	58-213
Amended Indictment	Pgs.	214-217
Verdict	Pgs.	218-223
Judgment of Conviction	Pgs.	224-231
Notice of Appeal	Pgs.	232-233
Request for Transcript of Proceedings	Pgs.	234-235
Case Appeal Statement	Pgs.	236-238
Amended Judgment of Conviction	Pgs.	239-246
Recorder's Transcript of Hearing	Pgs.	247-258
Recorder's Transcript of Hearing	Pgs.	259-272
Recorder's Transcript of Hearing	Pgs.	273-277
Recorder's Transcript of Hearing	Pgs.	278-282
Recorder's Transcript of Hearing	Pgs.	283-300
Recorder's Transcript of Hearing	Pgs.	301-307
Recorder's Transcript of Hearing	Pgs.	308-313
Recorder's Transcript of Hearing	Pgs.	314-318
Recorder's Transcript of Hearing	Pgs.	319-328

Recorder's Transcript of Hearing	Pgs. 329-359
Recorder's Transcript of Hearing	Pgs. 360-371
Recorder's Transcript of Hearing	Pgs. 372-535
Recorder's Transcript of Hearing	Pgs. 536-717
Recorder's Transcript of Hearing	Pgs. 718-971
Recorder's Transcript of Hearing	Pgs. 972-1178
Recorder's Transcript of Hearing	Pgs. 1179-1364
Amended Judgment of Conviction	Pgs. 1365-1372

1 A So that is a Latent Print Lift 1 on the exterior of
2 the hotel room door.

3 Q State's 95?

4 A That would be a latent lift of Latent Print 3 on the
5 interior of the hotel room door handle.

6 Q And State's 94?

7 A So that is the lock plate of the entry door.

8 Q Okay. And did you happen to discard any of those?

9 A I did.

10 Q Which one?

11 A Latent Print 2.

12 Q And is that due to unsuitability?

13 A That is correct.

14 Q And then you impounded the others?

15 A Correct.

16 Q Did you also take prints from a Bertha Geradeau?

17 A Yes, I did.

18 Q Why?

19 A When we recover latent prints at a crime scene, if
20 the victim is there, we like to obtain elimination prints from
21 the victim so that our latent print examiners can compare the
22 victim's prints to the prints that are recovered on scene.

23 Q And did you impound those as well?

24 A I did.

25 MR. LEXIS: Nothing further, Judge.

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

2 MR. ARNOLD: No, Your Honor.

3 THE COURT: Mr. Hart?

4 MR. HART: Briefly, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. HART:

7 Q Hello. When you were looking at the prints that you
8 pulled, you tried to pull prints from the entry door; the door
9 handles, entry, both sides, correct?

10 A That's correct.

11 Q Why?

12 A Because based on my training and experience, I felt
13 that that is an area that the suspect would have had to have
14 touched to enter --

15 Q Okay.

16 A -- the room.

17 Q That is part of your training and experience?

18 A Correct.

19 Q Unless they teleport into the room, they have to --

20 A They have to --

21 Q -- move the handle to try to get it open, right?

22 A Correct.

23 Q Okay. Did you swab for DNA?

24 A I did not.

25 Q Okay. Anywhere?

1 A I did not.

2 Q You're able to, correct?

3 A Correct.

4 Q And you said No. 2 was eliminated because
5 unsuitable. Please explain that.

6 A So for suitability, there are certain things we look
7 for when we deem that a latent print is suitable for recovery,
8 and that can be its size, the appearance of ridge detail, a
9 certain amount of minutia present. So there's factors that
10 have to be met before it's considered suitable for recovery,
11 and Latent Print 2 did not meet that criteria.

12 Q Okay. You did the outside of the handle. Did you
13 do the bottom side?

14 A No.

15 Q And ultimately, whether you collect DNA or whatever,
16 it's not up to you to decide if it gets tested, correct?

17 A It's not up to me. Correct.

18 Q It's up to -- who's it up to?

19 A I would assume that it's up to whether it's ordered
20 by -- I -- I honestly don't know. I know that it's not up to
21 me to determine that. That's beyond my scope.

22 Q Okay. Would it be, would you assume, the detective
23 that's in charge of the case?

24 A It's possible. I just know that I don't order it to
25 be tested.

1 Q Okay. And do you remember how -- approximately how
2 many photos you took at this scene?

3 A I don't recall.

4 Q Okay. I assume more than we saw, correct?

5 A That's correct.

6 Q And that was -- what kind of door -- what was that
7 door made out of?

8 A I honestly don't know the composition of the door.

9 Q You don't -- okay. Did you originally say it looked
10 like a kick to you or -- when you -- or maybe I misunderstood
11 you. When you were take -- checking the damage on the door?

12 A No, I said there was apparent damage to the leading
13 edge of the door.

14 Q Okay.

15 A Yeah.

16 MR. HART: Thank you very much.

17 THE WITNESS: Thank you.

18 MR. HART: Nothing further.

19 THE COURT: Any redirect?

20 MR. LEXIS: Sure.

21 REDIRECT EXAMINATION

22 BY MR. LEXIS:

23 Q Ma'am, when it comes to determining what to try to
24 lift, it's basically up to the CSA, and to do a visual
25 inspection as well, correct?

1 A As far as what? To process for latent prints?

2 Q Yes.

3 A Correct.

4 Q And DNA as well, correct?

5 A Correct.

6 Q Okay, because obviously, in your training and
7 experience, certain objects and certain things have better
8 chances of getting a latent print or DNA?

9 A That's correct.

10 Q Especially when you're dealing with different
11 textures, surfaces, mixtures?

12 A That is correct.

13 Q Okay. In addition, when you try and get a latent
14 print and dust it, you're, therefore, essentially trying --
15 essentially destroying any type of DNA-type sample; is that
16 correct?

17 A That is correct.

18 Q Okay, and explain that.

19 A I'm sorry?

20 Q Explain that.

21 A So you basically have an option; it's either DNA or
22 latent prints. For me, the door handles I chose because,
23 based on the surface, a door handle is a shiny, like, smooth
24 surface. DNA is better on a textured-type surface. Not to
25 mention door handles are handled by numerous peoples, so if

1 you were to swab for possible DNA, there's the chance that
2 you're going to come back with a mixture, a sample that has a
3 mix of a host of people. So I chose to latent print process
4 instead, and I felt that was the better route, to try and
5 uncover a print versus DNA.

6 Q Okay. And you followed standard Metro practices in
7 this case?

8 A That is correct.

9 MR. LEXIS: Nothing further.

10 THE COURT: Any recross, Mr. Arnold?

11 MR. ARNOLD: No, Your Honor.

12 THE COURT: Mr. Hart?

13 MR. HART: Yeah, I'll just do it from here.

14 RECROSS-EXAMINATION

15 BY MR. HART:

16 Q And just to be clear, you did dusting on the outside
17 of the door handle, correct?

18 A I did the outside, the exterior door handle, and the
19 interior door handle.

20 Q Okay, but you didn't dust on the inside of the door
21 handle?

22 A I did not.

23 Q Okay. So you can DNA test one part of a -- one part
24 of a surface and --

25 A I could, but --

1 Q -- do prints on another, correct?

2 A I could, but again, a door handle is handled by many
3 people.

4 Q Okay. And did you have a area where items were
5 taken, correct? You were directed as to where items might
6 have been removed from, correct?

7 A The limited information that I was provided on
8 scene, I was told that the property inside belonged to the
9 victim and that there was an item that was out of place.

10 Q Okay. And what was that item?

11 A It was a Degree deodorant container.

12 Q Okay. Did you try to fingerprint that?

13 A I did.

14 Q Okay. So these weren't the only fingerprints you
15 lifted, the two we just saw?

16 A There's a difference between fingerprint processing
17 and taking a lift and actually powder processing. So the
18 tapes that you saw, those were lifts. There wasn't -- I
19 powdered the Degree. There wasn't any prints to lift.

20 Q Okay. And you didn't swab the Degree either for
21 DNA?

22 A No.

23 MR. HART: Nothing further.

24 MR. LEXIS: Nothing further, Judge.

25 THE COURT: All right. Any question by our jurors?

1 No questions. Thank you, Ms. Brant, for your testimony. You
2 are excused.

3 THE WITNESS: Thank you.

4 THE COURT: Next witness for the State?

5 MR. LEXIS: Mr. Crank.

6 THE MARSHAL: Watch your step. Raise your right
7 hand. Face the Clerk. Once she swears you in, scoot your
8 chair all the way forward and speak loud.

9 JACOB CRANK, STATE'S WITNESS, SWORN

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

12 THE WITNESS: First name, Jacob, J-a-c-o-b. Last
13 name, Crank, C-r-a-n-k.

14 MS. COLE: And --

15 THE COURT: Go ahead, counsel.

16 MS. COLE: Your Honor, for the record, I'm showing
17 defense counsel what's been previously marked as State's
18 stipulated Exhibit No. 7.

19 MR. ARNOLD: Okay.

20 MR. HART: Which one?

21 MS. COLE: Seven, and it's the Walgreens video.

22 MR. HART: Okay.

23 DIRECT EXAMINATION

24 BY MS. COLE:

25 Q Sir, where do you work?

1 A Walgreens.

2 Q Okay. What specific Walgreens do you work at?

3 A I'm the area asset protection manager, so I cover
4 all 78 stores within Southern Nevada, Utah, and Arizona.

5 Q Okay, sir. And can you tell us again what is your
6 specific title with Walgreens?

7 A Asset protection manager.

8 Q Okay, and you supervise numerous amounts of stores?

9 A I do.

10 Q Okay. Are you familiar with a Walgreens located on
11 Flamingo and Maryland here in Las Vegas, Clark County, Nevada?

12 A Yes, ma'am.

13 Q And is that specifically located at 1180 East
14 Flamingo here in Las Vegas, Clark County, Nevada?

15 A It is.

16 Q Okay. And you're familiar with the surveillance
17 video system at that store?

18 A I am.

19 Q And with your position as a asset protection
20 manager, you have access to that store's specific video
21 surveillance system?

22 A I do.

23 Q Okay. And you have -- you had the opportunity to
24 review some video from that store; is that correct?

25 A Yes, ma'am.

1 Q And was that specifically video from August 21st,
2 2020?

3 A It was.

4 Q And, sir, on that date, August 21st, 2020, to your
5 knowledge, was the video surveillance system working that day?

6 A It was.

7 Q Okay. And it also has a date and timestamp on it;
8 is that also accurate to say?

9 A Yes, ma'am.

10 Q And to the best of your knowledge, was that date and
11 timestamp displayed on that day correct?

12 A Yes, ma'am.

13 Q Okay, sir. And someone from this store pulled
14 surveillance video and gave that to police and my office --

15 A They did.

16 Q -- is that correct?

17 A Yes, ma'am.

18 Q And you have access to that video?

19 A I do.

20 Q And you reviewed it before your testimony today?

21 A I did.

22 MS. COLE: Brief indulgence. Let's just get this
23 cued up.

24 (Surveillance video played.)

25 BY MS. COLE:

1 Q Okay, sir, do you recognize this?

2 A I do.

3 Q Okay. And can you just explain -- it looks like we
4 have several different camera angles. Can you explain where
5 all those are, starting with what we're looking at in the top
6 -- the main view that we're looking at? It looks like, on the
7 bottom, it says Register 2-3?

8 A Yes. So that's going to be a camera position
9 directly over the front register bay. As you walk into the
10 store, it's going to be off to your right-hand side.

11 Q Okay. And, sir, can you tell us the date and
12 timestamp in the top of this frame?

13 A August 24th -- or I'm sorry, August 21st, 2020, 9:36
14 A.M.

15 Q Okay. And, sir, I'm going to fast-forward to 9:38,
16 but what is the frame that we have depicted off to the right,
17 the top right-hand corner?

18 A It's going to be a front entrance camera, which is a
19 public view monitor, pointing directly at the front entrance
20 door to the store.

21 Q Okay. And then right below that to the right, the
22 bottom video, what is that -- or what is that angle?

23 A That is a wall-mounted camera, again, facing the
24 front entrance of the store.

25 Q Okay. And then, in looking at these two bottom

1 cameras, are those depicting the outside of the store?

2 A They are.

3 Q Okay, thank you. And, sir, I've just made the front
4 entrance the main screen. And can you also state the date and
5 timestamp at this time --

6 A August 20 --

7 Q -- and the camera angle?

8 A August 21st, 2020, 9:37, front entrance camera.

9 Q Sir, can you describe the individual that's being
10 depicted in this screen?

11 A African-American female adult wearing a gray
12 spaghetti-strap shirt, black shorts, black shoes, and carrying
13 a large black-and-white colored purse over her right shoulder.

14 Q Thank you.

15 MR. HART: And, Your Honor, for the record, did we
16 want to state what time that was on the video?

17 THE COURT: I'm sorry, I couldn't hear you, Mr.
18 Hart.

19 MR. HART: Did we want to state what time that was
20 on the video?

21 THE COURT: Could you do that, sir?

22 THE WITNESS: Yes, sir.

23 MS. COLE: Well, let me just back it up.

24 BY MS. COLE:

25 Q Sir, can you state that date and timestamp? This is

1 where we had paused it when you previously described the
2 individual depicted in this surveillance video.

3 A August 21st, 2020, 9:38 and 21 seconds.

4 Q Thank you. And, sir, again, I'm just going to
5 fast-forward this to pertinent time. Okay. Sir, what angle
6 are we looking at right here?

7 A It's a camera that's mounted directly over the front
8 registers of the store.

9 Q Okay. And can you describe the name that's labeled
10 in the bottom left-hand corner?

11 A Registers 2 and 3.

12 Q Okay. And can you describe the female individual
13 that's depicted in this shot?

14 A The same female that entered in the previous shot.
15 African-American female adult wearing a gray spaghetti-strap
16 shirt, black shorts, black shoes, and a black and white large
17 purse over her right shoulder.

18 Q Okay. And can you please state the date and
19 timestamp? I have it paused.

20 A August 21st, 2020, 9:44 and 7 seconds.

21 Q Thank you. And, sir, I'm going to just pause it.
22 It's still 8/21/2020, and what's the timestamp right now?

23 A 9:44 and 49 seconds.

24 Q And we're still looking at the same individual?

25 A Yes, ma'am.

1 Q And I'm just going to change the camera that we're
2 looking at. What are we looking at right here, sir? What
3 camera is this?

4 A This is the entrance profile, which is a
5 wall-mounted camera stationed at the front of the entrance
6 doors.

7 Q Okay. And, again, what's the date and timestamp?

8 A August 21st, 2020, 9:45 A.M.

9 Q I'm going to pause it right there. Can you describe
10 the individual depicted in this shot?

11 A It's a African-American female wearing a gray
12 spaghetti-strap shirt, black shorts, and carrying a large
13 black and white purse over her right shoulder.

14 Q And can you state the date and timestamp that we
15 have it paused at right now?

16 A August 21st, 2020, at 9:45 A.M.

17 Q Thank you. And I'm just going to -- okay. Sir,
18 what are we looking at right here?

19 A This is the Outside Camera 1, which is one of two
20 cameras mounted at the top of that building that face the
21 eastside parking lot of the store.

22 Q Okay. And the individual that just came into the
23 frame, can you state what the date and timestamp is?

24 A August 21st, 2020, 9:45 A.M.

25 Q Okay. And what camera angle are we looking at right

1 now?

2 A Outside Camera 1/Other.

3 Q Okay. I'm going to play it for a second. I'm going
4 to pause it. Can you describe the individual that's depicted?

5 A I believe it's the same female that exited the store
6 wearing the black shorts, gray spaghetti-strap shirt, and the
7 large black and white purse over her shoulder.

8 Q Okay. And that's the person that just entered into
9 the cab?

10 A Correct.

11 Q Okay. Sir, and the direction -- what -- if you're
12 coming out of the store, what direction are we facing right
13 now?

14 A East.

15 Q And looking at this frame, what direction would this
16 be facing?

17 A Also facing east, but this camera is located on the
18 roof as well, but approximately 50 or so feet north of the
19 other previous camera.

20 Q Okay.

21 MR. HART: Your Honor, for the record, that was
22 Camera No. 2?

23 THE COURT: Is that correct, sir?

24 THE WITNESS: Yes, sir.

25 THE COURT: All right, thank you.

1 BY MS. COLE:

2 Q And, sir, can you also state the date and timestamp?

3 A August 21st, 2020, 9:46 A.M.

4 Q Okay. Sir, and this particular Walgreens, what
5 other businesses are you guys located next to?

6 A There is a Target, a shoe business, I'm not sure of
7 the name, and it's in the middle of a strip mall, so there's
8 multiple other retailers and small businesses.

9 Q Okay, sir. And specifically, the Target, how close
10 are you to the Target, or where in proximity is it from the
11 front entrance of this particular store?

12 A The Target location is just north of our location.
13 So as you would exit our store, you would make a left and go
14 north through the parking lot approximately 500 yards.

15 Q All right. Thank you, sir.

16 MS. COLE: And at this time, I'll pass the witness.

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

18 MR. ARNOLD: No, Your Honor.

19 THE COURT: Any cross-examination, Mr. Hart?

20 CROSS-EXAMINATION

21 BY MR. HART:

22 Q And you don't work at this particular store? You
23 cover pretty much all of them, correct?

24 A I do.

25 Q What's that? I'm sorry.

1 A I do.

2 Q Okay. I guess it was a compound question, so I
3 should -- you don't work at this particular store, correct?

4 A I do not office out of that location. Yes, sir.

5 Q Okay, thank you. And I just wanted to ask you about
6 the time frames on your cameras. Now, the individual stores
7 have their own system, or is it a central system?

8 A Each store has a dedicated unit within that
9 location. The store managers do not have access to some of
10 the features as far as date, and timestamp, and how it
11 appears. All of that is controlled by our Security Operations
12 Center in Chicago.

13 MR. HART: Okay. Nothing further.

14 THE COURT: Any redirect by the State?

15 MS. COLE: No, Your Honor.

16 THE COURT: Any questions by our jurors? No
17 questions. Sir, thank you for your testimony. You are
18 excused. Next witness for the State?

19 MS. COLE: Your Honor, the State calls Jewell Love.

20 THE MARSHAL: Watch your step. Raise your right
21 hand. Face the Clerk. Once she swears you in, scoot your
22 chair all the way forward --

23 THE WITNESS: Okay.

24 THE MARSHAL: -- to the red light right there.
25 Speak up loud so they can hear you.

1 JEWELL LOVE, STATE'S WITNESS, SWORN

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: Yes, Jewell Love.

5 THE CLERK: Please spell your name.

6 THE COURT: Spell your name.

7 THE WITNESS: J-e-w-e-l-l. Last name, Love,
8 L-o-v-e.

9 THE COURT: Go ahead, counsel.

10 MS. COLE: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MS. COLE:

13 Q Good morning, Jewell.

14 A Good morning.

15 Q Where do you currently reside?

16 A Memphis, Tennessee.

17 Q All right. And did you come to Las Vegas on August
18 23rd, 2020?

19 A Yes.

20 Q Who did you come to Las Vegas with?

21 A I came to Las Vegas with my family. Do I need to
22 state the names?

23 Q Yes, please.

24 A Devonica Jones (phonetic), Raven Hough, Patricia
25 Jones, Terrea Wilson (phonetic), and Shane Costello

1 (phonetic).

2 Q Okay. And specifically, who were -- who was -- were
3 you staying in a room with these individuals?

4 A I'm sorry, can you repeat that again?

5 Q Were you staying in a hotel room with these
6 individuals?

7 A The only individuals I was staying in a room with
8 was Raven Hough, Devonica Jones, and Patricia Jones.

9 Q Okay. And when you say Raven, what's her last name?

10 A Hough.

11 Q Can you spell that?

12 A Yes. H-o-u-g-h.

13 Q Okay. So you were staying with Raven Hough, and who
14 else?

15 A Devonica Jones.

16 Q Okay.

17 A And Patricia Jones.

18 Q Is she also known as Patricia Williams?

19 A Yes, Patricia Williams-Jones.

20 Q Okay. So it was you and these three individuals,
21 and these are your cousins?

22 A Yes.

23 Q Okay. And then you also mentioned -- who else was
24 with you on this trip?

25 A Terrea Wilson and Shane Costello.

1 Q Okay. Now, is Terrea also your cousin?

2 A Yes.

3 Q But Terrea and Costello were staying in a different
4 room?

5 A Correct.

6 Q Okay. And you guys were staying at the Harrah's
7 here in Las Vegas, Clark County, Nevada?

8 A That's correct.

9 Q And that's specifically located at 3475 South Las
10 Vegas Boulevard?

11 A Yes, ma'am.

12 Q Were you staying in Room No. 15058?

13 A Yes.

14 Q Okay. And what was the purpose of this trip?

15 A It was a birthday trip for my cousin Terrea.

16 Q Okay. And when did you guys arrive in Las Vegas?

17 A We arrived that Friday, so I believe that was August
18 21st.

19 Q Okay. And what day did you leave?

20 A We left August 24th, that Monday.

21 Q Okay. And I'm going to specifically direct your
22 attention to August 23rd, that date and that time. Do you
23 recall what time you left your room for the evening?

24 A The time I left the room was about 8:45 to 9:00
25 o'clock.

1 Q Okay. And who did you leave the room with?

2 A I left by myself --

3 Q Okay.

4 A -- with my cousins.

5 Q And when did you return to the room?

6 A I returned back to the room at midnight.

7 Q Okay. And who were you with when you returned back
8 to the room at midnight?

9 A When I returned back to the room, I was with Raven.

10 Q Okay. And was it just you two that were coming back
11 for the first time?

12 A Yes. We were arriving at -- we -- we first came
13 back to Terrea's room, and then me and Raven decided to go
14 back to our room, and then later, Devonica and Patricia came
15 behind us a couple minutes later.

16 Q Okay. So you and Raven were the first ones to
17 respond to your room?

18 A Yes.

19 Q Can you tell me what happened when you entered and
20 -- and opened your door?

21 A What happened when I opened the door, I came in to
22 kind of like gather my things because we were leaving the next
23 morning, and I noticed that my backpack was missing. So --

24 Q Okay. Specifically, what type of backpack was it?

25 A It was a Louis Vuitton backpack.

1 Q Okay. And how much did that backpack cost?

2 A That bag cost \$2,500.

3 Q Okay. And can you describe it?

4 A Yes. It was brown and gold. It had the Louis
5 Vuitton signals across the bag with a gold plate in the front.

6 Q Okay. And you noticed that that was missing?

7 A Yes.

8 Q Okay. So besides Raven, Devonica, Patricia, did
9 anybody else have permission to be in your room?

10 A No, ma'am.

11 Q Had you guys met any new friends or any people that
12 had permission to be in your room?

13 A No, ma'am.

14 Q And Raven or Devonica hadn't met anybody either?

15 A No, ma'am.

16 Q And they hadn't given anybody permission to be in
17 your room?

18 A No, ma'am.

19 Q Did you notice any damage on your door?

20 A When we first appeared in the room, my cousin, she
21 noticed the damage, and that's when she directed me back to
22 the door to show me the damage to the door.

23 Q Okay. And can you describe that damage?

24 A The damage to the door was like flakes of wood
25 chipped off the door, and like the -- the lock had been

1 tampered with.

2 Q Okay. So there was some sort of marks, and the --
3 the wood and the paint was chipped?

4 A Yes, ma'am.

5 Q Okay. When you left -- or prior in your trip, was
6 that damage there?

7 A No, ma'am.

8 Q So that was something new that you recognized when
9 you returned to your room at approximately midnight on August
10 23rd?

11 A That's correct.

12 Q Okay. Was there also a -- an item in the room that
13 didn't belong to anybody?

14 A We did see a skullcap -- a black skullcap that was
15 in the room that we noticed that was laying on the table.

16 Q Okay. And when you say skullcap, is that like a
17 hat?

18 A Yes.

19 Q A beanie?

20 A A beanie. Yes, ma'am.

21 Q So a cloth --

22 A A black cloth beanie.

23 Q Okay. And that did not belong to anybody?

24 A Yes, ma'am. It didn't belong to anyone in the room.

25 Q Was that in your room before you left at 8:45?

1 A No, ma'am.

2 Q Okay, so that was also something new that you
3 recognized?

4 A Yes, ma'am.

5 Q Now, your cousin Terrea, she was staying at the
6 Harrah's with you guys but not in the same room?

7 A That's correct.

8 Q Where was her room located?

9 A Her room was maybe two rooms down, a room down, down
10 the hall.

11 Q Okay. And she was staying with who?

12 A Her friend, Shane Costello.

13 Q Okay.

14 MS. COLE: And, Your Honor, for the record, I'm
15 showing defense counsel what's been marked and stipulated to
16 as State's 177 -- or State's 178 and State's 179.

17 THE COURT: All right, thank you.

18 MR. HART: Okay.

19 MS. COLE: And, Your Honor, permission to approach
20 the witness?

21 THE COURT: Yes. Just want to double-check. I
22 didn't have that in my notes. Mr. Arnold, you're stipulating
23 to the admission of these exhibits?

24 MR. ARNOLD: Yes, Your Honor.

25 THE COURT: Mr. Hart, is that correct?

1 MR. HART: Yes, Your Honor.

2 THE COURT: All right, thank you.

3 (State's Exhibits 178 and 179 are admitted.)

4 BY MS. COLE:

5 Q And, ma'am, can you look at this -- these two
6 photos?

7 A Yes, ma'am.

8 Q Okay. Do you identify your backpack?

9 A Yes, ma'am.

10 Q Okay. How do you know that that's your backpack?

11 A I know that's my backpack. Pretty much the shape of
12 the bag, the gold plate that's in the front, and also,
13 vaguely, the color on it.

14 Q Okay. And that's a unique backpack at Louis
15 Vuitton?

16 A Yes.

17 Q Okay. And that matches the backpack that was taken
18 from your room?

19 A Yes, ma'am.

20 Q Okay. Do you know the individual who's wearing it?

21 A No, ma'am.

22 Q Did he have permission to wear your backpack?

23 A No, ma'am.

24 Q Or a backpack that looks like your backpack?

25 A No, ma'am.

1 MS. COLE: And for the record, I'm publishing
2 State's stipulated-to 179.

3 BY MS. COLE:

4 Q So this was the gold plate that you were describing?

5 A Yes, ma'am.

6 Q Okay. And you recognize this -- these specific
7 markings and the color to be the same as your backpack that
8 was taken?

9 A Yes, ma'am.

10 Q And showing you State's stipulated 178, is this
11 another angle of the backpack?

12 A Yes, ma'am.

13 Q And you recognize that to be consistent with your
14 backpack?

15 A Yes, ma'am.

16 MS. COLE: And, Your Honor, for the record, I'm
17 showing defense counsel what's been previously marked as
18 State's stipulated 104.

19 THE COURT: All right, thank you.

20 MR. HART: Yeah.

21 MS. COLE: And, Your Honor, permission to approach?

22 THE COURT: Yes.

23 BY MS. COLE:

24 Q And, ma'am, did you also have a particular item of
25 clothing that was missing from your room on that date and on

1 that time?

2 A Yes, ma'am.

3 Q And I'm showing you what's been marked as State's
4 stipulated Exhibit No. 104. Do you recognize that shirt?

5 A Yes, ma'am.

6 Q What shirt is that?

7 A That's my Tupac shirt.

8 Q Okay. And can you describe it?

9 A Yes. It was orange with the pictures of Tupac on
10 it, and it was a size large.

11 Q Okay. And that was one of the distinctive, unique
12 items that you had missing from your room on that date?

13 A Yes, ma'am.

14 MS. COLE: And for the record, I'm publishing what's
15 been marked as State's stipulated 104.

16 BY MS. COLE:

17 Q And for the record, there's two different depictions
18 of Tupac; is that correct?

19 A Yes.

20 Q And there's some yellow writing?

21 A Yes, ma'am.

22 Q Okay. And you recognize that to be consistent with
23 the shirt that you had taken on that date and at that time?

24 A Yes, ma'am. That's correct.

25 Q Now, when you initially got back to the room, did

1 you and your cousins believe that it was a particular person
2 that had actually broke into your room?

3 A Yes, ma'am.

4 Q And who was that?

5 A We thought it was my cousin's friend, Shane
6 Costello.

7 Q And what was the reason you thought it was Ms.
8 Costello?

9 A The reason I thought it was Costello, because we did
10 have a prior altercation with her earlier that day. We did
11 have an altercation with her. It -- and we noticed that she
12 was the only person that stayed behind that -- that -- when we
13 left out that evening.

14 Q Okay. So, basically, the basis for that belief was
15 she was the only person that wasn't with you and your other
16 friends when you had left that evening?

17 A That's correct.

18 Q And that you had got into a prior altercation with
19 her?

20 A That's correct.

21 Q When officers responded to the scene, did you want
22 those officers to investigate Ms. Costello?

23 A Yes.

24 Q You did? I'm going to ask you -- let me ask you a
25 different -- do you specifically recall officers asking if

1 they wanted you -- if you guys wanted him to confront Ms.
2 Costello?

3 A Oh, no, ma'am.

4 Q You did not want him to confront Ms. Costello?

5 A That's correct. No, ma'am.

6 Q Okay. So, basically, the only basis for the belief
7 that it was Ms. Costello is that she wasn't with you guys
8 earlier that evening?

9 A Yes, ma'am. That's correct.

10 Q And you had gotten into a prior confrontation?

11 A That's correct.

12 Q When -- let me rephrase this. At what point did, I
13 guess, you guys make up?

14 A It was shortly after the altercation.

15 Q Okay. And at that point, did you believe that she
16 was the one that was responsible for this?

17 A Once we all had made up, no.

18 Q Okay.

19 MS. COLE: Court's brief indulgence.

20 BY MS. COLE:

21 Q And, Ms. Love, I'm going to specifically ask you,
22 did the individual sitting right here have any permission to
23 have any of your property?

24 A No, ma'am.

25 Q Okay. And what about the specific female here? Did

1 she have any permission to enter your room or to have any of
2 your property?

3 A No, ma'am.

4 Q Do you know either of these individuals?

5 A No, ma'am.

6 Q Have you ever seen them before?

7 A No, ma'am.

8 MS. COLE: I'll pass the witness.

9 THE COURT: All right, thank you. Mr. Arnold?

10 CROSS-EXAMINATION

11 BY MR. ARNOLD:

12 Q And, ma'am, this individual that's sitting next to
13 me, you don't know if he was ever inside your room; is that
14 correct?

15 A No.

16 Q And you don't know if he was ever in possession of
17 your backpack or your Tupac shirt; is that correct?

18 A No.

19 Q Ma'am, in regards -- where did you buy that Tupac
20 shirt at?

21 A Fashion Nova.

22 Q Is that here in Las Vegas?

23 A No, sir. It's an online boutique.

24 Q Say that again. I couldn't hear you.

25 A No, sir. It's an online boutique.

1 Q Oh, it's an online boutique? And --

2 A Clothing store. Yes, sir.

3 Q And how much did it cost you?

4 A \$30.

5 Q Okay. And where did you buy that Louis Vuitton bag
6 -- backpack?

7 A We bought the Louis Vuitton bag in Los Angeles --

8 Q Okay.

9 A -- on Rodeo Drive at the Louis Vuitton store.

10 Q And when you bought that backpack, were there other
11 similar backpacks next to it?

12 A No, sir.

13 Q That was the only one?

14 A Yes.

15 Q Did -- when you purchased this backpack, did they
16 advise you that it was the only backpack made by Louis Vuitton
17 like that?

18 A Yes.

19 Q So you're saying that this is the only Louis Vuitton
20 backpack in the world made like this?

21 A Yes.

22 Q And you only paid \$2,500 for that?

23 A That's correct.

24 Q Do you have some kind of certificate of authenticity
25 to say that this was the only backpack made by Louis Vuitton

1 like that?

2 A No.

3 Q Okay. Do you know who this individual is in this
4 picture?

5 THE COURT RECORDER: One second, one second.

6 MR. HART: Got to turn on the Elmo.

7 THE COURT RECORDER: Yeah, I'm doing it.

8 MR. ARNOLD: She's going to.

9 THE COURT RECORDER: Okay.

10 BY MR. ARNOLD:

11 Q Do you know who that individual is in that picture?

12 A No, sir.

13 Q Do you know when this picture was taken?

14 A No, sir.

15 Q And when was your backpack missing?

16 A August the 23rd.

17 Q Originally, you said that you wanted Shane Costello
18 investigated. Why did you say that you wanted her
19 investigated for this?

20 A Are you speaking of now or then?

21 Q Then.

22 A Due to the prior altercation that we had with her
23 previous that day.

24 Q And did she have access to your room?

25 A No, sir.

1 Q How would she have gained access to your room?

2 A You said how would she have gained access to the
3 room?

4 Q Right.

5 A She wouldn't have access to the room.

6 Q But then why would you have wanted her investigated?

7 A It could be several ways that things could be done.
8 That's why we wanted her investigated.

9 Q What -- what idea did you have that somebody could
10 have got into your room? What -- let me be more specific.
11 What idea in your head did you have that Shane could have
12 gotten into your room?

13 A Like I stated before, it's just several ways that
14 people can do just to have access to things, so she was the
15 only person that was left behind.

16 Q When you exit the room and everybody else, was she
17 left in the room?

18 A She was not left in our room.

19 Q Did she stay in a hotel room adjoining your hotel
20 room?

21 A No, sir.

22 Q What floor was she on?

23 A She was on the same floor we was on.

24 Q Okay. How many hotel rooms down?

25 A At least one or two.

1 Q Did she ever tell you that she heard anyone trying
2 to break into your hotel room?

3 A No.

4 Q Did you ask her?

5 A Yes.

6 Q Did you ask her, did she see anybody coming upstairs
7 to go into your hotel room?

8 A Yes.

9 Q And what did she say?

10 A She said she didn't hear nor see anything.

11 Q The Tupac shirt that you saw on the male, do you
12 know what size that is?

13 A Yes, a size large.

14 Q How do you know it's a size large as opposed to
15 extra large?

16 A Because I purchased it.

17 Q No, let me ask you the question again.

18 A Yes, sir.

19 Q The t-shirt that we saw on the male that the DA
20 showed you, do you know what size that t-shirt is? You would
21 have to guess, right?

22 A I would say no because I wouldn't -- I took a guess,
23 yes.

24 Q So you don't know if that was a extra large, you
25 don't know if it was a medium; isn't that true?

1 A Yeah, that's correct, but I just know that the
2 one --

3 Q But the t-shirt that you purchased, that was a
4 large?

5 A That's correct.

6 Q Why did you purchase a large t-shirt?

7 A I like to wear my clothes a little big. I was going
8 to wear it as a dress.

9 MR. ARNOLD: Okay. All righty, I have no further
10 questions.

11 THE COURT: Any questions, Mr. Hart?

12 MR. HART: No, Your Honor.

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

14 MS. COLE: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. COLE:

17 Q Ms. Love, you don't work at Louis Vuitton, correct?

18 A No, ma'am.

19 Q You don't have an inventory of what items and how
20 many of each item they sell; is that correct?

21 A No, ma'am.

22 Q When you purchased this particular backpack, was it
23 the only one in the store?

24 A Yes.

25 Q But you cannot speak to the inventory of other

1 stores?

2 A I can't. No, ma'am.

3 Q So you -- you don't know if there was this bag in
4 another store even in California?

5 A That's correct.

6 Q When you're referring to you picking the only one,
7 was that specific to that store?

8 A It was specific to that store and also the quantity
9 that was in that store.

10 Q Okay. So your testimony today isn't that you had
11 the only backpack that was manufactured like this from Louis
12 Vuitton?

13 A Correct.

14 Q You just had -- you purchased the only one in that
15 store on that date?

16 A That's correct.

17 MS. COLE: Okay. I'll pass, Your Honor.

18 THE COURT: Any recross?

19 MR. ARNOLD: Yes.

20 RECROSS-EXAMINATION

21 BY MR. ARNOLD:

22 Q Ma'am, I'm looking at this picture, and you have --
23 do you have it in front of you?

24 MR. ARNOLD: Can I approach, Your Honor?

25 THE COURT: Yes. And what's the number of that

1 picture, Mr. Arnold?

2 MR. ARNOLD: It's Exhibit 179.

3 BY MR. ARNOLD:

4 Q Ma'am, in that picture, you can see clearly that
5 that's a Louis Vuitton backpack?

6 A Yes, sir.

7 Q How can you see that clearly, or are you just
8 guessing that that's a Louis Vuitton backpack?

9 A I can see by the way the style is made, and also the
10 gold plate, and also, if I look closer into the picture, the
11 designs on the straps.

12 Q Okay, ma'am. You ever heard of a knockoff?

13 A Yes.

14 Q Okay. And the gold -- and have you heard of Louis
15 Vuitton being a knockoff before?

16 A No.

17 Q Okay. So you -- you're from California, right?

18 A No, sir.

19 Q Where are you from?

20 A I'm from Memphis, Tennessee.

21 Q Oh, okay, maybe that's the reason why. In -- in Las
22 Vegas, you never saw -- let me ask it this way. So you can
23 see -- Louis Vuitton is LXV; is that correct? That's their
24 signature thing that they have on their --

25 A Yes, sir.

1 Q And you're telling me you can look at this backpack
2 and see somewhere on that photo LXV?

3 A I can see some distinguishing on the straps, LV.

4 Q I didn't ask you all that. I said, can you see LXV
5 on this backpack?

6 A No, sir.

7 Q But that's a distinguishing thing with this
8 backpack; isn't that correct?

9 A That's correct, but I know that's the backpack.

10 Q And then what color are we looking at? It looks
11 like black to me.

12 A It looks brown.

13 Q It was brown?

14 A Um-hum.

15 Q You have to say yes for the record, ma'am.

16 A Yes.

17 Q Okay. So it was a brown backpack, but in this
18 photo, it looks black. Let me ask you another question. On
19 that gold plate, what's on the gold plate? Is it LXV?

20 A No, sir, Louis Vuitton.

21 Q It says Louis Vuitton on there?

22 A Yes.

23 Q And so can you see on that backpack the -- the
24 letters Louis Vuitton on there spelled out?

25 A No, sir.

1 Q You can't see that on that gold plate, can you?

2 A No, sir.

3 Q But you for sure know that this is your backpack?

4 A Yes.

5 Q And how do you know that? Because it's the same
6 style?

7 A Yes, just the way it looks. Yes.

8 MR. ARNOLD: All right. All right, I have no
9 further questions for this witness.

10 THE COURT: Anything further, Mr. Hart?

11 MR. HART: Yeah.

12 CROSS-EXAMINATION

13 BY MR. HART:

14 Q Just to be clear, your backpack was brown, correct?

15 A That's correct.

16 Q Yeah. Well, you know, brown and gold, I should
17 qualify, correct?

18 A Yes, sir.

19 Q Okay, not black and gold?

20 A It was brown and gold. Brown backpack with gold
21 trimmings.

22 Q Okay. And your backpack didn't have any special
23 monogram or anything else on it?

24 A I'm sorry, can you repeat that again?

25 Q Your backpack didn't have any special monogram or

1 anything else on it, correct?

2 A No, sir.

3 MR. HART: Nothing further.

4 THE COURT: All right, thank you. Any questions for
5 our jurors -- by our jurors? No questions. Thank you, ma'am,
6 for your testimony. You are excused.

7 THE WITNESS: Thank you.

8 THE COURT: Next witness for the State?

9 MS. COLE: And, Your Honor, the State calls Patricia
10 Williams.

11 THE COURT: All right, thank you.

12 THE MARSHAL: Watch your step. Raise your right
13 hand. Face the Clerk. Once she swears you in, pull your
14 chair forward to that red dot right there and speak loud.

15 THE WITNESS: Okay.

16 PATRICIA WILLIAMS-JONES, STATE'S WITNESS, SWORN

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

18 THE WITNESS: Thank you.

19 THE CLERK: And state and spell your first and last
20 name for the record.

21 THE WITNESS: My name is Patricia Williams-Jones.
22 That's P-a-t-r-i-c-i-a, W-i-l-l-i-a-m-s, hyphen, J-o-n-e-s.

23 THE COURT: Go ahead, counsel.

24 DIRECT EXAMINATION

25 BY MS. COLE:

1 Q Good morning, Patricia.

2 A Good morning.

3 Q Where do you currently reside?

4 A I stay in Memphis, Tennessee.

5 Q Okay. And did you come to Las Vegas with some
6 family members in August of 2020?

7 A I did.

8 Q Okay. Do you recall if it was around August 21st?

9 A Yes.

10 Q Okay. And approximately how long did you guys stay
11 here for?

12 A We stayed a few days. I'm not exactly sure how many
13 days we stayed, but we stayed a couple of days.

14 Q And that was at the Harrah's here in Las Vegas,
15 Clark County, Nevada?

16 A Yes, it was.

17 Q Specifically, located at 3475 South Las Vegas
18 Boulevard?

19 A Yes.

20 Q And did you stay in Room No. 15058?

21 A I did.

22 Q Okay. And who was in that room with you?

23 A It was myself, it was my wife Devonica Jones, her
24 cousin Raven, and her cousin Jewell.

25 Q Okay. And what's Raven's full name?

1 A Raven -- I'm not sure of her last name. Raven --
2 I'm sorry.

3 Q Is it Raven Hough?

4 A Yes, yes. I'm sorry.

5 Q That's okay.

6 A And Jewell Love.

7 Q Okay, Jewell Love. So there was four of you?

8 A Yes, there was.

9 Q Was there anybody else who was traveling with you
10 but not staying in that -- in that exact room?

11 A Yes, my wife cousins.

12 Q Okay, and what's her name?

13 A Terrea.

14 Q And did Terrea have another friend with her?

15 A Yes. She had another friend, LaSheila (phonetic),
16 and she also had a friend, Shane.

17 Q And LaSheila, is her last name Costello?

18 A No, it's Shane's last name.

19 Q Okay, Shane's last name?

20 A Yes.

21 Q All right. Now, I'm going to specifically direct
22 your attention to August 23rd of 2020. You were staying at
23 the Harrah's at that date and at that time?

24 A Yes.

25 Q And approximately what time did you leave your room

1 that evening?

2 A It was around 9:15 because we had dinner
3 reservations later, around 9:30.

4 Q Okay. And who was in the room with you at that
5 time?

6 A It was myself and my wife, Devonica. Jewell and
7 Raven had left earlier, before we did.

8 Q So you and Devonica were the last ones to be in that
9 room, and that was at approximately 9:15?

10 A Yes.

11 Q Okay. What time approximately did you return back
12 after dinner?

13 A It was maybe around -- before midnight.

14 Q All right, approximately around 12:00 A.M.?

15 A Yes.

16 Q To the best of your recollection?

17 A Yes.

18 Q Okay. And when you came back to the room, did you
19 notice something?

20 A Well, actually, me and Devonica stopped in Terrea's
21 room to pick up some things that we left in her room earlier
22 that day. Jewell and Raven went into the room first. And
23 when we walked into the room, we noticed that the room was not
24 like we left it. Things was just thrown around. And we had
25 already packed our bags because our plane was leaving in a

1 couple of hours that -- early that next morning, so the room
2 was pretty -- pretty much clean when we left for dinner that
3 night.

4 Q Okay, I'm going to stop you right there.

5 A Okay.

6 Q When you said that the room was a mess, can you
7 describe -- you said that your belongings were packed up.
8 What was the state of the room when you entered?

9 A Well, far as my bag, I packed my bag. It was very
10 neat. When we walked into the room, our clothes was just
11 thrown everywhere, we had food thrown all over the floor, and
12 it was just a big mess. Like, I mean, it was just a mess. It
13 was real, real bad.

14 Q So it was immediately apparent to you that the state
15 of the room was different than when you had left it?

16 A Of course, especially when I saw my bag, and I know
17 that -- know that I packed my bag preparing to leave early for
18 the next morning.

19 Q Okay. And did you notice anything regarding your
20 door that was different?

21 A I did. Actually, when my wife got ready to leave
22 out the room to go let the other -- other people in the next
23 room, Terrea's room, let them know what had happened, we
24 noticed some picks in our doors.

25 Q Okay. And can you describe what you mean by some

1 picks in your door?

2 A It looked like someone maybe took a object or
3 something and tried to pry the door open. There was like some
4 scratches on the outside of the door. Well, it's the inside
5 of the door but the outside of the door, if you understand
6 what I'm saying.

7 Q Kind of -- yes, I do understand what you're saying.

8 A Okay.

9 Q Kind of by -- close to the door handle?

10 A Yes, yes.

11 Q Okay. And you described that specifically as
12 scratches?

13 A Yeah.

14 Q Were there paint chips?

15 A Yes, um-hum.

16 Q And were those marks or those -- were they there
17 prior to you leaving that night at 9:15?

18 A I didn't notice anything wrong with the door, no.

19 Q So when you came back to the room around midnight,
20 that was something different?

21 A Yes.

22 Q Okay. Now, when you were in Las Vegas, did you, or
23 Devonica, or Raven meet any new friends?

24 A No.

25 Q Did you meet anybody that was allowed to come into

1 your room?

2 A Absolutely not.

3 Q Did Raven or Devonica give anybody any permission to
4 be in your room?

5 A No.

6 MR. HART: Objection, speculation.

7 THE COURT: Sustained.

8 BY MS. COLE:

9 Q Did you specifically give anybody permission to be
10 in your room?

11 A No, I didn't.

12 Q So when you and Devonica entered the room, can you
13 describe the state of Jewell and Raven when they were also in
14 the room?

15 A When we walked into the room, they was looking at us
16 like, why did y'all leave the room such a mess? And we told
17 them, you know, we didn't leave the room like this, and that's
18 when Jewell Love noticed that her backpack was missing. And
19 when she noticed that her backpack was missing, that's when
20 everybody started noticing things that was missing.

21 Q Is it safe to say that everybody was concerned,
22 startled?

23 A Yes. I mean, we was very upset about it, very
24 upset.

25 Q Frantic?

1 A Yes, scared.

2 Q Scared?

3 A Yes.

4 Q And you also said that she had noticed --

5 specifically, Jewell had noticed that property was missing?

6 A Yes. She was the first one to notice that something
7 was missing, which was her backpack.

8 Q Okay. How was Raven responding?

9 A Raven was very, very upset. She was very upset.
10 Raven actually started crying.

11 Q Okay. Now, ultimately, who did you and the other
12 girls staying in your room think was responsible for this?

13 A Well, we thought Shane had something to do with it
14 because of the little argument we had earlier that day, but --

15 Q Okay, and just to stop you. When you referred to
16 Shane, this is Costello?

17 A Yes. I'm sorry.

18 Q No, that's okay. So you know her first name to be
19 Shane, and her last name --

20 A Yeah.

21 Q -- to be Costello?

22 A Yes.

23 Q And did you ever see Ms. Costello with any of your
24 property?

25 A No, I didn't.

1 Q Did you ever see her in your room?

2 A No.

3 Q Did she ever state that she went in your room and
4 took your items?

5 A No, she didn't.

6 Q So, essentially, the only reason you thought she was
7 responsible was because of the tiff that you guys were in?

8 A Yes.

9 Q Was she also the only one that wasn't at dinner with
10 you that night?

11 A That's correct.

12 Q Okay. And when officers responded, did you want the
13 officer to confront Costello?

14 MR. HART: Objection, leading.

15 THE COURT: I'm going to overrule the objection. Go
16 ahead.

17 THE WITNESS: No, I didn't.

18 BY MS. COLE:

19 Q Okay, and why did you want -- why did you not want
20 the officers to confront Costello?

21 A Because I didn't want things to get worse than what
22 they already was.

23 Q Okay. And approximately when did you all make up?

24 A We made up pretty much when the officer was there
25 because she was just as upset as we was about what happened to

1 us. She was just as upset. She was real upset about it as
2 well.

3 Q So when you saw her demeanor and her response, that
4 kind of changed your perception of what happened?

5 A I knew she didn't have anything to do with it.

6 Q Okay. And, ma'am, did you specifically have -- you
7 talked about how your bag was packed, and it was unpacked.
8 Did you specifically have any property stolen?

9 A Yes, I did.

10 Q And what property was that?

11 A I had clothes missing. The most important thing to
12 me, I had a small pouch, which I call a wallet. It was a
13 multicolored wallet that had all my personal information in
14 it.

15 Q Okay. And when you say personal information, can
16 you be specific? What was in that small pouch?

17 A I had debit cards, I had credit cards, and I also
18 had my IDs and my kids' IDs.

19 Q Okay. And when you say IDs, are you talking about
20 Social Security cards?

21 A Yes, I am.

22 Q Okay. So, specifically, your Social Security card
23 and your kids' Social Security cards?

24 A Correct. Yes.

25 Q Okay. Did you have anything else taken?

1 A I had some hair -- some wigs that were stolen.

2 Pretty much the clothes, the shoes, and my hair, and the --

3 like I said, the most important thing was my wallet --

4 Q Okay.

5 A -- that had all my information in it.

6 Q Okay.

7 MS. COLE: And, Your Honor, for the record, I'm

8 showing defense counsel what's been marked as State's

9 stipulated 139.

10 THE COURT: All right, thank you.

11 MS. COLE: And, Your Honor, permission to approach?

12 THE COURT: Yes.

13 BY MS. COLE:

14 Q Ma'am, I'm showing you what's been marked as State's

15 stipulated Exhibit 139. Can you take a look at this?

16 A Um-hum.

17 Q Do you recognize what's depicted in those photos --

18 in that photo?

19 A Yes.

20 Q Okay. What are you looking at?

21 A This is my information. This is my Social Security

22 cards and my kids' Social Security cards.

23 Q And how do you know that? Is it because you know

24 your Social Security number?

25 A I know my Social Security numbers, and I know my

1 handwriting on these Social Security cards.

2 Q Okay. Do you also know your kids' Social Security
3 numbers?

4 A Yes, I do.

5 MS. COLE: And, Your Honor, permission to publish
6 State's stipulated 139?

7 THE COURT: Yes.

8 BY MS. COLE:

9 Q So, ma'am, in looking at this, Kylon Antonio
10 Williams, who is that to you?

11 A That's my son.

12 Q Okay. And you specifically had possession of his
13 Social Security card on that date?

14 A I did.

15 Q On August 23rd?

16 A I did.

17 Q Okay. And what about Madison Elaine Williams? Who
18 is that to you?

19 A Madison -- Madison is my daughter.

20 Q Okay. And Patricia Ann Williams?

21 A Yes, that's myself.

22 Q That's you, and you had -- it looks like there was
23 two different copies?

24 A Yes. That was my name change, so I had both copies
25 of my IDs.

1 Q Okay. So this one, can you state your name on this
2 specific Social Security card?

3 A Patricia Ann Williams.

4 Q Okay. And it looks like this one's -- what's the
5 date on that?

6 A It's 12, looks like 05 or 03 -- I can't see that --
7 2017.

8 Q Okay. And then this one, what is your name
9 indicated on here?

10 A It's Patricia Ann Williams-Jones.

11 Q And you stated this was your new Social Security
12 card after your name change?

13 A Yes.

14 Q Okay, and what's the date depicted on this one?

15 A 9/06/2019.

16 Q Okay. And then, again, Madison Elaine Williams,
17 that's also your daughter?

18 A Yes.

19 Q Okay. And all of these Social Security cards were
20 in your possession on August 23rd?

21 A It was, yes.

22 Q And when you came back into your room around
23 midnight, they were gone?

24 A They was gone out of my black purse that I had.
25 They was gone.

1 Q And, ma'am, I'm going to specifically ask you if the
2 male sitting in court today, if he ever had permission to have
3 any of your property?

4 A No, ma'am.

5 Q You don't know that individual?

6 A I do not know him.

7 Q Okay. And I'm going to ask you the same thing with
8 the female sitting in court today. Did she have any
9 permission to have your property?

10 A I don't know her either.

11 Q Okay.

12 A I don't. No.

13 Q Okay, so she did not?

14 A No, ma'am.

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

16 THE COURT: All right, thank you. Mr. Arnold, any
17 cross-examination?

18 MR. ARNOLD: Yes.

19 CROSS-EXAMINATION

20 BY MR. ARNOLD:

21 Q Ma'am, you came back to the room about 10:00 P.M.
22 that night?

23 A No, it was close to midnight.

24 Q Oh, it was closer to midnight?

25 A Yes.

1 Q And then when did you meet with Costello? Remember,
2 you -- you described that scenario where Costello came out,
3 and she seemed concerned about your loss, and that's when you
4 knew --

5 A Um-hum.

6 Q -- that she didn't have anything to do with it?

7 A Uh-huh.

8 Q How long was that into everything?

9 A That was like during the time when the officers was
10 there. When we first came back to the room, we instantly
11 thought she had something to do with it only because we was
12 just upset.

13 Q Right.

14 A But it was during the time the officers and the
15 detectives was there that she showed concern about what had
16 happened to us, so it was during that time.

17 Q Okay. And then you recall that you filled out a
18 voluntary statement, though?

19 A I'm sorry?

20 Q Do you recall filling out a voluntary statement, a
21 handwritten statement?

22 A And what is that?

23 Q It's something where the police said, hey, go ahead
24 and describe what was taken from you and write that down in a
25 statement.

1 A Oh, yes. My wife actually did that part. She did
2 the -- the paperwork on that.

3 Q Okay. And did you sign it on -- on -- for yourself?

4 A I signed it, yeah.

5 Q Okay, but your -- your wife was the one that wrote
6 everything down?

7 A The detective told us we can do one paperwork and we
8 both could sign it.

9 Q Okay. And so you read it before you signed it,
10 right?

11 A Yes, I did.

12 Q Now, the things that you listed in this voluntary
13 statement, you filled that out after you were convinced that
14 Costello wasn't involved in this?

15 A Could you repeat that?

16 Q Yeah. This -- when you had listed out and put
17 everything in this statement --

18 A Um-hum.

19 Q -- you were already convinced that Costello wasn't
20 involved in this, right?

21 A It was pretty much during all the same time. When
22 we did the paperwork, she was still sitting there. So, I
23 mean, it was just during that time.

24 Q Well, you said that you had looked at her. All I'm
25 trying to get is a frame of reference as to when you believe

1 she wasn't involved in it. Was it before or after you filled
2 out the statement?

3 A Pretty much after.

4 Q After you filled out the statement?

5 A I really -- really can't understand your question
6 because she was sitting there the whole time. As we was
7 filling out the paperwork, she was sitting there, but she was
8 showing more concern. She was also concerned about what had
9 happened to us as well as -- as we was filling out the
10 paperwork.

11 Q Okay. So you were filling out this -- the paperwork
12 --

13 A Um-hum.

14 Q -- you were looking at her, and you said, while you
15 were looking at her, she had no involvement in it?

16 A Pretty much, yes.

17 Q Okay.

18 MR. ARNOLD: Your Honor, may I approach?

19 THE COURT: Yes.

20 MR. ARNOLD: Do you have a copy of the statement?

21 BY MR. ARNOLD:

22 Q I'm going to hand this to you.

23 A Um-hum.

24 Q I need to look at it, too, at the same time.

25 A Okay.

1 Q But --

2 MR. ARNOLD: Do I need the microphone, or can you
3 hear me?

4 THE COURT RECORDER: I can hear you.

5 MR. ARNOLD: Okay.

6 BY MR. ARNOLD:

7 Q So is that your statement that I handed to you?

8 A This is our statement; this is Devonica's writing,
9 though.

10 Q Okay, that's what you just described to the jury.
11 And then you said, at the bottom, you signed it, right?

12 A Um-hum.

13 Q You have to say yes for the record.

14 A Yes. I'm sorry.

15 Q That's okay. And then read that last sentence.

16 A "We do all believe -- we do all believe it was a
17 young lady that was with us by the name of Costello." I -- I
18 can't see the first. "Black female, about 240, brown hair,
19 brown eyes."

20 Q Now, that's the same Costello that we've all been
21 referring to, right?

22 A Yes.

23 MR. ARNOLD: Okay. I have no further questions for
24 this witness.

25 THE COURT: All right, thank you. Mr. Hart, any

1 follow -- any cross-examination?

2 CROSS-EXAMINATION

3 BY MR. HART:

4 Q You said you also lost your hair?

5 A I'm sorry?

6 Q You said -- did you say your hair was taken, or?

7 A It was a wig.

8 Q Okay. What time did you guys leave your room?

9 A Me and Devonica left at nine -- around 9:15.

10 Q Did everybody leave at the same time?

11 A The others, they left before we did. We was the
12 last two to leave the room.

13 MR. HART: Okay, very good. That's it.

14 THE WITNESS: Thank you.

15 THE COURT: Any redirect by the State?

16 MS. COLE: Yes, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. COLE:

19 Q Ms. Williams, the statement Mr. Arnold was
20 referencing, did you actually write that out?

21 A No, I didn't.

22 Q Who wrote that out?

23 A Devonica, my wife.

24 Q And that was a joint statement on behalf of both of
25 you?

1 A Yes.

2 Q And you did sign that?

3 A Yes.

4 Q And when you're talking about when you guys thought
5 it was Costello, when she acted upset, that was all happening
6 around the same time?

7 A Yes, it was.

8 Q Things were changing moment by moment?

9 A Yes.

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

11 THE COURT: Anything further, Mr. Arnold?

12 MR. ARNOLD: No further questions.

13 THE COURT: Mr. Hart?

14 MR. HART: No, Your Honor.

15 THE COURT: All right. Any questions by our jurors?

16 All right, no questions. Thank you, ma'am, for your
17 testimony. You are excused.

18 THE WITNESS: Thank you.

19 THE COURT: Next witness for the State?

20 MS. COLE: Your Honor, the State calls Brooke
21 Bargholtz.

22 MR. LEXIS: Judge, may I approach?

23 THE COURT: Yes. Oh, is it a scheduling issue, or?

24 MR. LEXIS: Yeah, scheduling.

25 THE COURT: Oh, hang on. Let's have counsel --

1 MR. LEXIS: No, I already told them, Judge.

2 THE COURT: Is that correct, Mr. Arnold?

3 MR. ARNOLD: Yes, Your Honor.

4 THE COURT: Mr. Hart?

5 MR. HART: Yes.

6 THE COURT: Okay.

7 MR. LEXIS: I just -- after this witness, I got one
8 more.

9 THE COURT: Okay.

10 MR. LEXIS: So our hope's that we get through both
11 of them, and then lunch.

12 THE COURT: All right, great. Thank you. Ladies
13 and gentlemen, that was just a discussion about scheduling of
14 witnesses for today.

15 THE MARSHAL: Watch your step. Raise your right
16 hand. Face the Clerk. Once she swears you in, scoot your
17 chair up here and speak loud, to that red light.

18 THE WITNESS: Okay.

19 THE CLERK: Please raise your right hand.

20 BROOKE BARGHOLTZ, STATE'S WITNESS, SWORN

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

23 THE WITNESS: Brooke Bargholtz.

24 THE CLERK: Please spell it.

25 THE WITNESS: Oh.

1 THE COURT: Spell your name, please.

2 THE WITNESS: B-r-o-o-k-e, B-a-r-g-h-o-l-t-z.

3 THE COURT: Go ahead, counsel.

4 DIRECT EXAMINATION

5 BY MS. COLE:

6 Q Good morning, Brooke.

7 A Hi.

8 Q Where do you live?

9 A Wisconsin.

10 Q Were you in Las Vegas with some friends around
11 August 21st, 2020?

12 A Yes.

13 Q And what was the purpose of that trip?

14 A One of my friend's birthdays.

15 Q And were you specifically staying at the Paris Hotel
16 at 3655 South Las Vegas Boulevard?

17 A Yes.

18 Q And that's here in Las Vegas, Clark County, Nevada?

19 A Yes.

20 Q Were you specifically staying in Room 2186?

21 A Yes.

22 MS. COLE: And for the record, I'm publishing
23 State's stipulated Exhibit 41.

24 BY MS. COLE:

25 Q Is that, in fact, the outside of your door and the

1 room number?

2 A Yep.

3 Q Thank you. Who was staying in the room with you
4 during this trip?

5 A It was myself, Rebecca, Inga, Marissa, and Kate.

6 Q Okay, so we're going to start with Rebecca. What's
7 her full name?

8 A Rebecca Finger.

9 Q Okay.

10 A Marissa Metro.

11 Q Marissa Metro.

12 A Kate Berry, and Inga --

13 Q Kate Berry.

14 A Inga Williams.

15 Q And you guys are all friends?

16 A Yep.

17 THE COURT: Is that a yes? We have to have a yes or
18 a no.

19 THE WITNESS: Oh, yes.

20 THE COURT: Thank you.

21 BY MS. COLE:

22 Q And specifically, on August 21st, 2020, did you guys
23 leave the room for the purpose of going to breakfast?

24 A Yes.

25 Q And what time was that approximately?

1 A Approximately 7:15.

2 Q Around 7:00?

3 A 7:00, 7:30-ish.

4 Q Okay. And what time did you come back?

5 A Around eight o'clock.

6 Q Could it have possibly been 8:30?

7 A Yeah.

8 MR. HART: Objection, leading.

9 THE COURT: Sustained.

10 MS. COLE: Court's brief indulgence.

11 BY MS. COLE:

12 Q Ma'am, do you remember writing a voluntary statement
13 shortly after this incident occurred?

14 A Um-hum. Yes.

15 Q And that was right after you guys had come back into
16 your room?

17 A Yes.

18 Q Okay. And would looking at that help to refresh
19 your recollection?

20 A Yes.

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

22 THE COURT: Yes.

23 BY MS. COLE:

24 Q Go ahead and read through this, and then let me know
25 when you're done.

1 A Okay. Yeah.

2 Q Okay. Did looking at that help to refresh your
3 recollection of the time that you left for breakfast and the
4 time you came back?

5 A Yes.

6 Q Okay. And what time did you leave?

7 A 7:45.

8 Q 7:45 in the morning --

9 A Yep.

10 Q -- on the 21st?

11 A Yes.

12 Q And what time did you guys arrive back?

13 A Around 8:40-ish.

14 Q Okay. So you were gone for approximately an hour?

15 A Correct.

16 Q And where did you guys go to breakfast?

17 A Downstairs in the lobby at one of the crepe places
18 down there.

19 Q So it was in the Paris Hotel itself?

20 A Yep, in the hotel.

21 Q Okay. And did you specifically give anybody
22 permission besides the individuals that were staying in your
23 room to enter your room?

24 A No.

25 Q Did anybody have any permission to use any of your

1 property --

2 A No.

3 Q -- besides these individuals?

4 A No.

5 Q And when you left at 7:45 and returned at 8:40, were
6 all of the girls, Rebecca, Marissa, Kate, and Inga, with you?

7 A Yes.

8 Q You had all left the room at the same time?

9 A Yes.

10 Q When you arrived back at approximately 8:40, what
11 did you notice?

12 A I noticed that there was a phone laying on the bed
13 and realized it was none of our phones. So -- and I realized
14 my entire backpack was gone by my suitcase, and some of my
15 clothes were out of my suitcase, so it was kind of all over
16 the place. So I -- and I --

17 Q Okay, I'm going to stop you right there.

18 A When I left prior, it was all intact.

19 Q I'm going to stop you right there.

20 A Okay.

21 MS. COLE: And showing defense counsel what's been
22 marked as State's Exhibit 53.

23 MR. ARNOLD: Um-hum.

24 MR. HART: Yeah, good.

25 MS. COLE: Permission to approach, Your Honor?

1 THE COURT: Yes.

2 BY MS. COLE:

3 Q Do you recognize what's depicted in this photo?

4 A Yes.

5 Q Okay, and what is that?

6 A That is my bed.

7 Q Okay, and what's in the bed?

8 A A phone.

9 Q Okay. Was that the phone that you did not
10 recognize?

11 A Yes.

12 MS. COLE: Permission to publish, Your Honor?

13 THE COURT: Yes.

14 MS. COLE: I'm publishing State's stipulated 53.

15 BY MS. COLE:

16 Q This was one of the first items that you identified
17 that did not belong to anybody else?

18 A Correct.

19 Q Okay. And that was startling to you?

20 A Yes.

21 Q Okay. Did you notice anything significant about the
22 door?

23 A Yes, it had a few punctures to the lock on the door.

24 MS. COLE: And, Your Honor, permission to approach?

25 THE COURT: Yes.

1 MS. COLE: For the record, I'm showing the witness
2 what's been marked as State's stipulated 44 through 47.

3 BY MS. COLE:

4 Q Can you take a look at those?

5 A Um-hum.

6 Q Do you recognize those photos?

7 A Yes.

8 Q And what are these photos depicting?

9 A The puncture to our lock on our door and on the door
10 itself as well.

11 Q Okay. Publishing State's 47. When you left your
12 room on the morning of the 21st, was that mark or those
13 scratches on the door?

14 A No.

15 Q That was something new that you noticed when you
16 returned?

17 A Yes.

18 Q Publishing State's 46. Are those the scratches from
19 a different angle that you noticed?

20 A Yes.

21 Q Okay. Publishing State's 45. Again, this is
22 another photo depicting what you saw, damage to the door?

23 A Yes.

24 MR. HART: Objection, leading.

25 THE COURT: Sustained. Just rephrase the question.

1 BY MS. COLE:

2 Q What are we looking at here?

3 A A puncture to the lock on the door.

4 Q Showing you State's 44. What are we looking at
5 here?

6 A Same thing, a puncture to the lock.

7 Q Okay. And, again, all the -- all those photos, that
8 was different from when you left the -- left in the morning on
9 8/21?

10 A Yes.

11 Q Okay. Now, you specifically talked about some
12 things that were missing from your room. Can you describe
13 those and the value of those items?

14 A A Dell computer, approximately \$800. AirPods.

15 MR. HART: And, Your Honor, I would object if it's
16 not her items as to speculation.

17 MS. COLE: She's testifying to her items.

18 THE COURT: Ms. Cole, can you -- can you just
19 restate the question just to make sure I heard it correctly?

20 BY MS. COLE:

21 Q Can you tell us what specific items you had taken
22 and the value of those items?

23 A Yes.

24 THE COURT: Go ahead. Answer the question.

25 THE WITNESS: A Dell computer, approximately \$800.

1 BY MS. COLE:

2 Q And that was your specific Dell computer?

3 A It was -- yes, it was my work computer.

4 Q Okay. So all the items that you're testifying to
5 are what was taken personally from you?

6 A Correct.

7 Q Okay, so a Dell computer. What else?

8 A AirPods, approximately \$170.

9 Q And you bought the computer and those AirPods?

10 A I did not buy the computer because it's my work
11 computer.

12 Q Okay, but you know the value because it was your
13 work computer?

14 A Yes, because I had to contact them.

15 Q Okay, and what else?

16 A AirPods, approximately \$170. My Apple Watch,
17 approximately \$300. My Kate Spade wallet, approximately \$200,
18 and then credit cards and everything in that.

19 MS. COLE: Okay, and showing defense counsel what's
20 been marked as State's stipulated 19. Permission to approach,
21 Your Honor?

22 THE COURT: Yes.

23 BY MS. COLE:

24 Q Showing you State's 19. Can you take a look at this
25 document? Do you recognize that?

1 A Yes.

2 Q What is it?

3 A My credit card statement.

4 Q Your credit card statement?

5 A Uh-huh.

6 Q Okay.

7 MS. COLE: Permission to publish, Your Honor?

8 THE COURT: Yes.

9 BY MS. COLE:

10 Q Do you see your name on this credit card statement?

11 A Yes.

12 Q Okay, and is that depicted in the left-hand corner?

13 A Yes.

14 Q Okay. And specifically, this was -- this is your
15 credit card ending in 2309?

16 A Yes.

17 Q Okay. Was that one of the cards that was taken?

18 A Yes.

19 Q And that was specifically a Capital One card?

20 A Yes.

21 Q When you realized that that card was stolen, did you
22 report it stolen?

23 A Yes, I automatically locked it.

24 Q You automatically locked it?

25 A Yep.

1 Q Okay. After it was stolen, did you get any
2 notifications that it was attempting to be used?

3 A I did.

4 Q But at that time, you had already locked that
5 specific card?

6 A Correct.

7 Q When you locked that specific card ending in 2309,
8 did you subsequently get a new card with a new card -- with a
9 new four-digit card number at the end?

10 A Yes.

11 Q Did you give anybody permission to specifically use
12 that Capital One card ending in 2309 on August 21st, 2020?

13 A No, no.

14 Q No one had permission to use that card except for
15 you?

16 A Yes, correct.

17 Q When you were in Las Vegas, did you ever make any
18 purchases at Target?

19 A No.

20 Q Did you also have a backpack stolen?

21 A I did.

22 Q Okay. Was that the backpack that your computer was
23 in?

24 A Yes.

25 Q Okay. And can you describe the demeanor of Marissa,

1 Kate, and Inga when you returned to the room?

2 A We were all just kind of freaking out. We really
3 didn't know what to do. My -- all my cards had been stolen,
4 my cash. Like, I literally had nothing. My work computer was
5 stolen, everything. Everybody else was kind of freaking out
6 in the same manner. Some of --

7 Q When you --

8 A -- their things were taken as well.

9 Q I'm going to stop you right there. When you say
10 "freaking out," were they emotional?

11 A Yes, we were all very emotional.

12 Q Was anybody crying?

13 A Two of us were.

14 Q Okay, and who was that?

15 A It was myself and Inga, I believe.

16 Q It's fair to say everyone was surprised?

17 A Yes, very surprised.

18 Q Okay. Do you -- are you aware that -- did any of
19 the other girls give -- give anyone permission to be in your
20 room?

21 A No.

22 MR. HART: Objection, speculation.

23 THE COURT: The question was, "are you aware of
24 anyone"; is that --

25 MS. COLE: Are you aware of any of the other girls

1 that were staying in your room giving permission to anybody
2 else.

3 THE COURT: I'm going to -- I'm going to overrule
4 the objection. Go ahead and answer the question.

5 THE WITNESS: No, I was not.

6 BY MS. COLE:

7 Q So it's your understanding you specifically didn't
8 give any permission, nor did any of the other girls?

9 A Correct.

10 Q And, ma'am, I'm showing you State's 53 again, that
11 specific phone. When you first noticed that, did you actually
12 pick that phone up?

13 A I did.

14 Q Were you trying to determine whose phone that was?

15 A Yes.

16 Q And once you picked it up and handled it, did you
17 understand that it wasn't your phone?

18 A Yes.

19 Q And it also wasn't any of the other girls' phone?

20 A Yep.

21 Q And at that time, did you put it back down?

22 A Yes.

23 Q Did you alert officers about this item of evidence?

24 A Yes.

25 Q And, ma'am, specifically, the male individual that's

1 sitting here in the courtroom, did he have permission to have
2 any of your property?

3 A No.

4 Q Do you know that individual?

5 A No.

6 Q Have you ever seen him before?

7 A No.

8 Q What about the female that's sitting in this
9 courtroom? Did she have any permission to use any of your
10 property?

11 A No.

12 Q Do you know that person?

13 A No.

14 Q Have you ever seen her before?

15 A No.

16 MS. COLE: No further questions. I'll pass the
17 witness, Your Honor.

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

19 MR. ARNOLD: No, Your Honor.

20 THE COURT: Cross-examination, Mr. Hart?

21 CROSS-EXAMINATION

22 BY MR. HART:

23 Q The room wasn't registered in your name, or was it
24 registered in your name?

25 A It was not registered in my name.

1 Q Okay. Whose room -- who got the room?

2 A Inga.

3 Q Inga --

4 A Williams.

5 Q Williams? Okay.

6 MR. HART: Nothing further.

7 THE COURT: Any redirect by the State?

8 MS. COLE: Briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. COLE:

11 Q Ma'am, did all five girls pay for the room?

12 A Yes.

13 Q You guys split it in equal portions --

14 A Correct.

15 Q -- for the amount it was each night and the amount

16 of days?

17 A Yes.

18 MS. COLE: No further questions.

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

20 MR. ARNOLD: No, Your Honor.

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

22 MR. HART: No.

23 THE COURT: All right. Any questions by our jurors?

24 No questions. Ma'am, thank you very much for your testimony.

25 THE WITNESS: Thank you.

1 THE COURT: You are excused. Do we have another
2 witness this morning or no?

3 MR. LEXIS: Yes.

4 THE COURT: All right. Who's next?

5 MS. COLE: And, Your Honor, the State calls Gary
6 Krusinski.

7 THE COURT: All right.

8 THE MARSHAL: Watch your step. Raise your right
9 hand and face the Clerk. Once she swears you in, slide your
10 chair all the way forward to that red light and speak loud.

11 THE WITNESS: Yeah, okay.

12 THE CLERK: Sir, stay standing, please.

13 THE MARSHAL: Please remain standing until she tells
14 you to sit down.

15 THE WITNESS: Oh.

16 THE CLERK: Please raise your right hand.

17 GARY KRUSINSKI, STATE'S WITNESS, SWORN

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

20 THE WITNESS: Gary A. Krusinski.

21 THE CLERK: Please spell that, sir.

22 THE COURT: Spell your first and last name, sir.

23 THE WITNESS: Oh, spell. G-a-r-y,
24 K-r-u-s-i-n-s-k-i.

25 THE COURT: Go ahead, counsel.

1 MS. COLE: Court's brief indulgence.

2 THE WITNESS: I got hearing aids, so.

3 (Pause in the proceedings.)

4 THE COURT RECORDER: Ms. Cole?

5 MS. COLE: Yeah.

6 THE COURT RECORDER: Does your witness need hearing
7 headphones?

8 DIRECT EXAMINATION

9 BY MS. COLE:

10 Q Sir, do you need hearing headphones?

11 A I've got hearing aids on.

12 Q Okay.

13 A I just turned them up. They should be okay.

14 Q Okay, thank you.

15 A Thank you.

16 (Pause in the proceedings.)

17 BY MS. COLE:

18 Q Sir, can you hear me okay?

19 A Yes.

20 Q Okay. I'm going to talk really loud.

21 A Great, thank you.

22 Q Sir, where do you currently reside?

23 A 5854 Queens Highway, Parma Heights, Ohio.

24 Q Okay, so you do not live in Las Vegas?

25 A No.

1 Q Were you visiting Las Vegas on August 16th of 2020?

2 A Yes.

3 Q And were you staying at the Paris Hotel located at
4 3655 South Las Vegas Boulevard here in Clark County, Las
5 Vegas, Nevada?

6 A Yes.

7 Q And were you staying in Room No. 2198P?

8 A 2198P, yes.

9 Q Okay. Sir, I'm showing you what's been marked as
10 State's stipulated 25. Is that the outside of the hotel room
11 door that you were staying in?

12 A Yes.

13 Q And that's 2198P?

14 A That is correct.

15 Q Okay. And, sir, who were you staying there with?

16 A Just me.

17 Q No one else was with you?

18 A Nope.

19 Q No one else had permission to enter your room?

20 A No.

21 Q You didn't meet any friends or anybody there that
22 was -- later came back to your room?

23 A No.

24 Q And do you recall approximately what time you left
25 your room on August 16th, 2020, for the evening?

1 A Yes, 7:00 P.M. I watched Yellowstone, and then I
2 left the room at 7:00.

3 Q Okay. So you left at approximately 7:00 P.M.?

4 A Um-hum.

5 Q And do you recall what time you arrived back?

6 A 1:00. 1:00 A.M.

7 Q 1:00 in the morning? Okay. And when you arrived
8 back in your room, did you notice anything significant?

9 A When I came to the room, I noticed there was a
10 little chip by the door, and I remember saying to myself, oh,
11 somebody tried to get into my room.

12 Q Okay. So when you saw that damage to your door, you
13 immediately thought that somebody had tried to gain access to
14 your room?

15 A Right. Yes.

16 Q Okay, sir, I'm going to get some exhibits for you.

17 MS. COLE: 27 through 34.

18 MR. ARNOLD: Okay.

19 MR. HART: Okay.

20 MS. COLE: 27 through 34. And, Your Honor,
21 permission to approach?

22 THE COURT: Yes.

23 BY MS. COLE:

24 Q And, sir, I'm showing you State's stipulated 27, 28,
25 29, 30, 31, and 32 through 34. Can you take a look at those

1 and let me know when you're done?

2 A Okay.

3 Q Do you recognize those photos?

4 A Yeah.

5 Q And what do those photos depict?

6 A My door being, you know, jammed in with something.

7 Q So these photos depict the damage to your door that
8 you noticed when you arrived back in your room?

9 A Yes.

10 Q Okay. Publishing State's 34. That's consistent
11 with the damage?

12 A Yes.

13 Q Okay. Publishing State's 30. Consistent with the
14 damage?

15 A Yes.

16 Q Publishing State's 31. What are we looking at here?

17 A Looking at my door.

18 Q Okay. And that is, in fact, how it looked when you
19 arrived back to your room?

20 A Yes.

21 Q Okay, sir. Did your door look like that before you
22 left on August 16th?

23 A No.

24 Q So when you came back, that was something new?

25 A Yes.

1 Q Okay. And specifically, when you arrived back in
2 your room, was any of your property missing?

3 A Yes.

4 Q Okay. Can you describe the property you have that
5 was missing?

6 A Some Bower Wilkins headphones, some PX, they were a
7 copper color. My Maui Jim sunglasses, Big Kahuna style. A
8 wallet, two credit cards. The wallet was a -- is made out of
9 -- it's manta ray, so it was a nice wallet. Some clips.
10 Earbuds, wired earbuds.

11 Q Wireless earbuds?

12 A Wired.

13 Q Wired earbuds. Okay. What was the value of the
14 Bower Wilkins headphones that were taken?

15 A \$399.

16 Q Okay.

17 MS. COLE: 126 and 127.

18 MR. ARNOLD: 126?

19 MS. COLE: 126 and 127. Your Honor, permission to
20 approach?

21 THE COURT: Yes.

22 MS. COLE: And for the record, I'm showing the
23 witness what's been marked as State's stipulated 126 and 127.

24 BY MS. COLE:

25 Q Sir, can you take a look at those?

1 A Yeah, those are -- those are my phones. You can see
2 the -- the copper color, so.

3 Q Okay, sir. And for the record, you're describing
4 that as your headphones?

5 A Yes.

6 Q And how do you know that those are your headphones?

7 A Just the -- the color of them.

8 Q Is that a unique color made in those headphones?

9 A Yeah, they're -- yeah. Usually, they're black.
10 Yeah, yeah, all the --

11 Q And that's a specific brand?

12 A Yes.

13 MS. COLE: Your Honor, permission to publish?

14 THE COURT: Yes.

15 MS. COLE: For the record, showing what's been
16 marked as State's 126.

17 BY MS. COLE:

18 Q So when you're describing the color, sir, it's the
19 color specifically on this part of the headphones?

20 A Yes.

21 Q Okay, and what is that color? Can you describe it
22 for the record?

23 A Where the name tag is, the -- the Bower and Wilkins.

24 Q I'm sorry?

25 A What was the question?

1 Q Can you describe the color --

2 A Oh, it's --

3 Q -- of those headphones for the record?

4 A It's copper, copper in color.

5 Q Okay. And specifically, sir, that's where it says
6 Bowers and Wilkins?

7 A Yeah, right where the nameplate is.

8 Q And your headphones were this color?

9 A Absolutely.

10 Q Okay, showing 127. Again, that's another shot, and
11 you recognize this as well to be consistent with your
12 headphones?

13 A Yes. Those little buttons on the bottom, kind of
14 hard to work. They were small. I remember them, yeah.

15 Q Okay. Thank you, sir. And, sir, you also had an
16 American Express card and a Capital One card taken?

17 A Yes.

18 Q Is that correct?

19 A Yes.

20 Q And were those cards specifically in your wallet?

21 A Yes, they were in my wallet, the wallet that was
22 taken.

23 Q Okay, and I think you described that wallet. Is
24 that the manta ray wallet?

25 A Yes.

1 Q That was expensive?

2 A Yeah.

3 Q Do you recall approximately how much that wallet
4 was?

5 A \$120.

6 Q Okay, and what about the Maui Jim sunglasses?

7 A \$350.

8 Q Okay, and what about the wired earbuds?

9 A \$130. They were good ones.

10 Q Thank you, sir.

11 MS. COLE: And for the record, Your Honor, may I
12 approach with State's Exhibit 15?

13 THE COURT: Yes.

14 BY MS. COLE:

15 Q And, sir -- oh. I'm showing you page 8 of State's
16 Exhibit No. 15. Can you look at that page? And, sir, I'm
17 going to direct your attention to a specific item.

18 A Okay, (indiscernible) on there.

19 Q I'm going to specifically direct you to these
20 transactions right here, the number and the name right there.
21 Can you look at that?

22 A Yes.

23 Q Okay. What do you recognize this document as?

24 A It's my credit card statement.

25 Q Okay, this is your credit card statement? And is

1 this in reference to your Capital One card?

2 A Yes.

3 Q Okay, sir. Showing you page 8 of State's 15. Sir,
4 this is your name?

5 A Um-hum.

6 Q Okay, and this is your credit card statement?

7 A Yes.

8 Q Is this the last four of your Capital One Visa card?

9 A Yes.

10 Q Okay. And can you read that number into the record?

11 A 0452.

12 Q Okay. And, sir, did you make a transaction on
13 August 17th at 7-Eleven for \$20.68?

14 A No.

15 Q Did you report that to your credit card company?

16 A Yes, I did.

17 Q When you realized your wallet had been stolen, did
18 you subsequently notify your credit card company?

19 A Yes, while the investigators were still in the room,
20 and I already was calling.

21 MS. COLE: And, Your Honor, may I approach the
22 witness?

23 THE COURT: Yes.

24 BY MS. COLE:

25 Q And for the record, sir, I'm showing you State's 74,

1 and it's going to be page 3. Can you look at this
2 documentation? Do you recognize this?

3 A Yeah.

4 Q What is it?

5 A It's something from my American Express card.

6 Q Thank you, sir. And, sir, is that your name in the
7 left-hand corner?

8 A It is.

9 Q Okay. And is that the last four of your American
10 Express card?

11 A Yes, it is.

12 Q Can you specifically read that into the record?

13 A 11004.

14 Q Thank you. And was that specifically one of your
15 cards that was taken on that date at that time?

16 A It is.

17 Q Okay, the American Express ending in 1004?

18 A Yes.

19 Q Did you subsequently get a new physical American
20 Express card?

21 A I did.

22 Q Okay. And is that -- is that why this number here
23 changed?

24 A Yes.

25 Q Okay. So that -- that's the new card --

1 A Right.

2 Q -- that you did not have on the date of this event?

3 A Right. Yes.

4 Q Thank you, sir. And, sir, on August 16th, 2020, did
5 you make any purchases at the Sbarro's Pizza inside the
6 Bally's?

7 A No.

8 Q What about at the 7-Eleven on Koval Lane?

9 A No.

10 Q Did anyone have permission to make those
11 transactions?

12 A No.

13 Q Did anyone have permission to have either your
14 American Express ending in 1004 or your Capital One ending in
15 0452?

16 A No.

17 Q And, sir, I believe I asked you this before, but
18 just to clarify, did anybody have permission to enter your
19 room?

20 A No.

21 Q Or to use your credit cards?

22 A No.

23 Q And certainly, no one had permission to take your
24 property?

25 A No.

1 Q The headphones, all the property that you
2 identified?

3 A No.

4 Q And, sir, looking at the individual that's sitting
5 in court today, the male, did this person have permission to
6 use or to control any of your property?

7 A Well, nobody did, but I can't see him.

8 Q Okay. Do you --

9 THE COURT: I think you're in the way, counsel.

10 MS. COLE: Oh, am I in the way? Okay.

11 THE WITNESS: Well, the -- the stand is kind of --

12 THE COURT: Sir, if you need to stand up or move
13 from your location --

14 THE WITNESS: Okay.

15 THE COURT: -- please do so.

16 THE WITNESS: Yeah. No, he --

17 BY MS. COLE:

18 Q He did not have permission?

19 A No.

20 Q You don't know him?

21 A I do not.

22 Q You've never seen him before?

23 A No.

24 Q Okay. And what about the female that's sitting in
25 the courtroom? Did she have permission? And you can stand up

1 again if you need to look.

2 A I can see her. No.

3 Q And you have never seen her before?

4 A No.

5 Q And you don't know her?

6 A No.

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

8 THE COURT: Any questions, Mr. Arnold?

9 MR. ARNOLD: Yes.

10 CROSS-EXAMINATION

11 BY MR. ARNOLD:

12 Q Sir, when you initially reported this, you just
13 reported it to the security at Paris; is that correct?

14 A Yes. I called the front desk, and they called
15 security, sent them up.

16 Q And then security came up to your room and took a
17 statement; is that correct?

18 A Yes.

19 Q And then they were asking you to go ahead and
20 contact Metro; do you recall that?

21 A Yes.

22 Q And initially, you declined contacting Metro. Why
23 was that?

24 A I don't recall that.

25 Q Um-hum. Do you -- after the police came and you

1 gave a statement, did they move you to another room?

2 A Yes.

3 Q And you remember taking your personal items and
4 going to that other room?

5 A Yes.

6 Q Do you recall, once you got to the other room, that
7 that door also had scratch marks on it?

8 A No.

9 MR. ARNOLD: No further questions for this witness.

10 THE COURT: Any cross-examination, Mr. Hart?

11 MR. HART: Just real quick.

12 CROSS-EXAMINATION

13 BY MR. HART:

14 Q On your headphones, what model were they?

15 A They were PX model.

16 Q The PX5 or the PX7?

17 A I know they were PX.

18 Q Okay. How old were they?

19 A Couple years.

20 Q Okay. You said they cost you \$899?

21 A No, no, no, no. 399, and they were a gift from my
22 brother for -- from Christmas.

23 Q Okay, so it was -- okay. I thought you said 899.

24 A No.

25 Q Okay. And you don't know if he got them on sale?

1 A I kind of -- I picked them out and sent him the link
2 for him to buy them for me for Christmas.

3 Q Okay, very good. And you -- the headphones you
4 identified, you had ones similar color, correct?

5 A They were that color.

6 Q Yeah, okay. They come in black?

7 A They came in black, yeah.

8 Q Silver? Or gray, I should say?

9 A Yeah. I don't -- I -- I don't know about those. I
10 know what mine were.

11 Q Okay. There were different -- there's three
12 different -- three or four different colors, correct?

13 MR. LEXIS: I'm going to object --

14 THE WITNESS: I don't know.

15 MR. LEXIS: -- to speculation, Judge. He said --

16 MR. HART: Okay.

17 MR. LEXIS: -- he doesn't know exactly what color
18 they come in.

19 MR. HART: Okay.

20 THE COURT: Sir, do you know what the other colors
21 are?

22 THE WITNESS: No.

23 THE COURT: Okay. Next question.

24 MR. HART: Nothing further.

25 THE COURT: Any redirect by the State?

1 MS. COLE: No, Your Honor.

2 THE COURT: Any questions by our jurors? No
3 questions. Sir, thank you very much for your testimony. You
4 are excused.

5 I think we're going to take our lunch break at this
6 time, ladies and gentlemen. We'll come back at one o'clock.

7 During this lunch recess, you must not discuss or
8 communicate with anyone, including fellow jurors, in any way
9 regarding the case or its merits either by voice, phone,
10 email, text, internet, or other means of communication or
11 social media. You're not to read, watch, or listen to any
12 news, or media accounts, or commentary about the case. You're
13 not to do any research such as consulting dictionaries, using
14 the internet, or using reference materials. You're not to
15 make any investigation, test a theory of the case, recreate
16 any aspect of the case, or in any other way investigate or
17 learn about the case on your own, and you're not to form or
18 express an opinion regarding this case until it's submitted to
19 you.

20 Have a good lunch. We'll see you back at one
21 o'clock.

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

23 (Court recessed at 12:02 P.M. until 1:05 P.M.)

24 (Outside the presence of the jury.)

25 (Pause in the proceedings.)

1 THE CLERK: Judge --

2 THE COURT: Pardon?

3 THE MARSHAL: Are we ready?

4 THE COURT RECORDER: Are we ready? Marshal --

5 THE MARSHAL: They said they needed to talk to you.

6 THE COURT: Oh.

7 THE MARSHAL: Are they done?

8 MS. COLE: Who?

9 THE COURT: No, we're good.

10 MR. LEXIS: Oh, that's what -- that's what we needed
11 to talk to you about.

12 THE COURT: Yeah. No, we're good to go.

13 THE MARSHAL: Oh, you guys are good? Oh, okay.

14 MR. LEXIS: Yeah, we talked to him.

15 THE MARSHAL: All right. All rise for the entry of
16 the jury.

17 (Inside the presence of the jury.)

18 THE COURT: Welcome back, ladies and gentlemen.
19 State, who is your next witness?

20 MR. LEXIS: Esther Chae.

21 THE COURT: All right.

22 THE MARSHAL: Watch your step. Raise your right
23 hand and face the Clerk. Once she swears you in, slide your
24 chair all the way forward and speak up loud right into that
25 mike right there, okay?

1 THE WITNESS: Okay.

2 ESTHER CHAE, STATE'S WITNESS, SWORN

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

5 THE WITNESS: My first name is Esther, my last name
6 is Chae.

7 THE COURT: Please spell your name, first and last
8 name.

9 THE WITNESS: Oh. My first name is Esther,
10 E-s-t-h-e-r. My last name is Chae, C-h-a-e.

11 THE COURT: All right, thank you. Go ahead,
12 counsel.

13 DIRECT EXAMINATION

14 BY MR. LEXIS:

15 Q Ma'am, do you also go by Chester (phonetic)?

16 A Yes, I do.

17 Q On June 15th, 2020, were you staying at the Harrah's
18 Hotel, Room 44001?

19 A Yes.

20 Q Showing you State's Exhibit 63. Is that your hotel
21 room, ma'am?

22 A Yes.

23 Q State's 71. Do you recognize that?

24 A Yes.

25 Q State's 72. Do you recognize your items inside that

1 room?

2 A Yes.

3 Q State's 73. Yes?

4 A Yes.

5 Q So, ma'am, did there come a point in time where you
6 left the room in the afternoon?

7 A Yes.

8 Q Around what time?

9 A Around 4:30 and 5:00.

10 Q Do you remember what time you returned?

11 A Around 6:30.

12 Q When you returned, did you notice anything out of
13 the ordinary?

14 A Yes.

15 Q What?

16 A My key card did not work.

17 Q Okay. Anything else?

18 A Yes, I heard voices in the room.

19 Q So what did you do?

20 A I called the front desk.

21 Q When you called the front desk, what, if anything
22 else, happened next?

23 A After I called the front desk, two people came out
24 from my room.

25 Q Okay. Describe who came out first.

1 A The male came out first.

2 Q Okay. And what, if anything, did the male do when
3 he came out?

4 A He came out of my room. He pushed me against the
5 wall. He attacked me, grabbed me by my throat for a few
6 seconds, and then he grabbed my phone, and he started running
7 towards the elevator.

8 Q Were you scared, ma'am?

9 A Yes.

10 Q And you said you couldn't breathe for a couple
11 seconds?

12 A No.

13 Q So he -- sorry, I asked you in the negative. You
14 say it in your own words. Could you breathe?

15 A No, I -- no.

16 Q Okay. Let me show you something else. You say your
17 room was 44001. Showing you State's 59, do you recognize this
18 room, ma'am?

19 A Yes.

20 Q And where in conjunction of your room was this room?

21 A Right across from my room.

22 Q Okay. And can you describe for me where in
23 conjunction of this did the physical altercation ensue?

24 A Right next to the room number.

25 Q Okay, so would it be on the right-hand side of this

1 picture?

2 A Yes, that's correct.

3 Q Okay. And were you against the wall?

4 A Yes, he pushed me against the wall.

5 Q And is that when he grabbed you by the throat?

6 A Yes.

7 Q Were you on your phone at that time?

8 A Yes.

9 Q Okay. And you stated that he took your phone from
10 you?

11 A He did.

12 Q How did he do that?

13 A He just grabbed the phone away from me.

14 Q And then what did he do after he grabbed the phone?

15 A I started screaming, and then he runs down the
16 hallway.

17 Q Okay. Did he eventually drop your phone?

18 A He threw the phone on the ground.

19 Q Did you make eye contact with this individual?

20 A Yes.

21 Q Did you see him?

22 A Yes.

23 Q Can you describe his height?

24 A 5'10, 5'11.

25 Q Okay. What, if anything, was he wearing?

1 A He was wearing a t-shirt, shorts, and he had a
2 backpack on.

3 Q Okay. Did you see anybody else?

4 A Yes.

5 Q Who?

6 A A female came out right after he ran down the
7 hallway.

8 Q Okay. What, if anything, did the female say?

9 A She -- she asked me why am I screaming. She said
10 she was out in the hallway.

11 Q Okay. Did you find that strange since you just saw
12 her come out of your room?

13 A Yes.

14 Q Did she have anything on her person?

15 A Yes, she did have a bag.

16 Q Okay. And can you describe her height?

17 A 5'5, 5'6.

18 Q Was she wearing anything on her face or head?

19 A She has dreadlocks and had a bandana on at that
20 time.

21 Q Were either of them wearing a mask?

22 A No.

23 Q Did you go back in your room then?

24 A Yes.

25 Q And did you discover if anything was missing?

1 A Yes.

2 Q What?

3 A My two laptops, my MacBook Pro, my work laptop. My
4 chargers, my clothes, my wallet.

5 Q Could you describe for me how much that MacBook Pro
6 cost?

7 A 1,500 to 1,700.

8 Q How about your work laptop?

9 A 2,500 to 3,000.

10 Q You also stated some chargers, clothing. How about
11 the wallet, ma'am?

12 A Wallet was around 500.

13 Q And you stated some credit cards as well, ma'am?

14 A Come again?

15 Q Some credit cards as well, you stated?

16 A Yes.

17 Q All right. Did the cops come?

18 A Yes.

19 Q Did you give a voluntary statement of what happened?

20 A Yes, I did.

21 Q And were you later contacted by a detective from
22 Metro?

23 A Yes.

24 Q And were you asked to participate in a six-pack
25 photo lineup?

1 A Yes.

2 Q I'm showing you what has been marked as State's 79,
3 the very first page. Do you recognize this document, ma'am?

4 A Yes.

5 Q And did the officer have either himself or yourself
6 read this admonishment at the top?

7 A Yes.

8 Q What's that?

9 A Yes.

10 Q Okay. So, essentially, you understood this
11 admonishment that, you know, he's not telling you you have to
12 pick anybody; it's up to you --

13 A Yeah.

14 Q -- et cetera?

15 A Um-hum.

16 Q Is that a true statement?

17 A Yes.

18 Q All right. Did he then, after giving you this
19 admonishment, provide a six-pack photo lineup to you?

20 A Yes, that's correct.

21 Q Showing you the second page of State's 79. Is this
22 the six-pack photo lineup that he provided to you, ma'am?

23 A Yes.

24 Q And did you identify anybody to the officer who
25 looked familiar to you on the night in question of this

1 incident?

2 A Yes, I did.

3 Q And what number?

4 A Four.

5 Q Number 4, this individual right here?

6 A Yes.

7 Q Did he then ask you, in your own words, to describe
8 how you felt about No. 4?

9 A Yes.

10 Q Is that your writing, ma'am?

11 A Yes.

12 Q All right, and can you read that for the jury?

13 A "I have identified Person No. 4. Looks similar to
14 the guy who attacked me. I am 50 percent sure. I have
15 identified the suspect based on his nose structure and mouth."

16 Q Okay, thank you.

17 MR. LEXIS: Judge, can we have a sidebar, please?

18 THE COURT: Okay. Counsel?

19 (Bench conference begins.)

20 MR. LEXIS: So, Judge, I brought this up at the
21 beginning of the trial, too, that -- and that's part of the
22 reason why we have clear masks, because of not wanting to take
23 them off, so proper identification. They have been instructed
24 to wear the clear mask; however, it's my understanding as I'm
25 up there, he is having his -- the mask like Your Honor has on

1 and is not wearing the clear mask, which is completely
2 inappropriate when we're identifying people.

3 Now, I would have no problem, like I did in the
4 first COVID trial I did last year, to having them remove their
5 masks, but at a very minimum, it should be the clear mask.

6 THE COURT: Mr. Arnold?

7 MR. ARNOLD: Well, he can stand up, remove his mask,
8 and then put it back on.

9 THE COURT: We can't have anyone remove their mask.
10 He'll have to put the clear mask on.

11 MR. ARNOLD: Okay.

12 THE COURT: Just for safety reasons.

13 MR. ARNOLD: Well, he's going to have to remove it
14 now to put on --

15 THE COURT: Right, but if --

16 MR. ARNOLD: -- a clear mask.

17 THE COURT: But if he's just standing there, I mean,
18 just -- no, we -- under the rules, we can't have anyone
19 without a mask. So, yes, I understand he's got to -- well, we
20 all have to remove our masks to take a sip of water as well.
21 But if he's going to be standing there, just even for a couple
22 seconds, just have him put on the plastic mask, just a couple
23 seconds. If he feels more comfortable after with the cloth
24 mask, then that's fine.

25 MS. COLE: And --

1 MR. LEXIS: And, Judge, I just want to mention, too,
2 we've probably done probably 15, 20 witnesses in this case,
3 and this just happens to be the first case where he has a
4 problem of not wearing the clear mask, but now both -- he
5 wants to wear both masks at the same time.

6 MS. COLE: That's correct, Your Honor. Madilyn Cole
7 for the State. What we have observed is the whole time, he's
8 had on the clear mask, and this is the first witness that he's
9 actually wanted the blue mask and the face shield on. So,
10 clearly, he's fine just wearing the face shield.

11 THE COURT: Because he did wear it yesterday.

12 MS. COLE: Yes, without any other additional mask
13 underneath.

14 THE COURT: Okay. So, Mr. Arnold, do you want to
15 talk to him in the back room or just whisper to him and just
16 tell him to just put the clear mask on?

17 MR. ARNOLD: Yeah, but you said that he can't take
18 off the --

19 THE COURT: No, I mean, he's going to take it off,
20 put it back on, and --

21 MR. ARNOLD: Yeah.

22 THE COURT: That's what I meant. I mean, just --

23 MR. ARNOLD: It doesn't matter to me. Whatever the
24 Court's desire is.

25 THE COURT: Okay. Well, you tell him to put this

1 clear mask on, and if we have, you know, foundation witnesses,
2 he can put the cloth mask back on.

3 MR. ARNOLD: Okay.

4 THE COURT: Or after the ID, he can put the double
5 mask back on, so I'm not going to prevent him from doing that.

6 MR. ARNOLD: Okay.

7 THE COURT: This is for the quick ID. So if he
8 wants to put the cloth mask immediately back on, that's fine.

9 MR. ARNOLD: Okay.

10 THE COURT: All right?

11 MR. LEXIS: Thank you.

12 (End of bench conference.)

13 THE COURT: Go ahead, counsel.

14 BY MR. LEXIS:

15 Q Let's backtrack a little bit, ma'am, okay?

16 A Sorry?

17 Q You stated earlier --

18 THE COURT: He said -- he said, let's backtrack a
19 minute.

20 THE WITNESS: Okay.

21 THE COURT: Okay.

22 BY MR. LEXIS:

23 Q You stated earlier that you had some credit cards
24 stolen; is that correct?

25 A That's correct.

1 Q Okay. Ma'am, I'm showing you State's Exhibit 100.
2 Do you recognize that card?

3 A Yes.

4 Q Okay. Is that your card that was taken on the night
5 in question?

6 A Yes.

7 Q Showing you State's 101. Recognize that?

8 A Yes.

9 Q It's your card?

10 A Yes.

11 Q State's 102. Is this, again, another card that was
12 taken from you on the night in question?

13 A Yes.

14 Q And, again, ma'am, the card has -- the other -- the
15 other one had it on the front; this one has it on the back,
16 "Esther Chae"?

17 A Yes.

18 Q You? Thank you. Getting back to the six-pack photo
19 lineup, ma'am, you identified No. 4, and again, you stated, "I
20 have identified Person No. 4. Looks similar to the guy who
21 attacked me. I am 50 percent sure. I have identified the
22 suspect based on his nose structure and mouth." Is that
23 correct?

24 A That's correct.

25 Q Ma'am, do you recognize anyone in court today who

1 was attacking you on the night in question? You can get down
2 and look around if you have to get a better look.

3 A Is it okay if I stand up?

4 THE COURT: Yeah, that's fine, ma'am.

5 MR. LEXIS: Yes. You can come in front, too.

6 THE WITNESS: Oh, I can come up there? Okay. I do.

7 BY MR. LEXIS:

8 Q Okay, who do you recognize?

9 A I recognize the male.

10 Q Okay. Can you please point to this person and
11 identify for me what he's wearing?

12 A He's wearing a white shirt.

13 MR. LEXIS: Your Honor, let the record reflect the
14 witness has identified the male defendant.

15 THE COURT: Ma'am, I think we may have two or three
16 people here with white shirts. Can you be a little more
17 specific? Mr. Lexis, why don't you move, too. Is he --

18 THE WITNESS: He's the --

19 THE COURT: -- far left, far right, somewhere in the
20 middle? Where?

21 THE WITNESS: On the -- my left, the guy with a --
22 with a clear mask on.

23 THE COURT: I think there's a couple people with
24 clear masks on.

25 THE WITNESS: The African-American guy with a clear

1 mask on --

2 THE COURT: Okay, there are maybe --

3 THE WITNESS: -- with a white shirt.

4 THE COURT: -- two people there, African-American
5 with clear mask on.

6 THE WITNESS: The African-American with no suit and
7 clear mask on.

8 THE COURT: Okay. All right, thank you. The record
9 will reflect the identification of the defendant.

10 BY MR. LEXIS:

11 Q Ma'am, did you -- you had your phone after he
12 discarded your phone, and you got it back?

13 A Yes.

14 Q Okay. Did anything -- did you get any alerts on
15 your phone that caused you concern?

16 A Yes.

17 Q What did you -- did you notify any of your card
18 companies after this?

19 A Yes.

20 Q How soon after?

21 A Right after, I locked all my cards.

22 Q Showing you State's 81. Do you recognize that?

23 A Yes, I do.

24 Q Okay, and what is it?

25 A So when I was with the cops, I got a notification

1 that a transaction has been made on my locked credit card.

2 Q Okay. State's 82. What's this?

3 A So I -- I locked my MacBook and marked it as stolen
4 with my phone. And the way how that works is, once you mark
5 the laptop as stolen, if somebody tries to open it, it plays a
6 sound. So, basically, I got this notification that somebody
7 opened my MacBook on my phone.

8 Q Showing you State's 83.

9 A That's the location of my MacBook Pro after it got
10 stolen.

11 MR. LEXIS: No further questions.

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

13 MR. ARNOLD: Yes, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. ARNOLD:

16 Q Ma'am, when you identified Picture No. 4, you said
17 that you were only 50 percent sure it was that individual; is
18 that correct?

19 A That's correct.

20 Q And additionally, when you first saw Picture No. 4,
21 you were not in front of the police officers, you were at home
22 on your computer; is that correct?

23 A That's correct.

24 Q And this was sent to you by email; is that correct?

25 A That's correct.

1 Q And when you originally saw the photographs, before
2 you wrote or before you stated that it was 50 percent, didn't
3 you look at those photographs and said that you didn't
4 recognize anybody? That was your initial response?

5 A Because I didn't take a close look at it.

6 Q Again, my question was, when you originally saw that
7 on your email, didn't you say to the police officer that was
8 recording your statement at the time that you didn't think it
9 was any of those guys?

10 A Originally, yes.

11 Q And then, after you said you didn't think it was any
12 of those guys, then you started to talk to the police about
13 what happened; is that correct?

14 A That's correct.

15 Q And you gave them the same statement that you did
16 today; is that correct?

17 A That's correct.

18 Q You also said during that statement that when he put
19 you up against the wall, that he wasn't trying to hurt you; he
20 was just trying to get the phone. Isn't that correct?

21 A That's correct.

22 Q And then you also stated that once you had screamed,
23 he threw the phone down; is that correct?

24 A He threw the phone. That's correct.

25 Q Did you see him carrying anything out of the room?

1 A Only the backpack.

2 Q And that was on his back?

3 A Yes.

4 Q And do you know, was that your backpack?

5 A No.

6 Q And do you know what was inside the backpack?

7 A No.

8 Q So any items that you said were missing out of your
9 room, you don't know if that individual had them or not; isn't
10 that correct?

11 A That's correct.

12 Q Did -- you said he threw the phone down on the
13 ground. Who recovered that phone?

14 A I did.

15 Q And did you tell the police officers that that phone
16 was thrown to the ground?

17 A Yes.

18 Q And did the police ask to take the phone from you
19 for fingerprint identification?

20 A No.

21 Q So you kept the phone?

22 A I did.

23 Q Additionally, I recall you saying that the female
24 had dreadlocks; is that correct?

25 A That's correct.

1 Q How long were the dreadlocks that the female had?

2 A I cannot recall.

3 Q You can't recall if they were shoulder-length or all
4 the way down to her rear?

5 A It's about shoulder-length.

6 Q About shoulder-length? And do you recall the color
7 of the dreadlocks?

8 A It was dark.

9 Q Dark. Now, you're not 100 percent sure that Picture
10 No. 4 was the person involved in this robbery; is that
11 correct?

12 A Um-hum.

13 Q You have to say yes for the record, ma'am.

14 A Yes.

15 Q And were you provided with any other photos --

16 A No.

17 Q -- prior to writing down your statement of
18 Photograph No. 4?

19 A No.

20 Q So you weren't given any other photographs of him
21 dressed in any other outfit?

22 A No.

23 Q Prior to coming in here and testifying today, did
24 you have a meeting with the district attorneys?

25 A Yes.

1 Q And during that meeting with the district attorneys,
2 didn't they show you this photo lineup?

3 A Yes.

4 Q And they did it to refresh your recollection as to
5 who you picked in the photo lineup; isn't that correct?

6 A That's correct.

7 Q And, again, that's when you told them that it was
8 No. 4, but you were only 50 percent?

9 A That's correct.

10 MR. ARNOLD: I have no further questions for this
11 witness.

12 THE COURT: Thank you. Any questions, Mr. Hart?

13 CROSS-EXAMINATION

14 BY MR. HART:

15 Q Just, you said you had clothes stolen also, correct?

16 A Come again?

17 Q You said you had some clothes stolen?

18 A Yes.

19 Q How many articles of clothing?

20 A I can't recall, like, the exact number.

21 Q Well, when you came, did you -- what size -- did you
22 have a full suitcase?

23 A I did have several suitcases, yes.

24 Q Okay, several suitcases. So was a suitcase worth of
25 clothing missing?

1 A Not the entire suitcase.

2 Q Well, you had several suitcases, correct?

3 A Yes.

4 Q So a majority of the suitcase was missing that night
5 with this -- is that what you're saying?

6 A Maybe from one or two suitcases, my clothes were
7 missing.

8 Q Okay, from a couple suitcases?

9 A Yes.

10 Q So a suitcase worth of clothing between the two of
11 them?

12 A Yes.

13 Q Okay. Fairly large suitcases?

14 A Fair -- yeah, yeah.

15 Q Okay. You didn't come in with a duffel bag, right?

16 A Sorry?

17 Q You didn't come in with a duffel bag, right?

18 A I -- I did not have a duffel bag.

19 Q Okay. You had rolling suitcases, correct?

20 A Yes.

21 Q 27-inch or 29-inch?

22 A Yeah, I had a carry-on and two big suitcases.

23 MR. HART: Okay. Nothing further from this witness.

24 THE COURT: Any redirect?

25 MR. LEXIS: Yes, Judge.

1 REDIRECT EXAMINATION

2 BY MR. LEXIS:

3 Q Mr. Arnold, ma'am, brought up your recorded
4 statement to the police when you identified No. 4. Do you
5 recall that?

6 A Yes.

7 Q He said, initially, you were hesitant to pick
8 anybody. You then gave a description of what happened and
9 then came back and identified Person No. 4. Do you remember
10 that?

11 A Yes.

12 Q In fact, the question that led you back, do you
13 remember Detective Mann asking you, do you have anything else
14 you want to add to the interview?

15 A Yes.

16 Q And is that when you went and told him about Person
17 No. 4?

18 A Yes.

19 Q Okay. At any point in time, did Detective Mann tell
20 you, hey, ma'am, you know, keep an eye out on No. 4, are you
21 sure, or trying to sway you one bit to pick No. 4?

22 A No.

23 Q Okay. Did the DA's office or the cops at any point
24 in time tell you, you know what, ma'am, here are some more
25 photos, you know, here, let's get No. 4?

1 A No.

2 Q Back when this originally occurred, ma'am, fair to
3 say your primary attention was on the male?

4 A Come again?

5 Q Was your primary focus on the male since he was
6 attacking you?

7 A Yes.

8 Q But you were still able to get a general description
9 of the female, correct?

10 A Yes.

11 Q Okay. You stated earlier 5'5?

12 A Yes.

13 Q Were you able to give a build?

14 A Sorry?

15 Q A build?

16 A A build? Yeah, she's thin-framed.

17 Q Okay. Now, you stated earlier that the male had a
18 backpack on?

19 A Yes.

20 Q Okay. Did you remember telling anybody on what, if
21 anything, the female had?

22 A The female had a bag, a small bag.

23 Q Okay. Do you remember what type of bag?

24 A Like a rectangular bag.

25 Q I'm sorry?

1 A A rectangular bag.

2 Q A rectangular bag, like a tote bag?

3 A Yes.

4 Q Okay. Those bags big enough to fit the items that
5 were taken from you?

6 A Yes.

7 MR. LEXIS: Okay. Nothing further.

8 THE COURT: Any recross, Mr. Arnold?

9 MR. ARNOLD: Yes, Your Honor.

10 RE CROSS-EXAMINATION

11 BY MR. ARNOLD:

12 Q Ma'am, that -- in that statement that you gave to
13 Detective Mann, you said, "I'm looking at this photo. The guy
14 looks really -- I don't know how -- you know, how like all
15 these photos are really similar, so maybe the guy in No. 4."
16 Do you remember making that statement?

17 A Yes.

18 Q And then you also made the statement, "He looks
19 pretty -- pretty similar. I don't know if it's the same guy,
20 but."

21 A Yes.

22 Q You remember making that statement?

23 A Yes.

24 Q And then Detective Mann said, "Okay. Do you think
25 it's Guy No. 4, but you're not 100 percent sure?" And you

1 stated, "Exactly, yeah."

2 A Yes.

3 Q And then he asked you, "What feature on his face
4 made you think that it was him?" And what did you answer?

5 A His facial structure, nose and mouth.

6 Q His nose and his mouth, not his eyes?

7 A No, not his eyes.

8 Q Not his hair?

9 A No.

10 Q Not the complexion of his skin?

11 A No.

12 Q It was his nose and his mouth?

13 A Yes.

14 MR. ARNOLD: I have no further questions, Your
15 Honor.

16 THE COURT: Any recross, Mr. Hart?

17 MR. HART: No, Your Honor.

18 THE COURT: All right, thank you. Any questions by
19 our jurors? No questions. All right. Thank you, ma'am, for
20 your testimony. You are excused. Next witness for the State?

21 MS. COLE: And, Your Honor, the State is going to
22 call Bertha Geradeau.

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

1 THE WITNESS: No problem.

2 THE CLERK: Please raise your right hand.

3 BERTHA GERADEAU, STATE'S WITNESS, SWORN

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

6 THE WITNESS: Bertha Geradeau.

7 THE COURT: Can you spell your first and last name,
8 please?

9 THE WITNESS: B-e-r-t-h-a. Geradeau,
10 G-e-r-a-d-e-a-u.

11 THE COURT: Go ahead, counsel.

12 MS. COLE: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MS. COLE:

15 Q Good morning, Ms. Geradeau.

16 A How are you?

17 Q Where do you currently live?

18 A Brooklyn, New York.

19 Q Were you visiting Las Vegas on August 6th of 2020?

20 A Yes, I was.

21 Q And who were you visiting Las Vegas with?

22 A My sister.

23 Q What's your sister's name, ma'am?

24 A Latoya Gustus.

25 Q And where were you and Latoya staying?

1 A Harrah's.

2 Q The Harrah's Hotel here in Las Vegas?

3 A Yes.

4 Q Do you know where that's located, ma'am?

5 A 3475 South Las Vegas Boulevard.

6 Q Okay, ma'am. And do you recall the room number that
7 you were staying in?

8 A 10060.

9 Q I'm sorry, can you say that one more time?

10 A 10060.

11 Q Thank you, ma'am. And showing you what's been
12 marked as State's stipulated 84, is that, in fact, your room
13 number that you were staying at in Las Vegas?

14 A That's correct.

15 Q And, ma'am, directing your attention to August 6th,
16 2020, what time did you depart your hotel room that evening?

17 A Between 6:15 and 6:30.

18 Q Between 6:15 and 6:30, ma'am?

19 A Yes.

20 Q Okay. And do you recall what time you arrived back
21 to your hotel room?

22 A Between 11:30 and 11:50.

23 Q Okay. And was your sister Latoya with you when you
24 left and came back?

25 A Yes, she was.

1 Q And she was the only person that was staying with
2 you?

3 A That's correct.

4 Q She was the only person that had permission to enter
5 your room?

6 A That's correct.

7 Q Okay. And when you got back to your hotel room, did
8 you notice something significant?

9 A Yes, I did.

10 Q In specific, regarding the door, what, if anything,
11 did you notice?

12 A I noticed that the clothes were on the floor, that
13 the drawers of the dresser was open, and the suitcases were
14 open.

15 Q Okay, ma'am. And when you first walked into your
16 hotel, did you notice anything distinctive about the hotel
17 room door specifically?

18 A No, I didn't, not until I went down and reported it
19 to security, and then we came up, and they -- they noticed the
20 door and showed me.

21 Q Okay, and they directed you to that?

22 A Yes.

23 Q Okay. And showing you what's been marked as State's
24 85, is that consistent with the damage that you saw on your
25 hotel room door?

1 A Yes, it is.

2 Q Okay. Showing you what's been marked State's 86, is
3 that a -- what are we looking at here?

4 A The -- the door. The lock to the door.

5 Q Okay, and is that the damage that you saw?

6 A Yes, it is.

7 Q That fair and accurately depicts it?

8 A Yes.

9 Q Okay. Showing you State's 87. What are we looking
10 at here?

11 A The door also to the room. It's --

12 Q And is -- and is that the damage that you saw on
13 that day?

14 A Yes, it is.

15 Q Showing you State's 88. What are we looking at
16 here?

17 A Also damage to the door of the room.

18 Q Okay. And, ma'am, prior to leaving on August 6th,
19 2020, did you notice any damage to the door?

20 A No, I didn't.

21 Q The first time you noticed the damage to the door
22 was when?

23 A Was when I came back up with security.

24 Q When you returned to your room?

25 A Yes.

1 Q And when you noticed your room had been disturbed?

2 A Right.

3 Q Okay, ma'am. And showing you State's 89, what are
4 we looking at right here?

5 A The room. The suitcase are open. The clothes are
6 -- everything disheveled in the room.

7 Q Okay. Showing you State's 90, what are we looking
8 at right here?

9 A Also my suitcase open, stuff out of place in the
10 room.

11 Q Okay. So when you left your hotel room on August
12 6th, 2020, at approximately 6:15 and 6:30 -- between 6:15 and
13 6:30, that was not the state of your room?

14 A No, it was not.

15 Q And then, showing you State's 92, what are we
16 looking at here?

17 A Clothes. Yes, clothes in the suitcase, I believe.
18 I can't see it close. Yes, clothes.

19 Q All right. Now, ma'am, you had some property that
20 was taken; is that fair to say?

21 A Yes.

22 Q So let's go through that. Specifically, let's start
23 -- did you have some sunglasses taken?

24 A Yes, I did.

25 Q Okay, let's talk about the sunglasses. What

1 sunglasses did you have taken?

2 A A pair of Tom Ford's, a pair of Versace, and a pair
3 of Gucci.

4 Q Okay. And then did you have some jewelry that was
5 stolen from you?

6 A Yes, I did. I had a diamond B necklace.

7 Q Okay, and you said a diamond B as in boy?

8 A B as in boy, yes.

9 Q Okay, and is that a B for Bertha?

10 A B for Bertha, yes.

11 Q Okay, and that was taken?

12 A Yes, and a Michele watch.

13 Q Michele watch? Okay. Did you also have some shoes
14 that were taken?

15 A Yes, I did. I had a pair of Gucci slides and a pair
16 of Gucci sneakers.

17 Q Okay. And then did you also have -- I think what
18 you referred to as a Gucci --

19 MR. HART: Objection, leading.

20 MS. COLE: I'll rephrase, Your Honor.

21 THE COURT: Okay, thank you.

22 BY MS. COLE:

23 Q Did you have any bags taken?

24 A Yes, I did. I had one pocketbook taken, one red
25 Gucci pocketbook, and two Gucci belt bags.

1 Q Okay.

2 A Belt bags meaning they go -- they go across your
3 waist.

4 Q Okay, so you had two belt bags?

5 A Yes.

6 Q Okay. Describe to us what a pocketbook is.

7 A A pocketbook is -- as the one I have on that go on
8 my shoulder.

9 Q Okay. And for the record, it looks like you have a
10 purse that's on your left-hand shoulder, and it's like a
11 shoulder bag?

12 A Yes.

13 Q So it's a smaller purse --

14 A Yes.

15 Q -- that you wear across your body?

16 A That's correct.

17 Q Okay. Do you remember having a conversation with
18 Detective Mann?

19 A Yes, I did.

20 Q And did he ask you to look at a photo?

21 A Yes, he did.

22 Q And was this after you had given him a description
23 of the property that was stolen from you?

24 A Yes, it was.

25 Q Okay, ma'am. And were you able to make some

1 identifications of property that was stolen from you?

2 A Yes, I did.

3 Q Okay. Showing you what's been marked and stipulated
4 as stipulated State's 96. So are those circles -- did you
5 make those?

6 A Yes, I did.

7 Q Okay. So when Detective Mann produced this photo to
8 you, there was no property circled?

9 A There was -- no, no. He asked me to circle what was
10 mine in the picture.

11 Q Okay. And this was because you had given him a
12 description of the items that were stolen from you on August
13 6th, 2020?

14 A Correct.

15 Q Okay, ma'am. And let's start with -- I think you
16 can mark on that screen, but if you want, you can get down,
17 and you can point on the screen.

18 THE COURT: Ma'am, the screen to your right, you can
19 put your finger on it.

20 THE WITNESS: Okay.

21 BY MS. COLE:

22 Q Yeah, so try to see if that works, but first, let's
23 talk about sunglasses. Do you -- can you point out the
24 sunglasses that you circled and please identify them?

25 A The Versace glasses is a circle, Tom Ford glasses,

1 and the Gucci glasses.

2 Q Okay. And, ma'am, those were, in fact, the same
3 items that you circled with Detective Mann that you're
4 circling today?

5 A Correct.

6 Q Okay. So, specifically, the Tom Ford sunglasses,
7 approximately what was the value of the Tom Ford sunglasses?

8 A 370.

9 Q Okay, and how about the Gucci sunglasses?

10 A The Gucci sunglasses were 375.

11 Q Okay, and what about the Versace sunglasses?

12 A 450.

13 Q I'm sorry, can you repeat that, ma'am?

14 A 450.

15 Q 450. Now, ma'am, do you remember writing a
16 voluntary statement after you reported this crime?

17 A Yes, I did.

18 Q Okay. Do you recall whether or not you listed
19 Versace sunglasses in that written voluntary statement?

20 A No, I didn't. I put two pair of Gucci glasses and
21 Tom Ford's.

22 Q Okay, so you accidentally --

23 A I accidentally put Gucci instead of Tom Ford --
24 Versace.

25 Q Okay. So the three pairs of sunglasses, can you

1 just repeat them again, just so we know what three were taken
2 and what three you identified?

3 A Versace, Tom Ford, and Gucci.

4 Q Okay. Thank you, ma'am. Now, in reference to the
5 belt bags you described, can you please point and circle those
6 so the members of the jury can see what you're referring to?
7 Okay, and those are the items that you've identified as belt
8 bags, correct?

9 A Correct.

10 Q Okay. And let's start -- well, why don't you point
11 to one -- or let's start with the one in the -- if you're
12 looking at the screen, the far right-hand corner.

13 A Yes.

14 Q How much was that one?

15 A 650.

16 Q Okay. And then, if we're looking at the one that is
17 back towards the backpack, how much was that?

18 A 790.

19 Q Now, the Gucci pocketbook, you did not see this --
20 you did not identify your missing Gucci pocketbook in this
21 photo?

22 A No, I didn't.

23 Q You did not see that? Now, in reference to the
24 shoes, can you identify and circle for the members of the jury
25 so they can see which shoes that you identified? Okay, so

1 let's start with the one on the bottom. Can you describe
2 those?

3 A Gucci slides. They were 450.

4 Q Okay. And are those -- I mean, to -- they look like
5 flip-flops to me. Are those flip-flops?

6 A Yes, um-hum.

7 Q Okay. And can you please describe the other shoes?

8 A White Gucci sneakers. They were 650.

9 Q Okay. And both of those you had in your room on
10 August 6th, 2020, before you left at 6:15 -- between 6:30, and
11 they were not there when you returned?

12 A Correct.

13 Q Okay. And then specifically referencing your
14 Michele watch, that's not identified in the photo, is it?

15 A No, it isn't.

16 Q Okay, and how much did that cost?

17 A \$2,500.

18 Q And then, in reference to your necklace with the
19 letter B, how much did that cost?

20 A \$1,300.

21 Q And that's not identified in this photo either?

22 A No.

23 Q Have we discussed all of the property that you
24 identified in this photo?

25 A Yes, we have.

1 Q Okay, ma'am. Now, the only other individual that
2 was with you was your sister; is that fair to say?

3 A Yes.

4 Q Did you meet anybody else while you were in Las
5 Vegas that had permission to be in your room?

6 A No, I didn't.

7 Q Did Latoya meet anybody in Las Vegas that she gave
8 permission to be in your room?

9 A No, she didn't.

10 Q Okay. And, ma'am, specifically, the male individual
11 sitting here, did he have permission to have any of your
12 property?

13 A No.

14 Q Do you recognize that man?

15 A No, I don't.

16 Q Do you know that man?

17 A No, I don't.

18 Q And specifically, the female individual sitting in
19 the back, did she have permission to have your property or to
20 enter your room at any time?

21 A No, she didn't.

22 Q Do you know that female individual?

23 A No, I don't.

24 Q She never had any permission to enter your room or
25 to utilize your property?

1 A No, ma'am.

2 MS. COLE: I'll pass the witness.

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

4 (Pause in the proceedings.)

5 MR. ARNOLD: I need that Elmo.

6 MS. COLE: Oh, sorry.

7 MR. ARNOLD: Can you clear the screen, Marty?

8 MR. HART: It doesn't work on this one.

9 MR. ARNOLD: Is that 96, Ms. Cole?

10 MS. COLE: I'm sorry?

11 MR. ARNOLD: Exhibit 96? I can't read the number.

12 MR. HART: That's 96 on there now.

13 MR. ARNOLD: Oh. Is that a nine or a zero?

14 MS. COLE: That's -- I -- that's what I've been
15 calling 96.

16 MR. ARNOLD: Okay, 96.

17 MS. COLE: Is that what it lines up to on the list?

18 MR. HART: It's about right, yeah.

19 MR. ARNOLD: Okay.

20 CROSS-EXAMINATION

21 BY MR. ARNOLD:

22 Q Ma'am, I just have a couple questions. Looking at
23 Exhibit 96, you circled those slides, and you circled those --
24 what are those white sneakers? Gucci?

25 A Yes.

1 Q Okay. Can you tell the size of those Guccis in that
2 photo?

3 A Can I tell the size in the photo --

4 Q Yeah.

5 A -- or do I know the size?

6 Q No. Can you tell the size of the shoes that are in
7 this photo?

8 A No, I can't.

9 Q What size do you wear?

10 A A seven and a half.

11 Q And do you wear that -- was that the same size that
12 you wore for the slides?

13 A No, it was not.

14 Q What's -- what was the size for the slides?

15 A 11.

16 Q 11? Okay. And you can't tell if those are 11s in
17 that photo?

18 A You can't.

19 Q I'm asking you, can you?

20 A No.

21 Q Okay. That's all I'm asking.

22 MR. ARNOLD: Okay, I have no further questions.

23 THE COURT: Mr. Hart, any cross-examination?

24 MR. HART: No.

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

1 MS. COLE: No, Your Honor.

2 THE COURT: Any questions by our jurors? No
3 questions.

4 Ma'am, thank you for your testimony. You are
5 excused.

6 Next witness for the State?

7 MS. COLE: And, Your Honor, the State's going to
8 call Cindy Palacio.

9 THE MARSHAL: Watch your step. Raise your right
10 hand and face the Clerk. Once she swears you in, slide your
11 chair all the way forward to that red light right there and
12 speak loud.

13 THE WITNESS: Okay.

14 CINDY PALACIO, STATE'S WITNESS, SWORN

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

17 THE WITNESS: Cindy Palacio. C-i-n-d-y,
18 P-a-l-a-c-i-o.

19 MS. COLE: Court's brief indulgence.

20 DIRECT EXAMINATION

21 BY MS. COLE:

22 Q Good afternoon, ma'am. Where do you work?

23 A I work at Target on 4001 South Maryland Parkway.

24 Q Okay, and is that here in Las Vegas, Clark County,
25 Nevada?

1 A Yes, ma'am.

2 Q And how long have you worked there for?

3 A I've been there for over a year.

4 Q And what is your position and title with Target?

5 A I am an asset protection specialist.

6 Q And what do you do as an asset protection
7 specialist?

8 A I protect the assets of the company, and we are also
9 in charge of safety, basically. Cameras, surveillance.

10 Q So it's safe to say that you have access to the
11 video surveillance system at that Target that you work at?

12 A That's correct.

13 Q And you have the ability and capabilities of
14 accessing that surveillance, reviewing it, and giving it to
15 law enforcement agencies?

16 A That's correct.

17 Q And specifically, in this particular case, you
18 collected -- or you or someone from Target collected video
19 surveillance on August 21st, 2020?

20 A Correct.

21 Q Okay. And that was -- it was times in the morning;
22 I want to say around like 9:00 or 9:30?

23 A Correct.

24 Q Okay. And you had an opportunity to review that
25 video prior to your testimony today?

1 A That's correct.

2 Q And that video fairly and accurately depicts your
3 store on that date and time?

4 A Yes, ma'am.

5 Q And to the best of your knowledge, are your time and
6 date stamps on your video accurate?

7 A Always, yes.

8 Q And your cameras, are they constantly streaming, or
9 are they motion-activated?

10 A They are constantly streaming.

11 Q Okay, ma'am. I'm going to publish what's been
12 previously marked and stipulated to as State's Exhibit No. 6.

13 (Surveillance video played.)

14 MS. COLE: Okay.

15 BY MS. COLE:

16 Q And, ma'am, what angle of the camera are we looking
17 at right here?

18 A This would be the front exterior parking lot camera.

19 Q Okay, ma'am. And can you please read the date and
20 timestamp in the top left-hand corner out loud?

21 A It is Friday, August 21st, 2020, at 9:05:16 A.M.

22 Q Okay. And, ma'am, can you describe to the best of
23 your ability at this point the individual that's walking
24 towards the entrance of the store? And for the record, I've
25 paused it at August 21st, 2020, 9:05:23 A.M.

1 A There is a female wearing a -- I believe it's like a
2 white tank top, black shorts. She's carrying a large purse.
3 She's walking into the store. She just got out of the taxi --
4 the taxicab.

5 Q Thank you. And that's the front entrance to the
6 store, ma'am?

7 A That's correct.

8 Q Okay, pulling up another angle.

9 (Surveillance video played.)

10 BY MS. COLE:

11 Q So, ma'am, I'm going to pause this right here, and
12 for the record, the time and date stamp is Friday, August
13 21st, 2020, at 9:05:33 A.M. Where is this camera angle?

14 A This is the entrance vestibule, and the same female,
15 she just entered the store.

16 Q Okay. And, ma'am, can you describe again what she
17 looks like, what she's wearing?

18 A An African-American female, say mid-20s, white or
19 grayish tank top, black shorts, black shoes. She has a large
20 purse, I believe it's like white and black, and she's wearing
21 a face covering, like a black face covering. Long, black
22 hair.

23 Q Thank you, ma'am. I'm going to pull up another
24 video here.

25 (Surveillance video played.)

1 BY MS. COLE:

2 Q Now, ma'am, what angle -- or what camera are we
3 looking at right now?

4 A This is our self-checkout registers. Same female is
5 entering the self-checkout. Looks like she's going to be
6 going to Self-Checkout Register No. 172.

7 Q Okay. And can you please state the date and
8 timestamp in the top left-hand corner?

9 A Friday, August 21st, 2020, 9:25:27 A.M.

10 Q Thank you, ma'am. So this is -- I think the video
11 that we were previously watching was around 9:00. Now it's
12 9:25?

13 A Correct.

14 Q And, ma'am, for the record, I'm going to pause it.
15 We're at Friday, August 21st, 2020, 9:25:46 A.M. Can you
16 describe the individual that's depicted again?

17 MR. HART: Court's indulgence. I'm trying to figure
18 out the -- maybe your camera's different. I can't --

19 THE WITNESS: She has --

20 MR. HART: On the time.

21 THE COURT: Hang on a minute, please, ma'am. I'm
22 sorry, Mr. Hart, I couldn't hear you.

23 MR. HART: I'm wondering about the time. I can't
24 tell on my computer.

25 MS. COLE: Do you want to come up here, Marty? It

1 -- there you go.

2 MR. HART: Because I --

3 MS. COLE: It just -- it showed up right there.

4 MR. ARNOLD: It just came up.

5 MR. HART: Oh. Okay, so 9:25. Okay, I thought you
6 said 9:46, and you said 9:25:46. Okay, thank you.

7 MS. COLE: Yeah. And just to be clear for the
8 record, this exhibit, as paused, the date and time is Friday,
9 August 21st, 2020, at 9:25:46 A.M.

10 THE COURT: All right, thank you. Go ahead. Do you
11 understand that, ma'am?

12 THE WITNESS: Yes.

13 THE COURT: Okay.

14 THE WITNESS: Same female, looks like possibly
15 African-American. She's got the -- it's hard for me to tell,
16 but it's like a gray or whitish tank top, black shorts, white
17 belt, black shoes. Same purse, black and white large purse.
18 She's -- looks like she's starting to scan the merchandise in
19 her shopping cart.

20 MS. COLE: Thank you, ma'am. Okay, and I'm going to
21 pause it right there. Or, you know, let me -- we'll keep
22 going. I'm just going to try to speed it up one minute.

23 BY MS. COLE:

24 Q Okay, ma'am, I have it paused. Can you just state
25 the date and timestamp at this moment?

1 A It's kind of -- if you can like click on the picture
2 because it's --

3 Q Oh, yeah, is it paused? Then let's --

4 A Yeah.

5 Q -- wait a second for it to -- it'll come back.

6 A Oh, there it is. Friday, August 21st, 2020, 9:27:13
7 A.M.

8 Q Okay. Thank you, ma'am. Ma'am, and I'm going to
9 pause it right now. What is the -- what is the time and date
10 stamp at this moment? Let me just exit out for a second.

11 A Friday, August 21st, 2020, 9:28:02 A.M.

12 Q Thank you. Ma'am, what did we just see that
13 happened right there?

14 A It looks like she's done scanning her items. She
15 now is attempting to process her payment.

16 Q Okay.

17 A She pulled out some type of card, and she inserted
18 it into the card-reader.

19 Q Okay. And that is -- at Target, you guys have
20 chip-readers?

21 A Yes, we do.

22 Q Okay. So at this self-checkout stand, you wouldn't
23 slide your card; you would use it with a chip?

24 A Correct.

25 Q Okay, and that's what you just saw depicted?

1 A Correct.

2 Q And can you please state the date and the timestamp?

3 A It's Friday, August 21st, 2020, 9:28:25 A.M.

4 Q Thank you, ma'am. Just going to fast-forward a
5 little bit. And, ma'am, I'm going to pause it right there.

6 You were describing a bag?

7 A Correct.

8 Q Can you tell us where that bag is right now?

9 A It's on the right side of the register, just sitting
10 there.

11 Q Okay. And what color is the bag?

12 A It's black, and white fragments on like the sides, I
13 believe.

14 Q Okay. And would you describe it as a small, medium,
15 large bag?

16 A It's a large -- it's a large purse.

17 Q And, ma'am, just for the record, can you state the
18 date and timestamp on that particular still that we just had
19 you identify?

20 A Friday, August 21st, 2020, 9:29:51 A.M.

21 Q Okay, ma'am, and what did we just see right there?

22 A It seems to me that the transaction -- the card that
23 she's trying isn't going through. She has multiple cards.
24 She's holding one in her hand, and she inserted another one
25 into the card-reader, so she looks like she's trying multiple

1 cards.

2 Q Okay. So I'm going to have you state the date and
3 timestamp in the upper left-hand corner.

4 A Friday, August 21st, 2020, 9:30:07 A.M.

5 Q Okay. And from what you can see right now, is there
6 a card that's inserted in the machine?

7 A Yes, and she's holding another one in her right
8 hand.

9 Q Okay, and we're just going to fast-forward.

10 MS. COLE: Brief indulgence.

11 BY MS. COLE:

12 Q Ma'am, I'm going to pause it right here. When this
13 clears, I'm going to have you read the date and timestamp.

14 A Friday, August 21st, 2020, 9:34:14 A.M.

15 Q Okay. And, ma'am, is this the same bag that the
16 individual depicted has on her right shoulder that you've
17 described?

18 A Correct.

19 Q Okay, and again, can you tell us what color that is?

20 A It's black, and I see like some white -- like I
21 said, some white fragments on -- on the ends.

22 Q Okay. And I have it again paused at Friday, August
23 21st, 2020, 9:34:21 A.M. Is there a card being inserted into
24 the reader?

25 A That is correct.

1 Q Okay. And, ma'am, what are we looking at right
2 here? What is this camera angle?

3 A This is the exit vestibule. Looks like the same
4 subject is exiting the store with no merchandise. Looks like
5 the transaction -- the credit cards kept declining.

6 Q And, ma'am, can you state the date and time that
7 we're looking at in the left-hand corner?

8 A Friday, August 21st, 2020, 9:35:06 A.M.

9 Q Okay, thank you.

10 (Surveillance video played.)

11 BY MS. COLE:

12 Q And then, ma'am, what camera angle is this?

13 A This is the exterior camera shot.

14 Q Okay.

15 A I see the subject walking off-property.

16 Q Okay. Can you circle who you believe to be the
17 subject? You can actually touch the monitor, yeah.

18 A Oh, okay. Right here. Oh, did it went through?

19 Q Okay. And then, ma'am, is there a Walgreens in
20 close proximity to this store?

21 A Yes. Walgreens is actually straight down this way.

22 Q Okay, and that's what you've pointed to to describe
23 Walgreens?

24 A Yes.

25 Q Okay. So that -- and off to the left, right under

1 the date and timestamp, that's what you've identified as
2 Walgreens?

3 A Correct.

4 Q Thank you. Now, ma'am, I'm going to show you what's
5 been marked as State's Exhibit 22, which has been stipulated
6 to. Can you just take a quick look at this and let me know if
7 you recognize it?

8 A Yes. This is a -- actually, a receipt from my
9 store.

10 Q Okay. And as -- in your position at Target, you
11 know what receipts look like?

12 A Correct.

13 Q You also have the ability to pull receipts out of
14 the system?

15 A Correct.

16 Q Okay. And you can determine that this is, in fact,
17 a receipt from Target and your specific location?

18 A Correct.

19 Q And for the record, one more time, just tell us
20 where your Target is located.

21 A 4001 South Maryland Parkway here in Las Vegas.

22 Q Okay. And, ma'am, can you tell us what's depicted
23 in this top corner?

24 A So we have the terminal, which is a Register No.
25 172, a transaction number, employee ID number, and the amount.

1 Q Okay. And then is this the date at the very top?

2 A Correct. 8/21/2020.

3 Q Okay. And this receipt ID?

4 A The receipt ID is -- 0265 is the store number, which
5 is on Flamingo and Maryland Parkway, 0172 is the register
6 number, and 2323 would be the transaction number.

7 Q Okay, and there's a couple numbers I'm just going to
8 direct your attention to. Looking at this line right here
9 where you see 4786, what does that number mean?

10 A That is the -- a Visa card ending in 4786 that was
11 -- 4786, I'm sorry, that was attempted to be used for payment.

12 Q Okay. And specifically, because this is -- you can
13 tell that it wasn't processed because this is off to the left?
14 Is that how you know that?

15 A No. If you look at the bottom, at the end of the
16 transaction, the total is N/A, which means that all of these
17 cards that she attempted to use didn't go through.

18 Q Okay. And, ma'am, specifically, in looking at --
19 looking at this number right here, what number does that
20 correspond with?

21 A That is a Visa ending in 2309.

22 MS. COLE: Okay. I'll pass the witness.

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

24 MR. ARNOLD: No, Your Honor.

25 THE COURT: Any cross-examination, Mr. Hart?

1 CROSS-EXAMINATION

2 BY MR. HART:

3 Q Just to be clear, you're not the one that pulled the
4 videotape, though, correct?

5 A I was the one that prepared the video, sir.

6 Q You did prepare the tape?

7 A Yes.

8 Q Okay, but you were not there when this -- you were
9 not the person you see --

10 A No, I was not physically there.

11 Q Okay. And on the card-readers, are you in charge of
12 the card-readers, et cetera, or is that somebody else?

13 A In charge of the card-readers? No, I'm not.

14 Q Okay. You're in charge of, basically, video
15 surveillance?

16 A Retrieving transactions, retrieving --

17 Q Okay.

18 A -- video, yes.

19 Q Okay. So you're not in charge of maintenance of any
20 of that?

21 A Card-readers, no.

22 Q And on those exhibits that you were presenting, who
23 maintains the times? Is it done through a central office or
24 you guys?

25 A Through our central office.

1 Q Here in Nevada, or where?

2 A No, it's -- I couldn't tell you what state, but it's
3 not here in Nevada.

4 Q Okay.

5 A It's a corporate office.

6 Q Is it a cloud, or do you have servers at every
7 store?

8 A We have servers at every store.

9 Q Okay. So they are -- they're all separate then from
10 the central --

11 A Corporate has access to every single Target. We all
12 have different servers, but they all have access to them.

13 Q Okay. And your -- your information is given based
14 on what you believe to be everything working at the time,
15 correct?

16 A Correct.

17 MR. HART: Nothing further.

18 THE COURT: Any redirect by the State?

19 MS. COLE: No, Your Honor.

20 THE COURT: All right, thank you. Any questions by
21 our jurors? We do have a question by the jurors. I'll meet
22 counsel in the hearing room in the back.

23 (Bench conference begins.)

24 MR. HART: I always want to turn one too soon, keep
25 on walking to Denton's. Okay, what's the question?

1 THE COURT: This is Judge Villani. It says, "Not a
2 question."

3 MR. HART: Okay.

4 THE COURT: "But the video look -- can we see shot
5 of woman leaving Target? Can you freeze-frame close-up of her
6 face? Is that possible?" I can just tell her that all the
7 exhibits will be back with them.

8 MR. LEXIS: Yeah, that's what I was going to ask.

9 MS. COLE: Yeah.

10 THE COURT: All right.

11 MR. HART: And, Your Honor, while we're back here --

12 THE COURT: Mr. Hart?

13 MR. HART: -- I should probably make an objection,
14 and I know we stipulated to this stuff coming in, and I should
15 have double-checked. There are some credit card numbers on
16 there that are not included in any charges, which puts me in
17 another bad acts --

18 MR. LEXIS: I --

19 MR. HART: -- question.

20 MR. LEXIS: If this was a -- I believe it's
21 absolutely relevant. If this was a regular burglary, which we
22 have multiple of them, every credit card in the world would be
23 coming in for our case. We don't need to charge particularly
24 each possession of a credit card with (indiscernible) or
25 anything like that when you have a regular burglary charge.

1 We have multiple here. They're all relevant.

2 THE COURT: Okay, so let me make sure I -- Judge
3 Villani here. I just want to make sure I understand what
4 you're saying, is that the --

5 MR. HART: Because there's --

6 THE COURT: -- the credit card -- hang on.

7 MR. HART: Okay.

8 THE COURT: The credit card statement -- or the
9 printout is showing other credit cards being charged on? Is
10 that what you're saying?

11 MR. HART: Yes. There are -- there are credit cards
12 in that receipt from Target that are not credit cards that are
13 subject -- numbers that are subject to the charges in this
14 case.

15 THE COURT: Do they relate to any credit cards
16 stolen in this case at all?

17 MR. HART: Some -- a couple do, yes, but not all do.

18 THE COURT: Is it just a printout, like just the
19 bogus charges for the day? Is that what it is, or?

20 MS. COLE: Your Honor, Madilyn Cole for the State.
21 So the video, as you could see, I fast-forwarded, but she's at
22 the checkout stand for quite a while. She does charge
23 numerous -- she does try numerous cards. The specific cards
24 that I mentioned with the custodian of record were three, and
25 that was the one card from Rebecca Finger that was used twice

1 and the one card that was used that was Brooke Bargholtz's.

2 There was no indication that those couldn't have
3 been Ms. Oliver's credit cards. I mean, I didn't certainly
4 make any inference that those weren't her credit cards. Just
5 because they were declined doesn't mean that they're not in
6 her name.

7 I'm fine if we want to instruct the jury that
8 they're only to consider the cards that I specifically
9 referenced, but based upon right now, they have a receipt,
10 there's different credit card numbers, but there's been no
11 inference, nothing made that insinuates that those weren't Ms.
12 Oliver's card or that they were in someone other's name.

13 The only card that, you know, evidence and testimony
14 has been elicited on are the two cards that I mentioned, and
15 obviously, there's testimony that those are victims' cards.
16 We've provided the credit card statements. So I'm fine if we
17 want to instruct, but they're -- it's just a receipt of that
18 day, and I only specifically mentioned three cards --

19 MR. LEXIS: I could tell the Court --

20 MS. COLE: -- or three transactions.

21 MR. LEXIS: I could tell the Court this. We're not
22 in closing arguments going to throw up this sheet and say,
23 look at all of these transaction that this lady used
24 fraudulently. We're going to pinpoint the ones at issue in
25 the case.

1 THE COURT: Mr. Hart, on the exhibit, if we black
2 them out, I don't know if that's going to highlight it for
3 you. That's up to you. Why don't you give me a proposal, or
4 if you want me to say something to the jury, why don't you
5 write it up --

6 MR. HART: Okay.

7 THE COURT: -- pass it to counsel during, you know,
8 someone else's testimony, and then maybe the next break, we
9 can look at it. I'll be more than happy to give them some
10 admonishment if the parties will agree on it. Okay?

11 MR. HART: Okay.

12 MS. COLE: And Madilyn Cole for the State, Your
13 Honor. I also have no problem, if we want to take that
14 exhibit, I can white-out anything that's not referenced, but
15 Mr. Hart, it's up to you because I don't know if that's going
16 to draw more attention or --

17 MR. HART: I have to think about it and talk to my
18 client real quick, yeah, because --

19 THE COURT: So what we'll either --

20 MR. HART: -- because one of those were --

21 MS. COLE: Right. They might not even notice. They
22 might think it's her cards that just weren't going through.

23 MR. HART: Yeah. When I was looking, I'm going --
24 well, as you know, not everything -- there's been a --

25 THE COURT: And I will order the State --

1 MR. HART: -- (indiscernible).

2 THE COURT: State is only to reference the cards
3 related in the Indictments in this case.

4 MS. COLE: Absolutely, Your Honor.

5 MR. HART: Yeah.

6 THE COURT: So it's -- think about it, and then --

7 MR. HART: Okay.

8 THE COURT: -- at the next break, we'll talk about
9 it.

10 MR. HART: Thank you.

11 THE COURT: I think we decided on the question that
12 the -- the videotape will go back with the jurors during the
13 deliberations.

14 MR. HART: Oh, and by the way, which juror was it?

15 THE COURT: 10.

16 MR. HART: Okay.

17 THE COURT: Is that agreed, Mr. Hart?

18 MR. HART: Yes.

19 THE COURT: Agreed, Mr. --

20 MR. ARNOLD: Mr. Arnold agrees.

21 THE COURT: I know. I had a brain freeze.

22 MS. COLE: And, Your Honor, Madilyn --

23 THE COURT: Ms. Cole?

24 MS. COLE: Yes, agreed.

25 THE COURT: Okay.

1 (End of bench conference.)

2 THE COURT: We did have a question or a request by
3 one of our jurors. And I will advise all the jurors, any and
4 all exhibits that have been admitted into evidence will go
5 back with you to the jury deliberation room, and you'll be
6 able to look at them, be able to play any other videos again
7 if you so desire. Any other questions by the jurors? No
8 other question.

9 Ma'am, thank you very much for your testimony. You
10 are excused.

11 THE WITNESS: Okay.

12 THE COURT: Thank you. Have a good day.

13 THE WITNESS: Thank you.

14 THE COURT: Who's our next witness?

15 MR. LEXIS: James Methe.

16 THE MARSHAL: Watch your step. Raise your right
17 hand. Face the Clerk. Once she swears you in, have a seat.
18 Slide your chair forward to that red light. Make sure you
19 speak loud.

20 THE WITNESS: Okay.

21 THE CLERK: Please raise your right hand, sir.

22 THE WITNESS: I'm sorry?

23 THE CLERK: Please raise your right hand. Thank
24 you.

25 //

1 JAMES METHE, STATE'S WITNESS, SWORN

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: First name is James, J-a-m-e-s. Last
5 name is Methe, -e-t-h-e.

6 THE COURT: Go ahead, counsel.

7 DIRECT EXAMINATION

8 BY MR. LEXIS:

9 Q Sir, where do you work?

10 A I work for Desert Cab Company.

11 Q Were you working on August 21st, 2020?

12 A Yes, I was.

13 Q Did you pick up a woman at the Walgreens at Flamingo
14 and Maryland at around 9:45 in the morning?

15 A Yes, I did.

16 MR. LEXIS: Can I get the overhead, please?

17 THE COURT RECORDER: You want the overhead or the --

18 MR. LEXIS: We'll do the overhead first.

19 BY MR. LEXIS:

20 Q Showing you State's 10, do you recognize that, sir?

21 A Yes, I do.

22 Q Okay. Is that you and the individual that you
23 picked up?

24 A I'm sorry, I can't hear you.

25 Q Is that you and the individual you picked up on the

1 day in question?

2 A Yes, it is.

3 Q Showing you State's 11, is that just a different
4 picture?

5 A Yes, it is.

6 Q State's 12, same day in question?

7 A Yes.

8 MR. LEXIS: Can I get the computer, please, now?
9 Playing State's Exhibit 9.

10 THE WITNESS: Can I turn my phone off in case it
11 starts to ring?

12 THE COURT: Yes, please.

13 THE WITNESS: I just realized I got to turn it off.
14 (Surveillance video played.)

15 MR. LEXIS: Stopping at 29 seconds.

16 BY MR. LEXIS:

17 Q Is that your -- is that your cab, sir?

18 A Yes, it is.

19 Q And is this in front of that Walgreens there?

20 A Yes, it is.

21 Q Flamingo and Maryland?

22 A Yes, it is.

23 (Surveillance video played.)

24 BY MR. LEXIS:

25 Q Sir, is this pretty much the same thing, just

1 blown-up images?

2 A Yes.

3 Q Okay.

4 (Surveillance video played.)

5 MR. LEXIS: Okay.

6 BY MR. LEXIS:

7 Q Sir, where did you eventually drop her off at?

8 A I dropped her off at an apartment complex. The
9 address is 455 East Twain. That would be on the --

10 MR. HART: Your Honor, is he reading from something?

11 THE COURT: Are you reading from something, sir?

12 THE WITNESS: No, no, no.

13 THE COURT: You don't have anything there?

14 THE WITNESS: No, no.

15 THE COURT: Okay.

16 THE WITNESS: 455 East Twain, and it's an apartment
17 complex. It's just east of Paradise and Twain.

18 MR. LEXIS: Okay.

19 BY MR. LEXIS:

20 Q Did she give you her name, sir?

21 A Yes, she did.

22 Q And what was it?

23 A Veneshia.

24 Q Okay. Did she give you her phone number?

25 A Yes, she did.

1 Q And what was that?

2 A Her number was 702-559-5174.

3 MR. LEXIS: Okay. Nothing further.

4 THE COURT: Cross-examination, Mr. Arnold?

5 MR. ARNOLD: No, Your Honor.

6 THE COURT: Cross-examination, Mr. Hart?

7 CROSS-EXAMINATION

8 BY MR. HART:

9 Q Just to be clear, you had a chance to review with
10 the district attorney before you came to testify here today?

11 A I'm sorry, I'm having a hard time hearing it.

12 Q Did you get a chance to review with the district
13 attorney before you testified?

14 A Yes, we -- yes, we did. We went over some things.

15 Q Okay. And you were able to review reports, et
16 cetera, correct?

17 A Review what?

18 Q I'm wondering how you can remember that phone number
19 so easily.

20 A It's just a -- just a number that I just happened to
21 glance over recently, just to see whether or not, you know,
22 that -- they were asking me, do you have her phone number. So
23 I'm very good with addresses and everything else. I've been a
24 cab driver in this town for 26 years, sir.

25 Q Okay.

1 A It's names I sometimes have a hard time with, but
2 I'm good with numbers.

3 MR. HART: Very good. Nothing further.

4 THE COURT: Any redirect?

5 MR. LEXIS: Sure.

6 REDIRECT EXAMINATION

7 BY MR. LEXIS:

8 Q Sir, when you -- she provided you this phone number,
9 did you -- what did you do with it?

10 A I kept it.

11 Q Okay. So you have it in your phone?

12 A But that -- yeah, I have it in my phone, but I don't
13 plan on using it. But I did not -- once I found out what was
14 going on, I said, I'm not going to -- I'm not going to attempt
15 to call her.

16 Q Okay.

17 A So.

18 Q So did we tell you to be familiar with a phone
19 number that's already in your phone?

20 A Basically, we just reviewed looking at it, and I
21 somehow took it upon myself to remember the number.

22 Q Okay. Did the Metropolitan Police Department or the
23 district attorney's office put that phone number in your
24 phone?

25 A No.

1 Q Okay. When I showed you the clip of her giving her
2 -- you her name, do you remember that, what we just saw?

3 A I'm sorry, what? Say again.

4 Q You saw a clip of her getting out of your cab and --

5 A Yeah, yeah.

6 Q -- then it cut off when she got out?

7 A Yes.

8 Q She was in the process of giving her name?

9 A Yes.

10 Q Okay. Did she then give you her phone number?

11 A I can't remember exactly the order, but I just
12 remember, you know, her giving me her phone number, and I --
13 obviously, I would have to have her name.

14 Q Okay.

15 A Okay.

16 Q And that phone number was already in your phone
17 before ever contacting Metro and the --

18 A Yeah, I mean, I had her phone after -- yeah, she --

19 THE COURT: Hang on, sir. Sir, hang on. Let
20 counsel finish the question.

21 THE WITNESS: Okay, sorry.

22 THE COURT: Okay. You probably were anticipating
23 what he was going to ask, but let him finish, okay? So --

24 THE WITNESS: Okay.

25 THE COURT: -- restate the question.

1 BY MR. LEXIS:

2 Q That phone number was already in your phone by
3 yourself before ever talking to Metro or the district
4 attorney's office; is that correct?

5 A Yes, it was.

6 MR. LEXIS: Nothing further.

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

9 MR. ARNOLD: No, Your Honor.

10 THE COURT: Mr. Hart?

11 MR. HART: No, Your Honor.

12 THE COURT: Thank you. Any questions by our jurors?
13 No questions.

14 Sir, thank you for your testimony. You are excused.

15 THE WITNESS: Okay.

16 THE COURT: Next witness for the State?

17 MR. LEXIS: Trey Arfuso.

18 THE MARSHAL: Watch your step. Raise your right
19 hand and face the Clerk. Once she swears you in, slide your
20 chair forward until --

21 THE WITNESS: Got it.

22 THE MARSHAL: And speak up loud.

23 THE WITNESS: Got it.

24 TREY ARFUSO, STATE'S WITNESS, SWORN

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

1 state and spell your first and last name for the record.

2 THE WITNESS: Trey Arfuso. You -- did you ask me to
3 spell it?

4 THE COURT: Yes, please.

5 THE WITNESS: T-r-e-y. Last name, A-r-f-u-s-o.

6 THE COURT: Go ahead, counsel.

7 MR. LEXIS: It makes me boot every so often, Judge.
8 That's what I'm doing.

9 THE COURT: It's all right.

10 MR. LEXIS: Can I get the computer, ma'am?

11 THE COURT RECORDER: Yes, you can.

12 DIRECT EXAMINATION

13 BY MR. LEXIS:

14 Q Sir, where do you work?

15 A Desert Cab.

16 Q What's your position?

17 A The operations manager.

18 Q Were you asked as a custodian of records for Desert
19 Cab to pull some information for us on an event that occurred
20 on August 23rd at around 7:58 to 8:05?

21 A Yes.

22 Q I know a few of these pages are redundant, sir, but
23 can you do me a favor and explain to the jury this top
24 portion? And this is Exhibit 13.

25 A Yeah. Yeah, so when somebody calls for a taxicab

1 and we're responding, the dispatcher will request this
2 information, and then they just populate the -- they populate
3 it.

4 Q Okay. And the passenger's name who they gave over
5 the phone is what?

6 A Rico.

7 Q And that phone number?

8 A 1-702-684-3090.

9 Q Okay. Can you describe for me what this means right
10 here?

11 A Yeah, that's where they request to be picked up.

12 Q And could you describe for the jury this bottom
13 portion, sir?

14 A Yeah, uh-huh. So the person had called in at 7:58,
15 and that's when it was scheduled. The next portion is when
16 the cab driver accepted the dispatch call, and the blue
17 portion's when he picked up the person.

18 Q And then this over here?

19 A That's the hail audit. So this system, when it's
20 sent out, it's just done through a computer, so it hails a
21 bunch of different cabs, and just one person has to randomly
22 select to accept it.

23 Q Okay, and then one passenger?

24 A Yeah.

25 Q Is this just another business record, just a

1 different view? Again, 455 East Twain, correct?

2 A Yes.

3 Q One passenger, and once again, you stated down here
4 what this means, the 7:58, August 23rd scheduled time?

5 A Yes, sir.

6 Q And once again, just another printout of essentially
7 the same information, right? With the --

8 A Yes, sir.

9 Q -- phone number, and the name, and one passenger to
10 that location?

11 A Yes.

12 (Surveillance video played.)

13 BY MR. LEXIS:

14 Q And, sir, as an operations manager and a custodian
15 of record for Desert Cab, you're able to match that log with
16 this video, correct?

17 A Yes, sir.

18 MR. HART: Which log?

19 (Surveillance video played.)

20 BY MR. LEXIS:

21 Q Once again, sir, associated with the same ride?

22 A Yes.

23 Q And the final video.

24 (Surveillance video played.)

25 BY MR. LEXIS:

1 Q Once again, sir, associated with the same column
2 receipt logs?

3 A Yes.

4 MR. LEXIS: Nothing further.

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

6 MR. ARNOLD: No, Your Honor.

7 THE COURT: Cross-examination, Mr. Hart?

8 MR. HART: No, Your Honor.

9 THE COURT: Any questions from our jurors? We do
10 have a question from jurors. I'll meet counsel in the back.

11 (Bench conference begins.)

12 THE COURT: This is Judge Villani. This is juror --
13 well, he wrote 197, so I don't know what number he is in the
14 box. "Is it normal to dispatch a cab to a customer with only
15 a first name?" Any objection, Mr. Hart?

16 MR. HART: No.

17 THE COURT: Any objection, Mr. Arnold?

18 MR. ARNOLD: No objection from Mr. Arnold.

19 THE COURT: State?

20 MR. LEXIS: No, Judge. No.

21 MS. COLE: No objection.

22 THE COURT: All right.

23 (End of bench conference.)

24 THE COURT: Sir, we have a question from one of our
25 jurors for you. The question is, is it normal to dispatch a

1 cab to a customer with only a first name?

2 THE WITNESS: Yes, all the time.

3 THE COURT: Okay. Any follow-up by the State to
4 that last question?

5 MR. LEXIS: No, Your Honor.

6 THE COURT: Follow-up by Mr. Arnold?

7 MR. ARNOLD: No, Your Honor.

8 THE COURT: By Mr. Hart?

9 MR. HART: No, Your Honor.

10 THE COURT: Any additional questions by our jurors?
11 No additional questions. Thank you, sir, for your testimony.
12 You are excused.

13 THE WITNESS: Thank you.

14 THE COURT: Next witness for the State?

15 MR. LEXIS: Logan Bodily.

16 THE COURT: Ladies and gentlemen, after this next
17 witness, we're going to take our mid-afternoon break.

18 THE MARSHAL: Watch your step. Raise your right
19 hand and face the Clerk. Once she swears you in, slide your
20 chair forward to the red light. Make sure you speak loud.

21 LOGAN BODILY, 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: Logan Bodily. L-o-g-a-n, B-o-d-i-l-y.

25 THE COURT: Go ahead, counsel.

1 DIRECT EXAMINATION

2 BY MR. LEXIS:

3 Q Sir, where do you work?

4 A I work for the Las Vegas Metropolitan Police
5 Department in the forensic lab, firearms detail.

6 Q How long have you worked there?

7 A About two and a half years.

8 Q And can you tell us your training and experience?

9 A I have a bachelor's degree in forensic science.
10 I've also completed an in-house training program consisting of
11 training manuals, safety manuals, lab manuals. I've completed
12 proficiency and competency tests. I've also completed a NIBIN
13 entry test from the ATF. I'm also competent in serial number
14 restoration.

15 Q Part of your job duties, you testified, are
16 firearms?

17 A That's correct.

18 Q Basically, you determine whether or not it can
19 essentially go, bang, whether a projectile is expelled through
20 some type of force or explosion?

21 A That's correct.

22 Q Okay. Were you asked to do that in this case?

23 A I was.

24 Q Under Event No. 200800114539, did you have a firearm
25 to do that?

1 A If I could refer to my report?

2 Q Sure.

3 A Yes, sir.

4 Q Okay. Showing you State's Exhibit 97. Do you
5 recognize this firearm?

6 A If there's a way you could focus on the serial
7 number. Yes, I do.

8 Q Okay. Does it correspond to State's 1-0 -- well,
9 let me make sure of the number.

10 MR. LEXIS: What number is that, ma'am?

11 THE CLERK: 105.

12 BY MR. LEXIS:

13 Q State's 105?

14 A That's -- yeah, that's the firearm according to the
15 serial number I recorded in my report.

16 Q Okay. Can you describe for us this top portion
17 right here?

18 A So the event number and the lab number there are
19 assigned when we -- when we receive the evidence, the event
20 number is recorded. The lab number is assigned when it enters
21 our lab management system. And then the package contents are
22 inventoried, and from that inventory, we generate a report --

23 Q Does this essentially --

24 A -- in that top part.

25 Q -- say that you test-fired this gun?

1 A Yes. So under the results, opinions, and
2 interpretations, the firearm was test-fired by me.

3 Q Okay. And were you able to determine if it expelled
4 a round through the barrel by force of an explosion?

5 A Yes, the firearm did fire when I fired it.

6 MR. LEXIS: Nothing further, Judge.

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

8 MR. ARNOLD: No, Your Honor.

9 THE COURT: Cross-examination, Mr. Hart?

10 MR. HART: No, Your Honor.

11 THE COURT: Any questions by our jurors?

12 No questions.

13 Sir, thank you very much for your testimony. You
14 are excused.

15 Ladies and gentlemen, as I mentioned, we're going to
16 take our mid-afternoon break now. We'll come back at 3:20,
17 give you about a 15-minute break.

18 During this afternoon recess, you must not discuss
19 or communicate with anyone, including fellow jurors, in any
20 way regarding the case or its merits either by voice, phone,
21 email, text, internet, or other means of communication or
22 social media. You are not to read, watch, or listen to any
23 news, or media accounts, or commentary about the case. You're
24 not to do any research such as consulting dictionaries, using
25 the internet, or using reference materials. You're not to

1 make any investigation, test a theory of the case, recreate
2 any aspect of the case, or in any other way investigate or
3 learn about the case on your own, and you are not to form or
4 express an opinion regarding the case until this matter is
5 submitted to you. We'll see you back in 15 minutes. Thank
6 you.

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

8 (Court recessed at 3:05 P.M. until 3:24 P.M.)

9 (Inside the presence of the jury.)

10 THE COURT: State, who's our next witness?

11 MR. LEXIS: Ms. Diehl.

12 THE MARSHAL: Watch your step. Raise your right
13 hand. Face the Clerk. Once she swears you in, slide your
14 chair up forward to that right light and make sure you speak
15 loud.

16 THE WITNESS: Okay.

17 MALLORY DIEHL, STATE'S WITNESS, SWORN

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

20 THE WITNESS: My name is Mallory Diehl.

21 M-a-l-l-o-r-y, D-i-e-h-l.

22 THE COURT: Go ahead, counsel.

23 DIRECT EXAMINATION

24 BY MR. LEXIS:

25 Q Where do you work, ma'am?

1 A I work for the forensic laboratory for Las Vegas
2 Metropolitan Police Department in the latent print detail.

3 Q And how long have you worked there?

4 A Just over four years.

5 Q Can you talk about your training and experience?

6 A I have two bachelor's degrees, both from Michigan
7 State University, one in criminal justice and the other in
8 human biology. I also have a master's degree in forensic
9 anthropology from the University of Edinburgh. In addition to
10 that, once I was hired by the laboratory, I then went through
11 the latent print detail's training program, which lasts about
12 a year and a half.

13 Q What's a latent print?

14 A A latent print is a fingerprint, or palm print,
15 footprint that we don't know the identity of the person that
16 left that print.

17 Q Okay. So I've been touching this podium throughout
18 the day. Is it possible for me not to leave any viable prints
19 behind?

20 A Yes, that's possible.

21 Q Is it possible for me to leave multiple prints
22 behind?

23 A Yes.

24 Q Okay. And even if I leave a print behind, is there
25 still another step on whether it's good enough quality for a

1 CSA to lift?

2 A Yes.

3 Q Okay. And then there's -- is there a third step
4 where, even though a CSA has given you a lift, it still might
5 not be good enough quality for you to analyze?

6 A Yes.

7 Q So, basically, long story short, just because I'm
8 touching something doesn't mean I'm leaving a viable print?

9 A That's correct.

10 Q So, ma'am, did you have -- were you assigned
11 basically to do some work in Event No. 200600059192?

12 A That sounds correct, yes.

13 Q Okay. And did you have known exemplars of Darrell
14 Clark and Veneshia Oliver?

15 A Yes.

16 Q Okay, and what is that?

17 A Known exemplar are -- sorry, are fingerprints or
18 palm prints, even footprints, where we know the identity of
19 the person who made that print. Usually, these are done
20 either by inking the skin and putting that impression onto
21 paper, or it's done using an electronic machine.

22 Q So, in this case, ma'am, did you essentially have,
23 besides the known exemplars of the two defendants, three lift
24 cards?

25 A Yes.

1 Q Okay. I'm showing you State's Exhibit 112. Let's
2 focus just on the first one, ma'am, this top portion right
3 here where it says Q1.

4 A Yes.

5 Q Okay. So I take it this is the first lift card,
6 correct?

7 A Yes, it is.

8 Q And is that the situation where we talked about
9 earlier, though, that even though the CSA had the ability to
10 lift a print, you as the expert analyst wasn't able to go
11 ahead and --

12 A Yes. In this --

13 Q So it wasn't suitable?

14 A Yes.

15 Q Okay, explain that.

16 A So we have what's called suitability criteria.
17 Basically, what that means is we're looking for a certain
18 amount of information, a certain amount of clarity within
19 latent prints so that we can be sure that if we were to
20 compare that latent print, it would result in a reliable
21 conclusion.

22 Q Okay. Let's go to Lift Card 2. There was two
23 suitable prints, correct?

24 A Yes.

25 Q Okay. And you have, the first one, the latent print

1 was excluded from the following, and it has both your
2 exemplars, Darrell Clark and Veneshia Oliver --

3 A Yes.

4 Q -- correct? Now, ma'am, when -- even though you say
5 excluded, you have no idea whether I touched that object or
6 the defendants touched that object, correct?

7 A I -- I excluded both of them. So based on the
8 exemplars that I had, the known prints that I had, it did not
9 belong to either one of them.

10 Q Okay. I'm talking about, though, for the top of the
11 table.

12 A Ah.

13 Q Okay? So these two prints, top of the table from
14 the east wall, you have -- even though you excluded those two
15 prints, you have no idea whether they touched that table or
16 not, correct?

17 A I -- yes. I did not compare any latent prints for
18 that lift card.

19 Q Okay. Let me explain it a different way.

20 MR. HART: Objection, asked and answered.

21 THE COURT: No, overruled. Go ahead, counsel.

22 MR. LEXIS: Okay.

23 BY MR. LEXIS:

24 Q There's a laptop right here.

25 A Yes.

1 Q And I'm touching it. Let's say the crime scene
2 analyst was able to lift two prints off of it, okay? And
3 those two prints excluded myself.

4 A Um-hum.

5 Q You can't come in court and tell anybody
6 definitively whether or not I touched this computer; all you
7 could say is those two -- that lift card with the two prints
8 that you excluded me on were not me?

9 A Yes, that's correct.

10 Q Okay.

11 A Yes.

12 Q So, once again, you have no idea whether I touched
13 the laptop or anybody in this room touched the laptop?

14 A Yes.

15 Q Okay. Second print, number B. The latent print was
16 excluded from the following: Darrell Clark and Veneshia
17 Oliver. Again, so you were able to analyze that print,
18 correct?

19 A Yes.

20 Q And it did not come back to your known exemplars,
21 Darrell Clark and Veneshia Oliver, correct?

22 A That's correct.

23 Q But once again, you can't tell anybody in this room
24 definitively that this table on the east wall -- you have no
25 idea. They may have touched it; they might not have touched

1 it, you have no clue?

2 A Yes, that's correct.

3 Q Okay. Let's go down to Q3 now. Was this the final
4 card, ma'am, Q3?

5 A Yes, it was.

6 Q And I take it there was three prints?

7 A Yes.

8 Q Okay. And each of these prints taken from the table
9 -- top of the table along the east wall here, it says, from
10 the crime scene analyst, all of them excluded Darrell Clark
11 and Veneshia Oliver, correct?

12 A That is correct.

13 Q Once again, that means that, of those prints, they
14 didn't belong to those two people, fair?

15 A Yes. Correct.

16 Q Okay. But once again, you have no idea whether they
17 actually touched another portion of this wall or table?

18 A That's correct.

19 Q Okay. And, again, that goes back to our first
20 point, right, because sometimes you don't leave a print?

21 A Yes.

22 Q Sometimes, even if there is a print, the CSA might
23 not be able to take it, and even if they do, you might not be
24 able to analyze it?

25 A Yes.

1 Q Fair? Okay.

2 MR. LEXIS: No further questions.

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

4 MR. ARNOLD: Yes, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. ARNOLD:

7 Q Ma'am, let's talk about what Exhibit 112 really
8 means. So it says one lift card from the top of the table
9 along the east wall at the south end, and it gives an event
10 number, excuse me, and it says, incident: burglary and
11 robbery. So bottom line is these prints that you got that you
12 say were suitable were obtained from a burglary or robbery?

13 A Yes.

14 Q You don't know where from, but we already had some
15 other people come in here and tell us where from.

16 A Yes.

17 Q Okay. And those other people were CSAs that
18 actually got the lift cards, right?

19 A Yes.

20 Q Okay, but you have nothing to do with that; you just
21 examine them, right?

22 A That's correct.

23 Q Okay. So you examined them, and you found that in
24 one instance, on the top of the table along the east wall at
25 the north end, there were two suitable prints, correct?

1 A That is correct, yes.

2 Q And so you were able to analyze those? They had
3 sufficient enough detail, wasn't smudged or anything? You
4 were able to look at these fingerprints, right?

5 A They were suitable, yes.

6 Q Right. And they did not come back to my client,
7 Darrell Clark, correct?

8 A Correct. Yes.

9 Q Because you had his prints to compare the two?

10 A That's correct, yes.

11 Q And you had Ms. Oliver's prints to compare the two?

12 A That's also correct.

13 Q Okay. So if we know who those prints came from, and
14 we have their hands, and we have their exemplars, those were
15 suitable enough to make a comparison, correct?

16 A Yes, they are suitable for comparison.

17 Q Okay. And so isn't there some computer thing called
18 AFIS or something like that?

19 A Sorry, is there a thing?

20 Q Yes.

21 A There is AFIS, yes.

22 Q AFIS. And AFIS has everybody's fingerprints in
23 there that ever been fingerprinted in the United States, or
24 something around that?

25 A Not necessarily. The databases are dependent on

1 municipalities or governances.

2 Q Okay, so let's break it down even more. So like all
3 government employees that have been fingerprinted, their
4 prints would be in AFIS; is that correct?

5 A Some would be, yes.

6 Q Everybody sitting over there at Clark County, with
7 electronic fingerprinting, their fingerprints would have been
8 on there?

9 A Possibly, yes.

10 Q Anybody sitting up there in the prisons all around
11 Nevada, their fingerprints should be in there?

12 A Possibly, yes.

13 Q Anyone that was arrested, and had police contact,
14 and has had their fingerprints in the last 10 years, those
15 fingerprints would be in AFIS?

16 A Yes.

17 Q Let me ask you something. With those suitable
18 prints, I see at least five, two from Q2, three from Q3. Did
19 you run those through AFIS?

20 A I ran some of them through AFIS, yes.

21 Q AFIS. And did it come back as a hit?

22 A No, they were all negative.

23 Q All negative?

24 A Yes.

25 Q So there's a person out there that was in these

1 rooms that we don't know who those prints belong to?

2 A Yes.

3 Q But we do know they don't belong to Mr. Clark, my
4 client, right?

5 A Yes.

6 Q And then Ms. Oliver; isn't that correct?

7 A That's correct.

8 Q So there's a unknown person that was in those rooms?

9 A Yes.

10 MR. ARNOLD: I have no further questions.

11 THE COURT: Any cross-examination, Mr. Hart?

12 MR. HART: I'm not going to touch anything, so I
13 don't know if you are required to wipe it down.

14 THE MARSHAL: Still got to do it.

15 MR. HART: Okay.

16 CROSS-EXAMINATION

17 BY MR. HART:

18 Q Just for the heck of it, can you tell us what AFIS
19 is -- stands for?

20 A AFIS stands for Automated Fingerprint Identification
21 System.

22 Q And it's pretty much used nationwide, correct?

23 A It's very, very common, yes.

24 Q Okay. Now, when you do fingerprints, part of the
25 question is how dry your fingers are?

1 A Sorry?

2 Q If you're oily or not, correct?

3 A Yes, that can have an impact.

4 Q The texture of the surface?

5 A Yes.

6 Q Nobody's ever going to try to fingerprint the
7 carpet, right?

8 A I --

9 Q Well, I shouldn't say. Were you a CSA before you
10 became an analyst?

11 A No, I was not.

12 Q Okay. You -- okay. A number of people do work
13 their way through that way, though, correct?

14 A Yes.

15 Q Okay. And you understand the crime scene analysts
16 are trained, correct?

17 A Yes, I do.

18 Q Okay. Now, there's more limitations for
19 fingerprints than there is DNA, correct?

20 A I don't really know a lot about DNA, but I know that
21 there are several limitations to fingerprints.

22 Q Okay. Based on the surface, everything else,
23 correct?

24 A Yes.

25 Q Okay. And ultimately, how does it get to you to

1 test items?

2 A Usually, we will either get an item of evidence
3 that's brought to the laboratory that I would process for
4 latent prints using either chemicals or powders, or we can get
5 a packet of latent prints that have been lifted from a crime
6 scene; that's usually submitted by a CSA.

7 Q Okay. So things get impounded and go into a vault,
8 and then they get brought to you to test, correct?

9 A Yes.

10 Q Who decides whether you test them?

11 A That can either be self-assigned by me, or it could
12 be assigned by my boss, but they all need to be requested to
13 be compared.

14 Q That's what I'm getting at. The detectives
15 request --

16 A Yes.

17 Q -- that you guys do it?

18 A Yes.

19 Q There's a chain of command, comes down to -- a
20 detective calls -- who's in charge of the lab now?

21 A Kim Murga.

22 Q Okay, sorry, it's been a couple days. And then she
23 assigns it out generally, correct?

24 A As far as I know, it'll be brought into a queue --

25 Q Okay.

1 A -- and then it'll be assigned by either our manager
2 or ourselves.

3 Q Okay. Next in order, et cetera?

4 A Yes.

5 Q Or if there's multiple requests coming out of the
6 same event number or series, depending, go through
7 (indiscernible) --

8 A Yes.

9 Q -- correct?

10 A Yes.

11 MR. HART: Nothing further.

12 THE COURT: Any redirect?

13 MR. LEXIS: Briefly, Judge.

14 REDIRECT EXAMINATION

15 BY MR. LEXIS:

16 Q So, ma'am, in this event, in this room, a CSA was
17 only able to lift six prints, correct?

18 A I believe it's five.

19 Q Or five prints, yes. One, two, three -- five
20 prints?

21 A Yes.

22 Q Correct? In the entire room? Once again, ma'am,
23 just because you touch something doesn't mean you're going to
24 leave a print?

25 A Yes, that's true.

1 Q Okay. So you have no idea whether or not Veneshia
2 Oliver and Darrell Clark were in this room?

3 A No.

4 MR. LEXIS: Thank you.

5 THE COURT: Any recross, Mr. Arnold?

6 MR. ARNOLD: No, Your Honor.

7 THE COURT: Any recross, Mr. Hart?

8 RECROSS-EXAMINATION

9 BY MR. HART:

10 Q Just the reverse on that, you have no proof based on
11 this that they were there, correct?

12 A That's correct.

13 Q Okay.

14 THE COURT: Any questions by our jurors? No
15 questions. Ma'am, thank you very much for your testimony.
16 You are excused.

17 THE WITNESS: Thank you.

18 THE COURT: Next witness for the State?

19 MR. LEXIS: Mr. King.

20 THE MARSHAL: You said King?

21 MR. LEXIS: King.

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

1 MS. COLE: Who is --

2 MR. LEXIS: Is this King? King.

3 MS. COLE: Craig King.

4 THE MARSHAL: Craig King?

5 MS. COLE: Yeah.

6 THE MARSHAL: He said King. Craig King?

7 MS. MANIGAULT: Excuse me?

8 THE MARSHAL: No.

9 MS. COLE: Okay. That's not.

10 MR. LEXIS: Come on out, ma'am.

11 THE COURT RECORDER: It's the wrong witness.

12 THE COURT: We're going to -- they're going to call
13 you in a different order. You're probably next up.

14 MS. MANIGAULT: Oh, sorry.

15 THE MARSHAL: Raise your right hand and face the
16 Clerk. Once the Clerk swears you in, make sure you slide the
17 chair forward to the red light and speak loud.

18 THE WITNESS: Okay, thank you.

19 CRAIG KING, STATE'S WITNESS, SWORN

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

21 THE WITNESS: Thank you.

22 THE CLERK: And state and spell your first and last
23 name for the record.

24 THE WITNESS: My name is Craig; it's C-r-a-i-g.
25 King, K-i-n-g.

1 THE COURT: Go ahead, counsel.

2 DIRECT EXAMINATION

3 BY MR. LEXIS:

4 Q Where do you work, sir?

5 A I work for the Las Vegas Metropolitan Police
6 Department in the forensic laboratory within the biology/DNA
7 detail.

8 Q Can you tell us about your training and experience?

9 A So I have -- first, I have a Bachelor of Science
10 degree in biology, which includes coursework in biochemistry,
11 genetics, cell biology. I have training in population
12 statistics and genetics. Whenever we start a position in the
13 laboratory, you go through a period of training, usually lasts
14 anywhere from six months, could be up to two years, depends on
15 your experience and whatnot. So what it does is you go
16 through; you learn all the procedures throughout the lab, what
17 you do. You go through and you do mock cases that simulate
18 real casework.

19 After all that's done, we usually go through a mock
20 case -- or excuse me, a competency case, a practical test to
21 show that we've learned everything we needed to learn. We do
22 a written test. We do a mock or moot court exercise. Once
23 we've been signed off, we go through a period of supervised
24 casework, and after that, then we're released to actually do
25 independent casework.

1 Q Can you tell us what DNA is?

2 A DNA, very simply, is just a genetic blueprint. It's
3 like a blueprint for building something like you have
4 blueprints how to build a house. Our DNA is the blueprints
5 for us, for any living thing, on how to make that living thing
6 and how to operate it.

7 Q Okay. Can you talk about leaving DNA behind and
8 what factors go into that?

9 A Whatever you leave behind, it's going to depend on
10 what the source. So we have different types of DNA that are
11 better than others or sources of DNA that are better than
12 others. So things like blood, saliva, semen, these are our
13 best sources of DNA that we can leave behind, has a lot of DNA
14 present in those items.

15 And then we also have what we call trace DNA, so DNA
16 where we've maybe touched something or handled something,
17 maybe transferred some DNA to an item in some fashion or
18 another. It all depends on the individual, what it is, you
19 know, how long they might have handled it, if they were
20 touching it and whatnot.

21 Q So, sir, I've been up here touching this podium. Is
22 it possible for me not to leave enough DNA behind for you to
23 analyze?

24 A It is possible. It all depends on the individual,
25 how much DNA they might be shedding. It could be other

1 factors. So like, right now, if I were to cough or sneeze
2 into my hand and then touch something, I'm more likely to
3 leave more DNA behind than just simply touching it for a short
4 period of time. And then the surface, whatever that surface
5 is, will also factor into that. Smooth surfaces don't collect
6 as much DNA as a rough surface.

7 Q Is it possible for there to be too much DNA left
8 behind via mixtures for you to analyze?

9 A When we have mixtures, yes, we have a limitation.
10 We cannot analyze anything that contains more than five
11 people. So once we have a mixture where there's more than one
12 person present, we can only do up to four people.

13 Q Okay. And can you talk about that, a single source
14 versus mixtures?

15 A So a single source is DNA from one person only.
16 Mixtures is going to be two or more people. It all depends on
17 how many. It could be two, three, or four, and again, we stop
18 at four. Once we hit five, it's too complex; we just can't do
19 anything with it.

20 Q So let's give an example of if you show that there's
21 two contributors to a particular item. You can't tell if
22 that's the only two people that touched it, correct?

23 A No, we can't say. What we do is we evaluate it
24 based on all the information that we have, and we will make
25 that assumption saying there is two people present. There

1 always potentially could be more and so forth. We don't know
2 for sure. We have no way of determining exactly how many
3 people. We do our best estimate.

4 Q So long story short of it, just because you touch
5 something doesn't mean you're going to leave DNA behind?

6 A No, it doesn't mean you're going to leave it behind.

7 Q And then, even when you do, there's other multiple
8 factors, whether it's too much, mixtures, too many
9 contributors, et cetera, which will make your analysis
10 inconclusive?

11 A Yeah, it makes it difficult, or it might be that we
12 just can't make any interpretations, too much, too little, or
13 whatever it happens to be.

14 Q Okay. Can you talk about uninformative and
15 excluded?

16 A So we have actually three I'll talk about. And when
17 we do conclusions, when we compare a known DNA profile, a
18 profile from someone we know who the DNA is coming from, to
19 any type of evidence profile, we can have three different
20 types of conclusions.

21 First is they could be individually included,
22 meaning that they're possibly present in this profile.

23 Two, they can be uninformative, and what that is, is
24 it's a range that we have created that we can't say one way or
25 the other whether they're included or excluded. What we --

1 the reason why is we do a statistic; it's called a likelihood
2 ratio. And when we do these likelihood ratios -- and this is
3 what's determining the inclusion, exclusion, and
4 uninformative.

5 It's -- what these are is it's comparing two
6 competing proposals. So like if we have one proposal's going
7 to be, you know, this profile originated from a person of
8 interest, versus the opposite competing proposal would be that
9 it originated from an unknown random individual. So that
10 likelihood ratio, depending on what that value is, is what's
11 going to determine the inclusion. If we reach a certain
12 point, we say it's included. If it's below a certain point,
13 we'll say it's excluded; they're not present in that DNA
14 profile.

15 That uninformative range is a range in between the
16 two. So what it was is when we're doing our validations -- so
17 we do testing. Any time we bring on a new piece of software,
18 a new process, equipment, chemistry, whatever it happens to
19 be, we have to go through a set of testing before we can
20 actually use it on casework. So that testing includes
21 different steps in there to make sure, one, that it works the
22 way it's supposed to. Two, we try to figure out what the
23 limits are, what can we do with it, or what we can use with
24 it, and like what the limitations are and everything.

25 So when we were doing this, we created samples, like

1 mixtures or even single-source profiles, who we knew who were
2 -- the people were in these -- in these samples. We run them.
3 We ran the known samples against it to see if they were
4 included, and we also ran people we knew were not supposed to
5 be included. So we found within a certain range in between
6 that sometimes we could have someone falsely included or
7 falsely excluded within this range. It's from one 10,000th up
8 to 10,000.

9 So to prevent, as a kind of a safety measure, we
10 created this uninformative range so that we don't accidentally
11 falsely include someone or falsely exclude anyone. That is an
12 uninformative range. We just say we don't have no support to
13 either include or exclude them.

14 Q Okay. And same principle, sir. So this laptop
15 right here that I'm touching, CSA comes in, swabs it for DNA,
16 you get it, and let's say it comes back uninformative, or it
17 comes back excluded. You can't sit here in court and say Chad
18 Lexis never touched the laptop?

19 A No, I can't say that.

20 Q Sir, I'm showing you State's 110. Do you recognize
21 this report, sir?

22 A Yes, I do.

23 Q Okay, let's start up at the very top. Did you do
24 some analysis on a beanie?

25 A Yes, I did.

1 Q And what were your conclusions with the beanie and
2 this apparent hair, Impound Item No. 1?

3 A If I could just refer to my notes to refresh my
4 memory?

5 Q Sure.

6 A So there was an apparent hair present, and it was
7 not suitable for any testing. So what that means is, when we
8 look at it, we can only try to do DNA analysis on a hair that
9 actually has a hair root, that kind of growing portion of the
10 hair. That's the portion that has the DNA we're looking at
11 present. So since there wasn't enough there -- or it wasn't,
12 you know, there, we -- there wasn't one present, we weren't
13 able to do anything further with it, and so it's not suitable,
14 so we don't take it on any further.

15 And then the beanie, we did a swabbing from the
16 inside of the beanie, and we obtained a single profile from a
17 female. And then do you want me to give further conclusions
18 on that, or?

19 Q Yes. I'll go down to your conclusions on that. So,
20 essentially, we're talking about Lab Item 1, correct?

21 A Yes, that's correct.

22 Q Okay. And the swabbing inside the bottom rim of the
23 black beanie. Number of contributors, you say one female,
24 correct?

25 A Yes, that's correct.

1 Q And you have excluded as -- you have two reference
2 standards, correct, in this case? One of Veneshia Oliver and
3 Darrell Clark?

4 A Yes, that's correct.

5 Q Okay. And they were excluded from the swabbing of
6 that?

7 A Yeah. So a single female profile was obtained.
8 Both Darrell Clark and Veneshia Oliver were excluded as
9 contributors to that single profile.

10 Q Okay. Once again, you don't know if one person
11 touched that beanie or 100 people touched that beanie?

12 A We can't say. Just from -- that profile is what we
13 obtained, is all we can say.

14 Q And you don't -- you have no idea whether Darrell
15 Clark put on that beanie, or Veneshia Oliver put on that
16 beanie, or I put on that beanie?

17 A No, I can't say.

18 Q Sir, referring to State's Exhibit 109, starting with
19 the top, looked like you had three impounded items, correct,
20 sir?

21 A Yes, correct.

22 Q And swabbing from the side, back, mouth, and ear
23 parts of an iPhone as Lab Item No. 2; is that correct?

24 A It was a phone. I'm not sure if it was an iPhone or
25 not.

1 Q All right, I'm sorry. A phone?

2 A Phone, yes.

3 Q Okay. Item No. 3 and Item No. 1 were the reference
4 standards to Veneshia Clark and Darrell -- excuse me, Veneshia
5 Oliver and Darrell Clark; is that correct?

6 A That's correct.

7 Q Okay. And were you able to come to any conclusions?

8 A Yeah. So the -- from the swab from the phone, we
9 obtained a mixture of four people with at least one being
10 male. Veneshia Oliver was uninformative, and Darrell Clark
11 was excluded as a possible contributor.

12 Q Okay, and I'll direct you to where my pen is. It
13 says Lab Item No. 2, correct?

14 A Yes.

15 Q And we're talking about that phone, correct?

16 A Yes, that's right.

17 Q Once again, number of contributors does not mean --
18 once again, you can't tell us more people touched that phone?

19 A No. Based on our evaluation and our best
20 assessment, there's four people present, and that's what we
21 run our analysis on. We can always do more or less, depending
22 on what the sample is, but for this sample, we went with four.

23 Q Okay. And as far as uninformative and excluded,
24 once again, you have no idea whether or not Darrell Clark and
25 Veneshia Oliver touched that phone?

1 A We cannot say.

2 Q Your final report, sir. Let me get the -- I
3 apologize. Let me get the event numbers for the record on
4 both of those. The black beanie, sir, this was event number
5 or Primary Case No. 200800101167 and Additional Case
6 200800088817?

7 A That's correct.

8 Q Correct?

9 A Yes.

10 MR. HART: Can we have -- for the record, can we
11 have the exhibit number on that?

12 MR. LEXIS: Yeah, 110.

13 MR. HART: Thank you.

14 BY MR. LEXIS:

15 Q For Exhibit No. 109, the primary event number is
16 200800088817, with Additional Case No. 170623-1682, correct?

17 A Yes, that's correct as well.

18 Q Okay. And to the last one, sir, do you recognize
19 this report?

20 A Yes, I do.

21 Q This is Exhibit 111?

22 A Yes.

23 Q Okay. Primary Case Event No. 200600059192, with an
24 additional case number of 200800088817, correct?

25 A Yes, that's correct.

1 Q Okay. Let's go to the top. You have item
2 impounded, which was three pieces of apparent wrapper,
3 correct?

4 A Yes, that's correct.

5 Q Okay. Were you able to make any conclusions to
6 those?

7 A Yes. We obtained a single female contributor
8 profile from that.

9 Q Okay. So down to Lab Item No. 2, swabbing from
10 three pieces of apparent wrapper, what was your conclusion,
11 sir?

12 A So Veneshia Oliver could be included as a possible
13 contributor, and Darrell Clark was excluded as a possible
14 contributor.

15 Q Okay. So you had a -- one contributor that you were
16 able to pick up, correct?

17 A Yes.

18 Q And the individual included you state as Veneshia
19 Oliver?

20 A Yes. Veneshia Oliver could be individually included
21 as a possible contributor.

22 Q And could you tell the jury what 16.4 octillion
23 means?

24 A So, for this case, the -- we did a likelihood ratio,
25 and it's the probability. Observing this DNA mixture profile

1 is approximately 16.4 octillion times more likely if it
2 originated from Veneshia Oliver than it originated from an
3 unknown individual. 16.4 octillion is a number with 27 zeros
4 after it. So if you think of a million has six zeros, a
5 billion has nine, trillion has 12, in this case, it has 27
6 total zeros after the first number.

7 So one of the things for us -- and we talk about
8 individually included in the statistic. For the likelihood
9 ratio, a way to think about it is like a teeter-totter. So in
10 this teeter-totter, I mentioned before how we have two
11 different proposals, two alternate proposal, a person of
12 interest, then -- or if it originated from an unknown
13 individual.

14 So in this teeter-totter, as the number gets
15 greater, it's going to -- that number increases, there's more
16 support for that person of interest. As the number gets
17 smaller or goes to zero, then it goes to that unknown
18 individual. It could be excluded at that point. So depending
19 on that teeter-totter, which way it's going to go, in this
20 case, you know, it's going to be individually included, that
21 16.4 octillion.

22 Q 16.4 octillion compared to an unknown person?

23 A Compared to, yes, if it originated from an unknown
24 individual.

25 MR. LEXIS: No further questions.

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

2 MR. ARNOLD: No, Your Honor.

3 THE COURT: Any cross-examination, Mr. Hart?

4 MR. HART: Yes, please.

5 CROSS-EXAMINATION

6 BY MR. HART:

7 Q Can you explain to the jury what touch DNA is?

8 A Touch, we're now calling that trace DNA. Touch is
9 -- or trace is anything that somebody might have handled or
10 there's a transfer of like their skin, like the cells from
11 their skin. So if you have a hat or any other clothing, your
12 -- some of the DNA might be coming off onto that. If I touch
13 something, like I have a water bottle, that's transferring my
14 skin cells maybe to that.

15 We do call it trace now because there can be a
16 transfer of other material. I mentioned before where I said
17 if I sneezed into my hand, and then I touch something, I'm not
18 transferring skin cells at that point from my hand; I'm likely
19 transferring maybe saliva and other cells from my mouth to
20 that item. And then there's always a possibility of transfer
21 from some other item to this item as well.

22 Q Okay. You're familiar with the Lukis Anderson case?

23 A Not off the top of my head. You'll have to refresh
24 my memory. I'm sorry.

25 Q The DNA transfer case out of Silicon Valley; it was

1 kind of famous?

2 A Sorry, I don't recall right offhand, sir.

3 Q Are you familiar with DNA transfer?

4 A I am, yes.

5 Q Okay, and it's something that happens -- can happen?

6 A Yes.

7 Q It's --

8 A Transfer can happen at any point.

9 Q Okay. Such as if I touch you, and then I touch
10 somebody else, I might actually be putting your DNA on it,
11 correct?

12 A Correct.

13 Q Okay. And how many cells does it take to get a DNA
14 sample?

15 A You're looking -- like, one single cell has what we
16 call about six picograms of DNA. You know, to get a good
17 profile, we're looking at about 125, 150, up to 200, 250, so
18 you're looking somewhere between like about maybe 30 to 60
19 cells. It all depends on that individual that's -- what's
20 being transferred and everything and the quality of that DNA.

21 Q Can it be as low as seven or eight?

22 A Probably not seven or eight. It's too little DNA,
23 maybe, for us to actually get a interpretable profile. There
24 might be DNA present, but it might not be something we can use
25 or work with.

1 Q You've recently changed your standards and the
2 processes you use, correct?

3 A Which standards is that?

4 Q What's that?

5 A I'm sorry. Which standards are we talking about we
6 changing?

7 Q Well, you've changed the software you use now,
8 correct, from --

9 A Yes, the way we interpret --

10 Q -- a few years ago?

11 A -- our profiles. Yes.

12 Q Okay. It's done through an algorithm computer,
13 correct?

14 A Yes, we use --

15 Q You're no longer using Excel spreadsheets?

16 A No, we don't use Excel spreadsheets anymore. We use
17 a program called STRmix.

18 Q And what's PCR amplification, just for the jurors?

19 A PCR is polymerase chain reaction. It's a method of
20 making copies of DNA. So what we're doing, we're kind of
21 mimicking how our body replicates DNA or make copies, but
22 instead of -- our body uses proteins and enzymes; we're
23 actually using temperature. And what we're doing, we're
24 putting everything we need in there, the building blocks of
25 DNA. We have little starter pieces of DNA called primers, and

1 then our sample, and then we put it through a thermocycler,
2 which changes temperatures, and it makes copies.

3 So what it does, in the very beginning, you make a
4 few copies. It goes through an exponential step where we
5 could be making millions of copies. This is what really
6 allows us to do the DNA work that we do and a lot of different
7 other areas in science. We're allowed to -- we're able to
8 get, say, very small amounts of DNA and actually work with
9 that because of the PCR amplification.

10 Q Okay. Now, you said the hair was not suitable for
11 testing, correct?

12 A That's correct.

13 Q And that's because it's a different type of DNA --
14 well, you have sex cells, and you have epithelial cells,
15 correct?

16 A Well, in hair, there's two types of DNA. We have
17 what we call nuclear DNA; this is the DNA we've found in the
18 nucleus of all of our cells. And then you have what's called
19 mitochondrial DNA. Mitochondrial DNA is found in the
20 mitochondria; this is the powerhouses of our cells.

21 So the hair shaft itself is mostly comprised of that
22 mitochondrial DNA. That's a specialized type of DNA testing
23 that we do not do. What we do for the nuclear DNA, that is
24 only found in the root, in the growing portion of the hair.
25 So unless there's a hair root attached, we're not going to be

1 able to do it because a lot of the hairs we find are what we
2 call shed hairs. These are hairs that fall out naturally.
3 So, usually, we need a hair that's been pulled out.

4 Q That doesn't mean mitochondrial DNA doesn't get
5 done, correct?

6 A It's -- we can have it sent out, but like I said,
7 our lab, because of the cost and the speciality of it, we
8 don't use it very often. We just cannot afford to do it,
9 really.

10 Q Okay. So you don't do it in your -- you're not
11 certified in your lab, but --

12 A I'm not certified in my lab. In my previous
13 experience, I have worked with mitochondrial DNA.

14 Q Okay. And just to be clear, you were asked, it's
15 possible (indiscernible) touch this, and I'm not going to be
16 leaving DNA, right?

17 A Yes.

18 Q Is it probable?

19 A Is it probable that I'm leaving DNA?

20 Q That I won't be leaving DNA.

21 A Oh, that you won't be? I mean, we can't say for
22 sure. I mean, I think, likely, you're leaving some DNA. It's
23 really going to be how much, you know, are we going to be at a
24 level that we can detect it. So we can't say one way or the
25 other. We have no way of testing that and showing that.

1 Q Well, there have been examples where a paramedic has
2 gone to treat somebody and then treat somebody else hours
3 later, and the first person's DNA ended up on them, correct?

4 A Yes.

5 Q Okay, or people shaking hands and then touching
6 something, and the person they shook the hands with 30 minutes
7 earlier, DNA (indiscernible), correct?

8 A It's possible, yes, to leave some behind like that.

9 Q Okay. So it doesn't take a whole lot to leave DNA?

10 A It takes enough for us to test. Like I said, about
11 maybe 60 cells or something like that. It all depends, and it
12 depends on quality as well.

13 Q Okay. And there's CODIS, correct?

14 A Yes.

15 Q I noticed on one of these -- did you send the
16 samples out for additional CODIS checking?

17 A I believe one of the samples was put into CODIS.
18 I'd have to look at my report to see if I did any more --

19 Q Okay.

20 A -- if that's okay. Yeah, it looks like I put in --
21 I see about four profiles total, I believe.

22 Q Okay.

23 A One, two, three. Yes.

24 Q Okay. And CODIS is kind of -- it's a nationwide
25 system?

1 A Yeah, CODIS is the Combined DNA Index System that's
2 managed by the FBI. It's a investigative tool. It's a
3 database of DNA profiles. It has three different tiers. So
4 for us, we're at the local level, the lab is the local level.
5 We have a state level, and we have a national level, which is
6 the country itself. Each level, there's different regulations
7 or requirements to get into each of those levels. So as the
8 levels go up, so do those requirements go up as well with it.

9 Q So you can get into the national database?

10 A If the sample meets the requirements, we can put it
11 up to the national database, yes.

12 Q Okay. And just to be clear, the apparent wrapper
13 that was found that was tested, that was in a hallway,
14 correct?

15 A I believe it was in the hallway. I'm not positive.
16 It was like a hallway or a doorway. I don't have that
17 information exactly. The person who collected it would be
18 best to answer that question.

19 Q Okay. And just like DNA can be transferred, pieces
20 of a gum wrapper can be transferred, right?

21 A I suppose so, yes.

22 MR. HART: Nothing further.

23 THE COURT: Any redirect?

24 MR. LEXIS: Briefly, Judge.

25 //

1 REDIRECT EXAMINATION

2 BY MR. LEXIS:

3 Q Sir, this wrapper that you found Veneshia Oliver's
4 DNA on --

5 A Yes.

6 Q -- State's 111, can you tell the jury about the
7 strength of that hit?

8 A As far as like the statistic and everything?

9 Q Yes.

10 A So, again --

11 Q The strength of having one contributor, that being a
12 female, coming back to Veneshia Oliver at 16.4 octillion.

13 A So for --

14 Q The amount, strength of the DNA.

15 A So on this one -- I think I know what you're saying.
16 So for the three pieces of wrapper, it's very strong support
17 for the -- an inclusion of Veneshia Oliver. So, typically,
18 for an item like this, like little pieces of paper, or a
19 wrapper, whatever it is, we would not test. It's too small,
20 too limited. Typically, we don't do it.

21 So since we did get a very good, strong profile, I
22 mean, there's likely a lot of DNA present. I can't say how it
23 got there, but it's likely a lot of DNA there to get a
24 statistic as high as that. Usually, for something that's much
25 lower, we're going to have a statistic that's going to reflect

1 that level as well.

2 MR. LEXIS: Nothing further.

3 THE COURT: Any recross, Mr. Arnold?

4 MR. ARNOLD: No, Your Honor.

5 THE COURT: Any recross, Mr. Hart?

6 MR. HART: No.

7 THE COURT: Any questions by our jurors?

8 All right, no questions.

9 Sir, thank you for your testimony. You are excused.

10 THE WITNESS: Thank you.

11 THE COURT: Next witness for the State?

12 MR. LEXIS: Linda Manigault.

13 THE MARSHAL: Watch your step. Raise your right
14 hand. Face the Clerk. Once she swears you in, go ahead and
15 slide your chair forward to that red light and make sure you
16 speak loud.

17 LINDA MANIGAULT, STATE'S WITNESS, SWORN

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

20 THE WITNESS: My first name is Linda, L-i-n-d-a. My
21 last name is Manigault, -a-n-i-g-a-u-l-t.

22 THE COURT: Go ahead, counsel.

23 DIRECT EXAMINATION

24 BY MR. LEXIS:

25 Q Where do you work, ma'am?

1 A I work for the Las Vegas Metropolitan Police
2 Department in their forensic laboratory in the latent print
3 detail.

4 Q How long have you worked there, and can you tell us
5 your training and experience?

6 A I've worked there for almost five years now. I work
7 there as a forensic scientist, and my experience comes from
8 almost 10 years now. I've worked at two prior agencies where
9 I've also done the same type of work.

10 Q Okay. What is a latent print, ma'am?

11 A A latent print is a chance impression that's left
12 behind when a person comes in contact with an object. On the
13 palms of our hands and the soles of our feet, we have
14 specialized skin; it usually helps us to grip objects, and
15 these features can be left behind when we touch an object.

16 Q Ma'am, a latent print isn't always left behind; is
17 that correct?

18 A That is correct.

19 Q Okay. And even when it is left behind, and the
20 CSA's able to do a lift card, sometimes you're not able to
21 analyze that; it's not a good enough quality, fair?

22 A That's correct.

23 Q Okay. So just because I'm touching something on
24 this podium doesn't mean I'm going to leave a print behind?

25 A That is correct.

1 Q Okay. Did you have -- well, let's do it one at a
2 time. Showing you State's 107. Did you do work under Case
3 No. 200800071911, ma'am?

4 A Yes, I did.

5 Q Okay. And did that involve a lift card from the top
6 of a nightstand labeled Q1?

7 A Yes, it did.

8 Q Okay. And there was two suitable prints?

9 A Yes, there were.

10 Q Okay. And do you have as -- first of all, you had
11 two known exemplars, right? Darrell Clark and Veneshia
12 Oliver?

13 A That's correct.

14 Q And you were able to exclude those prints of
15 Veneshia Clark and Darrell Oliver -- or excuse me, Veneshia
16 Oliver and Darrell Clark?

17 A That is correct.

18 Q Okay, so those two prints were not theirs?

19 A That is correct.

20 Q True? But you can't sit here today and tell us
21 whether or not they went in that room or touched this
22 nightstand?

23 A No, sir.

24 Q Okay. And once again, that's because you could
25 touch something and not leave a print?

1 A That's correct. There are several reasons why a
2 person can come in contact with an object but not leave a
3 print behind, and one of the main reasons is that the residue
4 that's on our hands when we come in contact with that object,
5 it's just very fragile. So if it's exposed to heat, if it's
6 exposed to cold, it might not last long; it might not sustain.

7 Some of us have very dry hands, and so, therefore,
8 we might not have a lot of residue on our hands to leave
9 behind on an object, and multiple touching can sometimes rub
10 latent prints off of an object as well.

11 Q Okay, and that brings up a good point as well. Just
12 like DNA, if you have multiple people touching something, that
13 will also hinder your ability to lift a print and analyze it?

14 A That is correct. It could -- it could -- it could
15 have an -- it can cause issues and wipe away prints.

16 Q Okay. All right, so let me show you -- before I
17 show you this, sometimes you get exemplars of cops and
18 victims; is that also true?

19 A Yes, that is.

20 Q Okay, and is that because the CSA believes sometimes
21 that they might have touched it as well?

22 A That's true. So what an exemplar is, is just a --
23 it's a fingerprint record or a palm print record, but it's of
24 a known individual, and so their friction ridge skin is report
25 -- is recorded, excuse me, on an exemplar card with their name

1 and identifying information. And so other people at the
2 scene, like a victim or any police officers, we might have
3 copies of their records as well.

4 Q Okay. So I'm showing you what has been marked as
5 State's 106. Ma'am, did you do some work under Event No.
6 200800035672?

7 A Yes, I did.

8 Q Okay. And you had Q1 and Q2 lift cards, correct?

9 A That's correct.

10 Q And basically, Q1 is referring to, even though the
11 CSA thought they were able to lift a print, once it got to
12 you, it wasn't suitable. You made that determination,
13 correct?

14 A That's correct.

15 Q Okay. Q2, you have one suitable print, and that
16 came back, and come down here to where your exemplar prints,
17 to Metro Officer Ashley O'Keefe?

18 A That's correct.

19 Q Once again, that's not uncommon for you to get hits
20 off of Metro cops who were at the scene?

21 A Yeah, for the -- for the most part, it's not too
22 common.

23 Q Okay. Your final report, ma'am, State's Exhibit
24 108. Did you do some work under Event No. 200800088817?

25 A Yes, that's correct.

1 Q Okay. Focusing on -- let's go one at a time.
2 Focusing on Q1, once again, a situation where the CSA thought
3 they were able to lift a print, but suitable for you, correct,
4 ma'am?

5 A That is correct.

6 Q Okay. Let's go down to Q3. And before we do, let's
7 talk about what we talked about earlier. Sometimes you get
8 exemplars from cops and victims of the crime as well; is that
9 true?

10 A That's correct.

11 Q Okay. Down here, you have exemplar prints from not
12 only Veneshia Clark and Darrell Oliver but also a Marissa
13 Metro and Brooke Bargholtz, correct?

14 A That's correct.

15 Q Okay. So going back to Q3, one lift card, correct?

16 A Yes.

17 Q And one suitable print?

18 A Yes.

19 Q Correct?

20 A Yes. On that card, yes.

21 Q And were you able to make a determination of that
22 print?

23 A Yes. So that print was identified to the right
24 thumb of Brooke Bargholtz.

25 Q Okay. Let's work our way through the last one. Q2,

1 right?

2 A Yes.

3 Q Lift card of a phone?

4 A From the --

5 Q Is that correct?

6 A -- front of the phone. Yes, that's correct.

7 Q Two suitable prints on that phone?

8 A Yes.

9 Q Okay. Latent Print A, you excluded Darrell Clark,
10 Brooke Bargholtz, and Marissa Metro, correct?

11 A That is correct.

12 Q Okay. And as far as Veneshia Oliver, you said she
13 couldn't be excluded because of what?

14 A She couldn't be excluded because her left ring
15 finger did have some features in common, but not enough to get
16 me over the threshold of calling it an identification.

17 Q Understood. Let's go to the second print because,
18 once again, you say two suitable prints, right? A and B?

19 A Yes.

20 Q We just went over A?

21 A Yep.

22 Q Can you tell us what your results were for B?

23 A B was identified to the left ring finger of Veneshia
24 Oliver.

25 MR. LEXIS: No further questions.

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

2 MR. ARNOLD: No, Your Honor.

3 THE COURT: Mr. Hart?

4 CROSS-EXAMINATION

5 BY MR. HART:

6 Q Now, when you do fingerprint analysis --

7 A I'm sorry, I didn't hear you.

8 Q When you do fingerprint analysis, how many points do
9 you need?

10 A When I do, how many do I need?

11 Q Yes.

12 A It depends on each latent print. Each latent print
13 is different. We do have sufficiency guidelines that kind of
14 help us, and so I would at least be looking for eight features
15 or more, but I'm not only looking at features. I'm also
16 looking at the overall ridge flow of the print, as well as the
17 general pattern types.

18 Q Okay. And when you do this, this is -- you are
19 looking at the fingerprints, and you're comparing certain
20 points on the fingerprint, correct? The ridges?

21 A Yes, I'm conducting a comparison. That's correct.

22 Q Okay. And when -- you are aware of cases where
23 there have been fingerprint matches, and later found out were
24 not -- could not be, correct?

25 A Yes.

1 MR. HART: Okay. And just -- nothing further.

2 THE COURT: Anything further by the State?

3 MR. LEXIS: No, Judge.

4 THE COURT: Any questions by our jurors? We do have
5 a question. I'll meet counsel in the back room.

6 (Bench conference begins.)

7 MR. HART: That big enough to read?

8 MS. COLE: Oh, wow, that is small.

9 MR. ARNOLD: Forgot my glasses.

10 THE COURT: This is Judge Villani. I'm having a
11 little difficulty reading it. I think it says, "What about
12 battery and SIM card in phone? Was it tested? Was phone back
13 opened to test?" I think that's what that says. Mr. Hart, do
14 you read that the same way?

15 MR. HART: Yes, that's what I would read.

16 MS. COLE: Oh, "What about battery and SIM card in
17 phone? Was it tested? Was phone back opened to test?"

18 THE COURT: Any objection --

19 MR. HART: We can --

20 THE COURT: Any objection to the question, Mr. Hart?

21 MR. HART: No objection. She'll just say --

22 THE COURT: Okay.

23 MR. HART: -- (indiscernible).

24 THE COURT: Mr. Arnold, any objection?

25 MR. ARNOLD: No objection from Mr. Arnold.

1 THE COURT: State?

2 MR. LEXIS: No, Judge.

3 THE COURT: Okay.

4 MR. LEXIS: Judge, this is our last witness, and can
5 you --

6 THE COURT: Okay.

7 MR. LEXIS: -- stick around on the bench?

8 THE COURT: Sure.

9 (End of bench conference.)

10 THE COURT: Ma'am, we've got a question from our --
11 one of our jurors. Says, what about battery and SIM card in
12 phone? Was it tested? Was phone back opened to test?

13 THE WITNESS: No.

14 THE COURT: All right. Any follow-up by the State
15 to this question?

16 MR. LEXIS: Yeah. Yes.

17 FOLLOW-UP EXAMINATION

18 BY MR. LEXIS:

19 Q Ma'am, your job is to analyze what the crime scene
20 analysts pull; is that correct?

21 A That is correct.

22 Q Okay. So your job does not encompass -- in that
23 realm, it's the analyst at the scene that makes the
24 determination and processes the scene, and then you just
25 receive the lifts?

1 A Yes. In this particular instance, I was not at the
2 scene. So the phone was collected by the CSA, and I was just
3 analyzing lift cards that was lifted off of that phone.

4 MR. LEXIS: Thank you.

5 THE COURT: Any additional questions, Mr. Arnold?

6 MR. ARNOLD: No, Your Honor.

7 THE COURT: Any additional question, Mr. Hart?

8 FOLLOW-UP EXAMINATION

9 BY MR. HART:

10 Q Just to be clear, if I got it wrong -- think -- was
11 it Detective Byrd that made the request to have it tested? Do
12 you remember?

13 A May I refer to -- I can refer to my report and look.

14 THE COURT: Yes, go ahead.

15 MR. HART: What's that? Sorry.

16 MR. ARNOLD: Oh, she needs her report.

17 THE WITNESS: Yes, it was.

18 BY MR. HART:

19 Q Okay. So if there was to be -- additional testing
20 can be requested by the detective, correct?

21 A That is correct.

22 MR. HART: Okay. Nothing further.

23 THE COURT: All right. Any additional questions by
24 our jurors? No additional questions. Thank you, ma'am, for
25 your testimony. You are excused. I think that's -- State, I

1 think that's our last witness for today?

2 MR. LEXIS: Yes, Your Honor.

3 THE COURT: Okay. Ladies and gentlemen, we'll come
4 back at nine o'clock tomorrow morning. We're going to leave a
5 little early today. We got a lot of witnesses processed
6 today, and we'll see you back tomorrow at nine o'clock.

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

20 Have a safe drive home. We'll see you tomorrow at
21 nine.

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

23 (Outside the presence of the jury.)

24 THE COURT: All right. We're outside the presence
25 of the jury panel. Did counsel wish to say something?

1 MR. LEXIS: Yes. Judge, both defense attorneys have
2 seen these. They're a prior Judgment of Conviction, certified
3 copy, one for Darrell Clark, one for Veneshia Oliver. I would
4 just reiterate to your Clerk that these are court exhibits,
5 not to go back to the jury. So you should have three court
6 exhibits now, these two JOCs, as well as that form from this
7 morning from the out-of-state witness consent form.

8 THE COURT: All right, thank you. Mr. Arnold, have
9 you seen these Judgments of Conviction?

10 MR. ARNOLD: Yes, Your Honor.

11 THE COURT: Okay. And obviously, they're not going
12 to be utilized at this point unless someone testifies or if we
13 get to a -- I guess there's a charge of possession of firearm
14 by a prohibited person. And you've seen these, Mr. Hart?

15 MR. HART: Yes, Your Honor.

16 THE COURT: Okay. I don't know if either defendant
17 has prior felony convictions, but --

18 MR. HART: And, Your Honor, in a follow-up from
19 earlier, I did discuss with my client the receipt from Target,
20 and as it stands now, we're not going to be asking for any
21 admonishment.

22 THE COURT: Okay.

23 MR. HART: I think it'd only bring up more
24 information. I will say, one of the things -- I get the funny
25 feeling this jury might want to look at the exhibits. And

1 earlier in the trial, we had the exhibit from the Paris with
2 the elevator, and it got stopped short where it was not a
3 Paris elevator, but rather, the --

4 MR. ARNOLD: Bally's.

5 MR. HART: -- Bally's elevator. What else is on
6 that?

7 MS. COLE: Your Honor, Madilyn Cole for the State.
8 Just so the Court is aware, I believe we already discussed
9 this. That video encompasses them in the elevators. There's
10 no video whatsoever of anybody on the floors of Bally's. That
11 first video that I played that first day seems to mainly be
12 from Bally's, showing the suspects walking from the Bally's to
13 the Paris Hotel.

14 There is video surveillance of them in elevators in
15 the Bally's Hotel, but we discussed that, and the Court agreed
16 with the State that that was fine for purposes of showing the
17 conspiracy, and that they were acting together, and they're
18 taking the same path from the Bally's to the Paris.

19 I will confirm, double, triple-check. I'll re-watch
20 that exhibit, and Mr. Hart is welcome to watch that with me as
21 well, as well as Mr. Arnold, to just confirm that they have no
22 other issues with that.

23 MR. LEXIS: And furthermore, Judge, if I had video
24 evidence of them staying at the Venetian and going in and out
25 of a room, and they were staying there, I'd absolutely tell

1 you -- ask the Court to consider that relevant evidence since
2 I need to prove a conspiracy and aiding and abetting
3 throughout this entire thing.

4 THE COURT: I understand. Anything -- thank you,
5 State. Anything else, Mr. Arnold, for tonight?

6 MR. ARNOLD: No, Your Honor.

7 THE COURT: Mr. Hart?

8 MR. HART: No, Your Honor.

9 THE COURT: All right. We'll see everybody --

10 MR. LEXIS: One last thing, Judge. I apologize.

11 THE COURT: Sure.

12 MR. LEXIS: I sent the Court and I sent defense
13 counsels jury instructions, so I'm ready whenever the Court's
14 ready to go over jury instructions, just so you know.

15 THE COURT: All right, I'll be looking at those
16 tomorrow. And counsel, check your emails. You might have
17 those jury instructions waiting for you.

18 All right, thank you, everybody. Have a great
19 evening.

20 (Court recessed at 4:34 p.m., until Thursday,
21 April 15, 2021, at 9:06 a.m.)

22 * * * * *

23

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INDEXSTATE'S WITNESSES:

	<u>PAGE</u>
<u>JEFFREY DAVENPORT</u> (<i>Via BlueJeans</i>)	
Direct Examination by Ms. Cole.	4
Cross-Examination by Mr. Hart.. . . .	26
<u>DONNA BRANT-GARCIA</u> (CSA)	
Direct Examination by Mr. Lexis.. . . .	29
Cross-Examination by Mr. Hart	35
Redirect Examination by Mr. Lexis.. . . .	37
Recross-Examination by Mr. Hart.. . . .	39
<u>JACOB CRANK</u>	
Direct Examination by Ms. Cole.	41
Cross-Examination by Mr. Hart.. . . .	49
<u>JEWELL LOVE</u>	
Direct Examination by Ms. Cole.	51
Cross-Examination by Mr. Arnold.. . . .	63
Redirect Examination by Ms. Cole.	68
Recross-Examination by Mr. Arnold.. . . .	69
Cross-Examination by Mr. Hart.. . . .	72
<u>PATRICIA WILLIAMS-JONES</u>	
Direct Examination by Ms. Cole.	73
Cross-Examination by Mr. Arnold.. . . .	86
Cross-Examination by Mr. Hart.. . . .	91
Redirect Examination by Ms. Cole.	91
<u>BROOKE BARGHOLTZ</u>	
Direct Examination by Ms. Cole.	94
Cross-Examination by Mr. Hart.. . . .	107
Redirect Examination by Ms. Cole.	108
<u>GARY KRUSINSKI</u>	
Direct Examination by Ms. Cole.	110
Cross-Examination by Mr. Arnold.. . . .	122
Cross-Examination by Mr. Hart.. . . .	123

(Index continued on following page.)

INDEX (Continued)STATE'S WITNESSES:ESTHER CHAE

Direct Examination by Mr. Lexis..	127
Cross-Examination by Mr. Arnold..	141
Cross-Examination by Mr. Hart..	145
Redirect Examination by Mr. Lexis..	147
Recross-Examination by Mr. Arnold..	149

BERTHA GERADEAU

Direct Examination by Ms. Cole.	151
Cross-Examination by Mr. Arnold..	163

CINDY PALACIO

Direct Examination by Ms. Cole.	165
Cross-Examination by Mr. Hart..	177

JAMES METHÉ

Direct Examination by Mr. Lexis..	185
Cross-Examination by Mr. Hart..	188
Redirect Examination by Mr. Lexis..	189

TREY ARFUSO

Direct Examination by Mr. Lexis..	192
Jury Question..	195

LOGAN BODILY (CSA)

Direct Examination by Mr. Lexis..	197
---	-----

MALLORY DIEHL (CSA)

Direct Examination by Mr. Lexis..	200
Cross-Examination by Mr. Arnold..	207
Cross-Examination by Mr. Hart..	210
Redirect Examination by Mr. Lexis..	213
Recross-Examination by Mr. Hart..	214

CRAIG KING (CSA)

Direct Examination by Mr. Lexis..	216
Cross-Examination by Mr. Hart..	228
Redirect Examination by Mr. Lexis..	235

(Index continues on following page.)

INDEX (Continued)

STATE'S WITNESSES:

LINDA MANIGAULT (CSA)

Direct Examination by Mr. Lexis.. . . .	236
Cross-Examination by Mr. Hart.. . . .	243
Jury Question.. . . .	245
Follow-up by Mr. Lexis.	245
Follow-up by Mr. Hart.. . . .	246

* * * * *

EXHIBITS

STATE'S EXHIBITS:

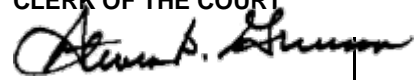
Exhibits 178-179 (stipulated).. . . .	58
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ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case.

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. XVII
)	
VENESHIA LANETTE OLIVER,)	
and DARRELL CLARK,)	
)	
Defendants.)	

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

TUESDAY, APRIL 13, 2021

TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 2

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

LAS VEGAS, CLARK COUNTY, NEVADA, TUESDAY, APRIL 13, 2021

(Case called at 9:08 a.m.)

(Outside the presence of the jury.)

THE COURT RECORDER: Okay, we're on the record.

THE COURT: All right, thank you. We're on the record now, outside the presence of the jury panel.

Mr. Lexis, there was an issue with the Superseding Indictments as far as having a dash one, dash two. Could you please put that on the record?

MR. LEXIS: Yes, Judge. I filed the one yesterday just with the case number and not a dash one, dash two. I would move to strike that Amended Second Superseding Indictment. And then I just brought up a version which has the dash one and dash two, and I would ask that that be filed.

THE COURT: Any objection, Mr. Arnold?

MR. ARNOLD: No, Your Honor.

THE COURT: Any objection, Mr. Hart?

MR. HART: No, I'm assuming it's the same. I was shown it. I didn't get a --

THE COURT: Yes.

MR. HART: -- chance to go all the way through. As long as the same --

THE COURT: Are they the same, Mr. Lexis?

MR. LEXIS: It's the same, Judge.

THE COURT: All right, they'll be filed. Thank you.

1 Anything else before the marshal brings the jury in?

2 MR. LEXIS: Just when Madilyn comes down, I'll put
3 on the record the stipulation to the exhibits, Judge, but the
4 ones that I just want to make clear ahead of time that are not
5 to go back to the jury is that this is during the time frame
6 of the law where, in order for it to be a commercial burglary,
7 they need to have a prior conviction. And so I will be
8 admitting those but not as exhibits for the jury, but they'll
9 be court exhibits.

10 So I will be bringing down -- I'll put it on the
11 record when I put on everything else. I just want to make
12 that clear that when I -- when those do come in, they'll just
13 be court exhibits, and they'll be prior felony -- a prior
14 felony for the -- each of the defendants.

15 THE COURT: All right. And has copies of those
16 prior convictions been provided to Mr. Arnold and Mr. Hart?

17 MR. LEXIS: Yes, Judge.

18 THE COURT: Is that correct, Mr. Arnold?

19 MR. ARNOLD: Yes, Your Honor.

20 THE COURT: Is that correct, Mr. Hart?

21 MR. HART: Yes, Your Honor.

22 THE COURT: All right, thank you. Anything else by
23 the State?

24 MR. LEXIS: No, Judge.

25 THE COURT: Anything by Mr. Arnold?

1 MR. ARNOLD: No, Your Honor.

2 THE COURT: Anything, Mr. Hart, you want to add?

3 MR. HART: No, Your Honor.

4 THE COURT: Okay. Just -- I think the marshal's
5 just lining up the jurors.

6 (Pause in the proceedings.)

7 THE COURT: And I don't know if all counsel are
8 aware, but if we have to have a sidebar, we have to go into
9 the jury room and speak into a microphone that will be hot.

10 MR. HART: Perfect.

11 (Pause in the proceedings.)

12 THE COURT: Are we ready, Marshal?

13 THE MARSHAL: One of the jurors just showed up, so
14 we're ready to go, ready to go.

15 THE COURT: You said one of the jurors what?

16 THE MARSHAL: They just got here.

17 THE COURT: Okay.

18 THE MARSHAL: So now we're ready.

19 THE COURT: Let's bring them in.

20 THE MARSHAL: All right, let's go to work. All rise
21 for the entry of the jury.

22 (Inside the presence of the jury.)

23 THE COURT: All right. Good morning, ladies and
24 gentlemen. Welcome back. Everyone, have a seat, please.
25 Thank you. We are now going to swear in the jury panel.

1 THE CLERK: Please stand and raise your right hands.

2 JURY PANEL SWORN

3 THE COURT: All right, thank you. Have a seat. All
4 right. Ladies and gentlemen, it's -- obviously, you've been
5 selected as jurors in this case, and I will now take a few
6 minutes to talk to you about what to expect in this case. My
7 comments are intended to serve as an introduction to the
8 trial. At the end of the trial, I will give you more detailed
9 instructions in writing, and those instructions will control
10 your deliberations.

11 This is a criminal case brought by the State of
12 Nevada against the defendants, Veneshia Oliver and Darrell
13 Clark. This case is based upon a Second Amended Superseding
14 Indictment. The clerk will now read to you the Second
15 Superseding Amended Indictment and state the defendants'
16 pleas.

17 (SECOND AMENDED SUPERSEDING INDICTMENT READ BY THE CLERK)

18 THE COURT: All right, thank you. Ladies and
19 gentlemen, you should distinctly understand that the Second
20 Amended Superseding Indictment just read to you is simply a
21 description of the charges made by the State against the
22 defendants. It is not evidence of anything. It does not
23 prove anything. Therefore, the defendants start out with a
24 clean slate. Defendant has -- defendants have pled not guilty
25 and are presumed innocent.

1 In a criminal trial, there are two basic rules to
2 keep in mind. One, defendant is -- defendants are presumed
3 innocent unless proven guilty beyond a reasonable doubt. The
4 defendants are not required to present any evidence or prove
5 their innocence. The law never imposes upon a defendant in a
6 criminal case the burden of calling any witnesses or
7 introducing any evidence. Two, to convict, the State must
8 prove beyond a reasonable doubt that crimes were committed and
9 the defendants are the individuals who committed them.

10 Certain things are not evidence, and you must not
11 consider them as evidence in deciding the facts of this case:
12 statements and arguments by the attorneys; questions and
13 objections of the attorneys; testimony I instruct you to
14 disregard; anything that you see or hear when court is not in
15 session, even if it comes from one or more of the parties or
16 witnesses. Remember, evidence is sworn testimony by a witness
17 while court is in session and documents and other things
18 received into evidence as exhibits.

19 There are two kinds of evidence: direct and
20 circumstantial. Direct evidence is testimony about what the
21 witness saw, heard, or did. Circumstantial evidence is
22 indirect proof of one or more facts from which you can find
23 another fact. For example, if you wake up in the morning, and
24 you see the ground, the sidewalk, and street are wet, and
25 water's running down the gutter, you may find from those facts

1 that it rained during the night. It is proof of one or more
2 facts from which you can find another fact. If you were awake
3 during the night and saw the rain fall, that would be direct
4 evidence, which is something you personally saw. You may
5 consider both direct and circumstantial evidence in deciding
6 this case. The law permits you to give equal weight or value
7 to both, but it is for you to decide how much consideration to
8 give any evidence.

9 There are rules of law that control what can be
10 received in the evidence. When a lawyer asks a question or
11 offers an exhibit into evidence, and the lawyer on the other
12 side thinks that it is not permitted by the rules, that lawyer
13 may object. If I overrule the objection, the question may be
14 answered or the exhibit received. If I sustain the objection,
15 the question cannot be answered, and the exhibit cannot be
16 received. Whenever I sustain an objection, ignore the
17 question and do not guess what the answer might have been.

18 Sometimes I may order evidence stricken from the
19 record and tell you to disregard or ignore such evidence.
20 This means that you cannot consider this evidence when you are
21 deciding the case.

22 It is the duty of a lawyer to object when they
23 believe that the admission of the evidence would violate the
24 rules. You should not be prejudiced in any way against a
25 lawyer who makes objections on behalf of the party the lawyer

1 represents. Also, I may find it necessary to admonish a
2 lawyer. If I do, you should not be prejudiced towards the
3 lawyer or the client because I have found it necessary to
4 admonish the lawyer.

5 Until this case is submitted to you, do not talk to
6 each other about the case or anyone who has anything to do
7 with it until the end of the case when you go to the jury room
8 to decide your verdict. Do not talk with anyone else either
9 by phone, mail, text, internet, or other means about the case
10 or anyone who has anything to do with it until the trial has
11 ended and you have been discharged as jurors. You may tell
12 them that you are a juror in a criminal case, but that is all.

13 Do not let anyone talk to you about the case or
14 about anyone who has anything to do with it. If someone tries
15 to talk to you, please report it immediately to the marshal.

16 Do not read any news stories, listen to any radio
17 broadcasts, or watch any television broadcasts, or watch any
18 television reports about the case or about anyone who is
19 involved with it.

20 Do not do any research such as consulting
21 dictionaries, using the internet, or using reference
22 materials, or make any investigation about the case on your
23 own.

24 You may be tempted to visit a particular location.
25 Please do not do so. In view of the time that has elapsed

1 since this case has come to trial, substantial changes may
2 have occurred at the location in question. Also, in making an
3 unauthorized visit without the benefit of explanation, you may
4 get an erroneous impression. Therefore, please avoid going
5 near or past any of the locations that are identified in this
6 case.

7 In deciding the facts of this case, you may decide
8 which witnesses to believe and which witnesses not to believe.
9 You may believe everything a witness says, only part of it, or
10 none of it.

11 In considering the weight or value of the testimony
12 of any witness, you may consider the appearance, attitude, and
13 behavior of the witness when testifying, and a number of other
14 things, including, one, the witness's ability to see, hear, or
15 know of the things the witness testifies to; the quality of
16 the witness's memory; the inclination of the witness to speak
17 truthfully; whether or not the witness has any interest in the
18 outcome of the case or any motive, bias, or prejudice; whether
19 the witness is contradicted by anything the witness said or
20 wrote before trial; and how reasonable is the witness's
21 testimony when considered with other evidence which you
22 believe.

23 In deciding whether or not to believe a witness,
24 keep in mind that people sometimes forget things. You need to
25 consider whether the contradiction was due to an innocent

1 lapse in memory or an intentional falsehood, and that may
2 depend on whether it has to do with an important fact or only
3 a small detail.

4 The weight and value of evidence does not
5 necessarily depend on the number of witnesses testifying for
6 one side. You must consider all the evidence, and you may
7 decide the testimony of a smaller number of witnesses on one
8 side has more weight or value than that present -- presented
9 by a larger number of witnesses on the other side.

10 During this trial, you will be given the opportunity
11 to ask written questions of any of the witnesses called to
12 testify. You are not encouraged to ask a large number of
13 questions because that is the primary responsibility of
14 counsel. Once the attorneys have finished their questions, I
15 will ask you whether any of the jurors have any questions.
16 Please write down your question with your juror number on a
17 sheet of paper and raise your hand. The marshal will collect
18 your question.

19 Questions must be factual in nature, designed to
20 clarify information already presented, and addressed to the
21 witness. Jurors must not place undue weight on the responses
22 to their questions. After consulting with the attorneys in
23 court, I will determine whether your question is legally
24 proper. No adverse inference should be drawn if the Court
25 does not ask a particular question.

1 It will be your duty to look at all of the evidence
2 to be presented and determine whether or not the State has
3 proven the defendants guilty beyond a reasonable doubt. You
4 are the sole judges of the facts. You will decide the facts
5 -- what the facts are from the evidence that will be
6 presented. The evidence consists of testimony of witnesses,
7 and documents, and other things received in the evidence as
8 exhibits.

9 You must apply the facts presented to the law the
10 Court will give you and, in that way, reach your verdict. It
11 is important that you perform your duty of determining the
12 facts diligently and conscientiously, for ordinarily, there is
13 no way of correcting an erroneous determination of the facts
14 by the jury.

15 During this trial, do not take anything that I say
16 or do as indicating my opinion as to how you should decide the
17 case or to influence you in any way in your determination of
18 the facts. At times, I may even ask questions of witnesses.
19 If I do so, it is for the purpose of bringing out matters
20 which should be brought out and not in any way to indicate my
21 opinion about the facts or to indicate the weight or value you
22 should give to the testimony of a witness.

23 Do not make up your mind about what the verdict
24 should be until after you've gone to the jury room to decide
25 the case and you and your fellow jurors have discussed the

1 evidence. It is important to keep an open mind throughout the
2 trial.

3 At the end of the trial, you will have to make your
4 decision based upon what you recall of the evidence. You will
5 not have a written transcript to consult. Please pay close
6 attention to the testimony. It is very difficult and
7 time-consuming for the court recorder to play back lengthy
8 testimony.

9 If you wish, you may take notes to help you remember
10 what a witness said. If you do take notes, please keep them
11 to yourself until you and your fellow jurors go to the jury
12 room to decide the case. Do not allow note-taking to distract
13 you from what the witness is saying. You should rely upon
14 your own memory of what was said and not be overly influenced
15 by the notes of other jurors.

16 During the course of the trial, the attorneys for
17 both sides, all court personnel, including myself, are not
18 permitted to converse with members of the jury. These
19 individuals are not trying to be antisocial or rude. We are
20 bound by ethics and the law to talk to you. To do so might
21 contaminate your verdict. However, you are allowed to ask the
22 marshal any questions. Those questions cannot be relating to
23 the case, more of procedure or -- excuse me, more of
24 scheduling issues or any problems that you may have.

25 The trial will proceed in the following manner. One

1 of the deputy district attorneys will make an opening
2 statement, which will outline what the State expects to prove.
3 Then the defendants' attorneys may make an -- may make an
4 opening statement; however, this is not required. Opening
5 statements serve as an introduction to the evidence.

6 The State will then present its evidence, and
7 counsel for the defendants may examine the -- may -- excuse
8 me, may cross-examine the witnesses. Following the State's
9 case, the defense may present evidence, and the deputy
10 district attorneys may cross-examine the witnesses. However,
11 as I have said, the defendants are not obligated to present
12 any evidence.

13 After all the evidence has been presented, I will
14 instruct you on the law. After the instructions on the law
15 have been read to you, each side has the opportunity to
16 present oral argument. What is said in closing argument is
17 not evidence. The arguments are designed to summarize and
18 interpret the evidence. Since the State has the burden of
19 proving the defendants guilty beyond a reasonable doubt, the
20 State has the right to open and close the arguments. After
21 the arguments have been completed, you will retire to
22 deliberate your verdict.

23 State, are you ready with your opening?

24 MS. COLE: Yes, Your Honor.

25 //

1 STATE'S OPENING STATEMENT

2 MS. COLE: Throughout the duration of this trial,
3 you are going to learn that June 2020 through August of 2020,
4 there was a series of hotel room burglaries that started
5 occurring, and you're going to learn that what was distinctive
6 and unique about these particular burglaries was the damage
7 that was done to these doors when making an entrance.

8 You're going to hear from the two lead detectives
9 who, when they first got assigned to investigate these,
10 immediately recognized that this was something unique and
11 distinctive, especially regarding rooms on the Strip. And
12 you're going to hear them testify that in all of their years
13 of experience working on the Strip, this was a particular
14 distinctive fact, and this piece of evidence allowed them to
15 realize that these specific particular burglaries were, in
16 fact, connected.

17 Now, you're going to hear from Mr. Gary Krusinski,
18 who was staying at the Paris Hotel on August 16th, 2020, and
19 he left his room that evening. Subsequently, he came back and
20 immediately noticed that his door had been damaged, that his
21 room had been broken into and entered, and that somebody who
22 he did not give permission to had entered his room. There was
23 credit cards missing, his wallet missing, other valuable
24 items; in particular, a distinctive pair of headphones that
25 have a unique name and a unique color.

1 And so he calls security. He calls police. And
2 you're going to also learn that shortly after his room was
3 burglarized, his American Express credit card was used at the
4 Sbarro Pizza inside the Bally's Hotel.

5 Now, you're also going to learn that the Paris and
6 the Bally's are connected, and at some point, you can be
7 walking from the Paris to the Bally's and not even realize it.
8 They're sister properties. And so this Sbarro inside the
9 Bally's is very close in proximity to his room that was
10 burglarized.

11 You're also going to learn, and you're going to be
12 able to view video surveillance of another one of Mr.
13 Krusinski's credit cards, a different one, different from the
14 American Express, a Capital One credit card that,
15 approximately 10 minutes later after the card was used at
16 Sbarro's, was used at the 7-Eleven on Koval. Again,
17 geographically, this is very close in proximity to the Paris
18 Hotel.

19 And you're going to see on video surveillance and
20 the evidence will show the defendants, specifically, Veneshia
21 in a black and white jumpsuit at the Paris on August 16th, in
22 the 7-Eleven on August -- on August 16th, and also in the ARCO
23 convenience store; the defendant Darrell Clark wearing light
24 shorts, light gray shorts, a white shirt, and a white cap.
25 Again, on August 16th, their clothing is going to match, all

1 of the different locations that they arrive in.

2 Now, on August 21st, 2020 -- or 2020, you're going
3 to hear from Rebecca Finger and Brooke Bargholtz, who are two
4 individuals that were staying in a hotel room at the Paris on
5 this date. They were there with some of their other
6 girlfriends, visiting Las Vegas, having a good time. They
7 leave the morning of August 21st, and they go down to
8 breakfast in the hotel. Around 7:45, they leave. They return
9 at 8:30.

10 Immediately upon returning to their hotel room, same
11 thing. They notice the door has pry marks, scratches. They
12 go inside; the room has been completely ransacked. They
13 immediately know that their room has been burglarized. And
14 one particular fact that they notice is there's a cell phone
15 left in the room, and it's a cell phone that doesn't belong to
16 any of the girls that they don't recognize. And this is a
17 very important fact and piece of evidence, and I want you to
18 remember this cell phone throughout these next few days, this
19 specific cell phone that none of them identify as their own.

20 Now, at approximately 9:30, you're going to learn
21 and you're going to hear from a custodian of record from
22 Target that the Target on Maryland Parkway, which, again,
23 those of you who are familiar with the area, is very close to
24 the Paris, Harrah's, Bally's, and you're -- the evidence is
25 going to show that Veneshia Oliver walks into Target. This

1 time, she's wearing black shorts, a tank top. And you're
2 going to learn that Brooke Bargholtz's credit card and Rebecca
3 Finger's credit cards were stolen, and they are then attempted
4 to be used by the defendant at this Target.

5 You're also going to learn that Brooke and Rebecca
6 have other stolen property; their computers, laptops, Apple
7 AirPods, Apple Watches, lots of high-value items stolen, but
8 specifically, they each have credit cards taken. And at 9:30,
9 you're going to see, and you're going to be able to see on the
10 receipts and the video surveillance that their cards were
11 attempted at this Target that's very close to the Paris and
12 the Harrah's.

13 Now, earlier in the summer, around June 15th, these
14 same burglaries started occurring at the Harrah's. And you're
15 going to hear from victim Esther Chae, who, again, doesn't
16 live in Las Vegas, came to Las Vegas to vacation, to have a
17 good time. Las Vegas is a -- is a city built on tourism. All
18 these people -- none of these people were from here. They
19 came here, visiting to utilize everything that Las Vegas has
20 to offer.

21 And Esther Chae came back to her room on June 15th.
22 When she tried to open her hotel room door, her key to her
23 room would not work, and she thought that was odd. So she got
24 on her cell phone, and she called down to security. She told
25 security, you know, for some reason, my card's not working,

1 you know. At that point, she started to hear voices in her
2 room, and shortly thereafter, a male, a black male adult, came
3 out. He pushed her against the wall. He grabbed her neck
4 with his hands, squeezing her neck. She was holding her
5 phone. He took her phone and then completely ran off.

6 Shortly thereafter, a female suspect, who Esther
7 describes as being 5'5, slender-built black female, came out
8 of the room shortly thereafter. You're going to hear that
9 Esther was cooperative with detectives, that she conducted and
10 completed a six-pack photo lineup wherein she identified
11 Defendant Darrell Clark with 50 percent certainty, and you're
12 going to hear her testify. You're going to get to hear her
13 describe and tell you how this interaction affected her, how
14 scared she was, how she didn't know what was going on.

15 You're also going to learn that another event, again
16 at the Harrah's on August 6th, Bertha Geradeau and her sister,
17 again, came to Las Vegas to vacation, to have a good time.
18 They leave their room on the night of the 6th. They come
19 back. What do they notice? Same damage to the door, same
20 scratch marks, same forced entry. They come into the room,
21 completely ransacked. Bertha has a lot of designer expensive
22 items that are taken from her, all name-brand, very expensive
23 designer items.

24 Through the course of the investigation, detectives
25 are able to pull a surveillance still from the Harrah's on 8/6

1 depicting the suspects that are seen throughout the other
2 events, the same individuals. Throughout Detective Mann's
3 investigation -- who you're going to hear from, and he's one
4 of our lead detectives specifically dealing with the Harrah's
5 location. Through the course of his investigation, he was
6 able to identify Defendant Darrell Clark's social media, and
7 on his social media, he was selling property that was
8 consistent with that that the victims had lost or that was
9 taken from them through the course of these burglary series.

10 And you're going to see on this PowerPoint, in the
11 top right-hand photo, that was posted on his social media
12 website. Detective Mann was able to send that photo to Bertha
13 wherein everything she circled was the property that she
14 identified was missing and was the property that she
15 identified that was hers that was taken on that date and at
16 that time. And as you can see, those are unique, specific,
17 high-end fashion items.

18 Now, lastly but certainly not least, there -- the
19 last event you're going to be hearing about through the course
20 of this trial occurred on August 23rd, again, in this time
21 frame between June and August when the Strip had just recently
22 reopened amidst the COVID-19 pandemic, and tourists were
23 coming back. Jewell Love and Patricia Williams were staying
24 at this hotel. They also had several other family members,
25 several other girls that were staying there with them.

1 You're going to learn, same thing, they leave their
2 room at approximately 9:15. When they come back, they realize
3 their room has been burglarized, that their high-value items
4 -- Patricia Williams is going to tell you that she had a
5 little pocket of her Social Security card, her children's
6 Social Security cards, which was taken. You're going to hear
7 Jewell Love talk about she had a specific orange Tupac shirt
8 and a specific backpack that, immediately on returning to the
9 room, she identified were missing, and they reported those
10 things.

11 You're going to learn that once the suspects were
12 apprehended, their phones were seized. And you're going to
13 learn that in Darrell Clark's phone, the evidence is going to
14 show that he had a photo of Patricia Williams's Social
15 Security cards; not only her Social Security cards, but her
16 children's Social Security cards.

17 You're also going to learn that once they had
18 identified that this was a series, there was officers that
19 created a task force and were working together. Essentially,
20 because the defendants were posting the stolen items on social
21 media, an officer undercover was able to start reaching out,
22 and they set up a time to meet and a place to meet in order to
23 recover some of the stolen property. Particularly, they were
24 going -- they had decided that they were going to meet up and
25 purchase an Apple Watch.

1 That Apple Watch actually ended up being one of
2 Rebecca Finger's stolen items, specifically, her Apple Watch
3 that was taken, if you recall, on August 21st, 2020. Same
4 exact serial number.

5 And you're going to learn that when they were
6 apprehended -- again, as they're leading up to conduct a sale,
7 a transaction, obviously, the defendants did not realize that
8 this was actually an undercover cop -- Defendant Veneshia
9 Oliver is found with those screwdrivers in her purse. She's
10 found with Esther Chae -- Esther Chae, remember is from June
11 15th. She was the robbery, where she walked up into her room,
12 and she realized that she heard voices. Her Victoria's Secret
13 credit card was stolen. That was found in Veneshia Oliver's
14 purse.

15 If you also recall, Jewell Love talks about a
16 backpack and an orange Tupac shirt. That is Jewell Love's
17 orange Tupac shirt that Defendant Darrell Clark is wearing
18 when he goes to meet up, unbeknownst to him, to an undercover
19 officer to sell the stolen items.

20 I don't know if you noticed that, also, that left
21 picture with the backpack, that was also Jewell Love's
22 property. And you will see on surveillance video from the
23 Harrah's that, ultimately, before the defendant goes up into
24 the elevators, he does not have a backpack. Subsequently,
25 when he comes back down from the elevators, all of a sudden,

1 he has that backpack, and that backpack again is identified by
2 Jewell Love, matching the backpack that she had that was
3 stolen on that date and time.

4 So, ladies and gentlemen, at the end of this trial,
5 Mr. Lexis and I are going to get up here, and we're going to
6 ask you to return verdicts of guilty on all counts to both
7 defendants. Thank you.

8 THE COURT: Thank you, counsel. Mr. Hart, are you
9 going to exercise your right for an opening at this time?

10 MR. HART: Your Honor, I'll waive my right at this
11 time.

12 THE COURT: All right. Mr. Arnold?

13 DEFENDANT CLARK'S OPENING STATEMENT

14 MR. ARNOLD: Good morning, ladies and gentlemen of
15 the jury. The COVID summer, hotels opened, guests came back
16 to Las Vegas. On the dates of August 6th through August 7th
17 at the Harrah's Hotel, 59 guests -- 32 out of 59 guests
18 reported that their stuff was stolen out of their rooms.
19 That's just on the period of August 6th through August 7th.
20 The fortuitous thing in each and every one of these instances,
21 the hotel guest was not in the room for each and every one.

22 Here's the thing. Possession of stolen property is
23 not indicative of a person going inside the room. Those are
24 two very distinctive charges. There are several charges in
25 the Indictment that refer to actually going into the room.

1 You're going to sit through three and four days of
2 evidence. You're going to see videotape, you're going to see
3 photos of stolen property, and it's all in an effort to
4 suggest one thing: that my client, Mr. Clark, entered into
5 these rooms. But what you will see is not one single
6 fingerprint in these rooms. What you will see is no DNA in
7 these rooms. What you will see is no video footage of him
8 getting off the elevator at any of these rooms. What you will
9 see is no evidence of him leaving these rooms with any
10 property. There's none whatsoever.

11 They're going to be able, without a reasonable
12 doubt, to prove that he was in possession of one item, and
13 that one item is a iWatch, iWatch that was taken out of one of
14 the rooms, and he was attempting to sell that iWatch through
15 his social media accounts. However, that's the only piece of
16 stolen property that they will ever be able to prove beyond a
17 reasonable doubt that was in my client's possession. Again,
18 possession is not indicative of going inside these hotel
19 rooms. Those are two very distinctive charges.

20 And, at the conclusion, we're going to come back up
21 here, and we'll go through the evidence, we'll go through
22 every one of the charges, and you will see that my client
23 never entered into any of these rooms, never committed a home
24 invasion or a burglary of these rooms, and anything related to
25 the charges in the rooms, we're going to ask that you return a

1 not guilty verdict for my client. Thank you.

2 THE COURT: Thank you, Mr. Arnold. Ladies and
3 gentlemen, you've been -- I think we started around nine
4 o'clock and been sitting for a while. Let's take a 10-minute
5 break. It is now 10:25. We'll come back at 10:35. Every
6 time we take a break, please leave your notepads on your table
7 there.

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

21 Ladies and gentlemen, I must read this admonishment
22 to you each and every time we take a break, okay? So probably
23 by the end of the trial, you'll have it memorized as well,
24 okay? So we'll see you back at 10:35. Again, wait for the
25 marshal to escort you back into the courtroom.

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

2 (Outside the presence of the jury.)

3 THE COURT: All right. We'll see everybody back in
4 about 10 minutes.

5 MR. ARNOLD: Your Honor?

6 THE COURT: Yes.

7 MR. ARNOLD: For the record, I'd like to state an
8 objection. I didn't during the State's opening because I
9 didn't want to draw the jury's attention to it, but in their
10 opening frame, they put up a -- whatever you call it, a
11 screenshot saying that Bally's -- there are robberies that
12 occurred -- well, burglaries that occurred at Bally's, the
13 Paris Hotel, and Harrah's.

14 Through this whole Indictment that we sat through
15 this morning, there's absolutely no charges of anything that
16 happened at Bally's. There are no burglaries at Bally's that
17 my client is being charged or indicted for. I mean, this
18 unnecessarily rang the bell in regards to things that occurred
19 at Bally's, and it's highly prejudicial.

20 I haven't had a chance to talk to Mr. Hart about
21 this, but, I mean, the bottom line, there has to be some type
22 of relief or admonishment at this point.

23 MR. HART: Your Honor, I would join in his
24 objection.

25 THE COURT: All right, thank you. I'm sorry,

1 anything else to add, Mr. Hart?

2 MR. HART: I would simply join in his objection,
3 Your Honor.

4 THE COURT: Okay, thank you. State, your response?

5 MR. LEXIS: Judge, Mr. Arnold just told you there's
6 no events that happened at Bally's. Well, the Sbarro event,
7 which is listed in the Indictment, is 100 percent at Bally's,
8 and we've got footage at Bally's, and there will be evidence
9 at Bally's, all within the Sbarro event. So what Mr. Carl --
10 what Mr. Arnold said, we absolutely do have an event at the
11 Bally's.

12 MR. ARNOLD: And --

13 MS. COLE: That's correct, Your Honor. And
14 furthermore, if I may respond, when I was talking about the
15 Bally's, the Harrah's, and the Paris specifically, throughout
16 the video surveillance, and I explained this to the jury, the
17 Bally's and the Paris are connected. There's a hallway that's
18 indoor, and you can be walking from the Bally's and walking to
19 the Paris without even knowing. They're sister properties.

20 So, ultimately, when I was talking about those, in
21 the context, it was saying -- at no point did I say there was
22 a room burglary in Bally's, but there is absolutely a burglary
23 of Bally's because the Sbarro's that we have charged as a
24 commercial burglary is in the Bally's.

25 But in the context of the room burglaries, when I

1 specifically talked about room burglaries, I talked about
2 Harrah's and Paris. But in regards to Bally's, Bally's video
3 surveillance is absolutely appropriate. We have stills from
4 Bally's, there's an event at Bally's, and the Bally's and
5 Paris, for all intents and purposes, are essentially connected
6 without even exiting. It's one huge casino. So, based upon
7 that, it's completely appropriate, what was -- what was stated
8 in opening statement.

9 MR. ARNOLD: Your Honor --

10 THE COURT: Yes.

11 MR. ARNOLD: -- I anticipated this response from the
12 State, and that's why I waited before showing this hand. In
13 the Declaration of Arrest by this detective, this detective,
14 who's the lead detective that will be testifying at some
15 point, he did home invasion, burglary investigations at the
16 Bally's, the Paris, and the -- and Harrah's. I know without a
17 shadow of a doubt that Ms. Cole misspoke when she put that up
18 there. She did not know that I would be objecting to that.

19 This is what I want to happen, is there is no
20 further reference in this trial in regards to anything that
21 happened at Bally's since it's not inside the Indictment.

22 MS. COLE: And, Your Honor, if I may respond?

23 THE COURT: Yeah, sure, go ahead.

24 MS. COLE: Sbarro's that is actually charged in the
25 Indictment, that address is listed in the Bally's Hotel, so

1 I'm not sure what Mr. Arnold is arguing.

2 MR. ARNOLD: I don't dispute that. I don't dispute
3 that.

4 MS. COLE: What is charged --

5 THE COURT: Which count -- which count is that?
6 Hang on.

7 MS. COLE: -- in the Indictment --

8 THE COURT: One at a time. Which count is that in
9 the Indictment? Do you have that handy?

10 MS. COLE: Yes, Your Honor.

11 MR. ARNOLD: And I don't dispute that, but what I
12 specifically asked for were no reference to room invasions, or
13 burglaries, or thefts that occurred at the Bally's Hotel where
14 the guests stayed.

15 MR. LEXIS: Judge --

16 MR. ARNOLD: That's completely different than in
17 Sbarro's.

18 MR. LEXIS: Your Honor, I think I do recall what Mr.
19 Arnold's talking about. And, look, they -- the detectives
20 believe they're good for multiple home invasions and
21 burglaries around the Strip, okay? And, yes, I assure Mr.
22 Arnold that when the detectives go up there, we're not going
23 to be talking about any residential burglaries that happened
24 at Bally's or any of the other ones.

25 The information at Bally's will be targeted as

1 surveillance that shows them going in between the two casinos
2 around these events, as well as the Sbarro's. But, yes, I
3 agree with Mr. Arnold, and I believe that's what he's getting
4 at. We're not going to be insinuating with these detectives
5 that they were also investigating multiple other burglaries,
6 which they were, at the Bally's and multiple other properties.

7 MR. ARNOLD: Good. Then we're on the same page,
8 Your Honor.

9 THE COURT: Okay. Do you --

10 MS. COLE: That's correct.

11 THE COURT: Are you requesting any type of
12 admonishment, Mr. Arnold?

13 MR. ARNOLD: The only admonishment would be to the
14 State, and he's -- and I trust his word there will be no talk
15 about room invasions that occurred at the Bally's.

16 MR. LEXIS: Yeah, that's fine.

17 THE COURT: Okay. All right. Ms. Cole, Mr. Lexis,
18 you'll make sure on that, and also, advise your witnesses not
19 to bring up the fact that there were room burglaries at the
20 Bally's Hotel and Casino.

21 MS. COLE: Your Honor --

22 MR. LEXIS: We've done, Judge, and we will do it
23 again.

24 MS. COLE: And just for the Court's reference, on
25 page 3 of the Second Amended Superseding is Count 5 for