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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 5

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1 Sbarro, and that address is located at 3645 South Las Vegas
2 Boulevard, which is inside the Bally's Hotel --

3 THE COURT: Okay.

4 MS. COLE: -- and Casino. And, Your Honor, just for
5 the record, we have a lot of video surveillance, and not --
6 because, again, the Bally's and the Paris are intertwined and
7 they're sister properties, there is going to be video
8 surveillance of the defendants in Bally's.

9 There's going to be no reference by the State that
10 they committed room burglaries at Bally's, but there is going
11 to be video surveillance of them walking from Bally's to the
12 Paris. And so I just want Mr. Arnold to be aware of that,
13 that we are not prohibited from showing the video surveillance
14 of the defendants in Bally's.

15 THE COURT: So both defendants are shown on the
16 video in Bally's; is that correct?

17 MS. COLE: Yes.

18 MR. LEXIS: Yes, we're --

19 THE COURT: Okay.

20 MS. COLE: There's tons of video surveillance
21 because of the close proximity of the two hotels where they're
22 walking from Paris, and then they end up in Bally's, and
23 Bally's to Paris, and vice versa, but there's going to be no
24 inference or argument by the State that there were any room
25 burglaries committed at Bally's.

1 THE COURT: Okay. I think it's appropriate to show
2 that because they are -- they are -- they lead to one another,
3 and also, there are charges of a conspiracy, which you need to
4 show that they were acting in concert throughout, so.

5 MS. COLE: Correct.

6 THE COURT: So that's fine, but again, just admonish
7 your witnesses not to mention that they were also
8 investigating room burglaries at Bally's.

9 MS. COLE: Yes, that's correct, Your Honor.
10 Understood.

11 THE COURT: And I'm assuming -- and the defense
12 won't open that door.

13 MR. ARNOLD: Correct, Your Honor.

14 THE COURT: Okay. All right, we'll see you --
15 well --

16 MR. LEXIS: One other -- one other thing, Judge,
17 just because we have a lot of CORs out here, including the
18 T-Mobile person. I've talked to the defense counsels, and it
19 looks like we're going to be stipulating to these exhibits
20 with the caveat that they want -- and we're going to produce
21 him -- the TASS guy, which is the phone-mapping person --

22 THE COURT: Right.

23 MR. LEXIS: -- and the person that dumped the
24 phones, those two experts. When I went over the exhibits with
25 Mr. Arnold and Mr. Hart, they are demanding that they'll

1 stipulate to all these, but that we need to produce those two
2 individual experts to lay the proper foundation, and I agree
3 with all that. They are going to come.

4 So, with that, Judge, I'd move to admit State's 1
5 through 176.

6 THE COURT: Any objection, Mr. Arnold?

7 MR. ARNOLD: No, Your Honor.

8 THE COURT: Any objection, Mr. Hart, 1 through 176?

9 MR. HART: Subject to being able to lay the
10 foundation --

11 MR. ARNOLD: What he just said.

12 MR. HART: -- no.

13 MR. LEXIS: With those -- yeah, we will.

14 MR. HART: Yeah.

15 THE COURT: Okay, subject --

16 MS. COLE: Specifically, in regards to the T-Mobile
17 CDRs and the maps?

18 MR. HART: Yeah. I mean, well, you're going to --
19 I'm sure you're going to have somebody come in and talk about
20 the videos from the casino.

21 MR. LEXIS: Absolutely, absolutely.

22 MR. HART: Yeah. I mean --

23 THE COURT: All right.

24 MR. LEXIS: A lot of these CORs that would -- like,
25 for example, the T-Mobile --

1 MR. HART: Yeah.

2 MR. LEXIS: -- this guy's here, and he could spend
3 hours up there talking about --

4 MR. HART: Oh, I --

5 MR. LEXIS: -- all the things, but we're going to
6 have the --

7 MR. HART: Yeah.

8 MR. LEXIS: -- phone-mapping person up there, and --

9 MR. HART: Yeah, the map guy coming in.

10 MR. LEXIS: -- this is how I took the data, and this
11 is what it shows.

12 MR. HART: Yeah. No, this -- yeah, this is the data
13 we got, or this is our -- the records we got from --

14 MR. LEXIS: T-Mobile.

15 MR. HART: -- T-Mobile; this is how we use them.
16 Like I said, there just has to be --

17 MS. COLE: Correct.

18 MR. HART: -- foundation as to -- yeah.

19 THE COURT: All right. Subject to proper
20 foundation, 1 through 176 will be admitted.

21 (State's Exhibits 1 through 176 are admitted)

22 MR. LEXIS: Okay.

23 THE COURT: All right. Just take your break, and
24 we're past our 10 minutes, but go ahead and take -- everyone
25 take a break, please.

1 (Court recessed at 10:35 A.M. until 10:49 A.M.)

2 (Outside the presence of the jury.)

3 THE COURT: We're ready.

4 (Pause in the proceedings.)

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

6 (Inside the presence of the jury.)

7 THE COURT: All right, everyone have a seat.

8 Welcome back, ladies and gentlemen. State, who is your first
9 witness?

10 MS. COLE: Your Honor, the State calls Tony Lemons.

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, scoot your
14 chair all the way in to that red dot, and you got to speak up
15 loud because you're behind this glass.

16 THE WITNESS: Okay.

17 ANTHONY LEMONS, STATE'S WITNESS, SWORN

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

19 THE WITNESS: Thank you.

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

22 THE WITNESS: Anthony Lemons, L-e-m-o-n-s. First
23 name's A-n-t-h-o-n-y.

24 THE COURT: Go ahead, counsel.

25 //

1 DIRECT EXAMINATION

2 BY MS. COLE:

3 Q Good morning, sir. Where do you work?

4 A I work for Caesars Entertainment.

5 Q Okay. And how long have you worked there for?

6 A I started in 1997.

7 Q Mr. Lemons, what is your position and title at
8 Caesars?

9 A Security investigator, citywide.

10 Q Okay. And as a security investigator for Caesars,
11 what are your job duties?

12 A To investigate all different types of criminal
13 activity that happens upon our properties.

14 Q Okay. And can you list off some of the properties
15 that Caesars has?

16 A Paris, Bally's, Harrah's, Flamingo, Caesars, Rio.

17 Q Okay. And those would technically be all properties
18 that you are charged with supervising?

19 A Yes.

20 Q And how long have you worked for Caesars as an
21 investigator?

22 A About 16 years.

23 Q Okay. And as part of your job duties as an
24 investigator at Caesars, you have access to all of the many
25 video surveillance systems; is that correct?

1 A Yes.

2 Q Okay. And you're familiar with all of the Caesars
3 properties?

4 A Yes.

5 Q Specifically, the Paris and the Harrah's?

6 A Yes.

7 Q Okay. And did you become involved in an
8 investigation regarding hotel room burglaries happening at the
9 Paris and Harrah's throughout the months of June through
10 August 2020?

11 A Yes.

12 Q Okay. Did you assist Metro in their investigation
13 into those room burglaries that were occurring?

14 A Yes.

15 Q Okay. And did you provide video surveillance to
16 those detectives?

17 A Yes.

18 Q Okay. And that was specifically from the Paris on
19 8/16/2020 and 8/21/2020?

20 A Yes.

21 Q And specifically on Harrah's, 8/23/2020 and
22 8/6/2020?

23 A Yes.

24 Q Okay. And essentially, this video surveillance
25 essentially -- well, let me back up. Were you able to

1 pinpoint particular times with particular suspects?

2 A Yes.

3 Q Okay. And that surveillance video that you, in
4 fact, provided to Metro was those particularized time frames
5 with particular suspects?

6 A Yes.

7 Q Okay. Sir, I'm going to show you what's been marked
8 as State's stipulated Exhibit 172. Okay, sir, can you see the
9 date and timestamp of this particular video?

10 A Yes. It's --

11 Q And what is that?

12 A 8/16/20 at 20:26 hours, 8:26 hours.

13 Q Okay. And then can you also tell us the time frame?
14 So it looks like it starts at 8/16. So it looks like it
15 starts, on the left-hand side, from 8/16, 20:26?

16 A Yes.

17 Q What does it go 'til on the right-hand side, sir?

18 A Right-hand side? Sorry, I see it. Apologize. 8/16
19 at 20:45.

20 Q Okay. So that's the relevant time frame of these --
21 of this particular clip?

22 A Yes.

23 Q Okay. And now I'm publishing.

24 (Surveillance video played)

25 MS. COLE: Okay.

1 BY MS. COLE:

2 Q So, specifically, can you identify the two
3 individuals that are depicted in this still?

4 A Yes.

5 Q Please describe what you see.

6 A An African-American male wearing a white shirt, ball
7 cap, and blue jeans. African-American female with -- looks
8 like a one-piece striped outfit.

9 Q Okay, and what color is that?

10 A It's like white and black.

11 Q Okay, playing. I'm just going to speed this up a
12 little bit. Okay, sir. And this is more of a fuzzy angle,
13 but this looks -- we're at 20:26:23. What area are we looking
14 at right here?

15 A That's what I call like the mall area, going in over
16 to -- if you can play it a little more. That's our mall area.

17 Q Okay. And can you describe what the mall area is?

18 A Okay. Well, there's, so, a food court, and depends
19 on which property, then you go into where they have different
20 restaurants.

21 Q Okay. And where is this located?

22 A Over at Paris.

23 Q Okay. Is this that same mall area you were talking
24 about?

25 A Yes.

1 Q Okay. I'm going to pause it right there. Are those
2 same two individuals depicted that you described earlier?

3 A Yes.

4 Q Okay. So, essentially, this surveillance video is a
5 bunch of surveillance tracking those particular suspects?

6 A Yes.

7 Q Okay, throughout their comings and goings at the
8 Paris?

9 A Yes.

10 Q Okay. Sir, the Paris and Bally's are connected;
11 they're sister properties, correct?

12 A Yes.

13 Q Okay. So at some point, does the Paris turn into
14 the Bally's and vice versa?

15 A Yes.

16 Q Okay, sir. I'm going to pause that right there.
17 What are we looking at here; what part of the hotel?

18 A That's still the mall area.

19 Q Okay. And the individual depicted, can you please
20 describe?

21 A African-American male, white shirt, ball cap, and
22 shorts.

23 Q Okay. And in looking at the timestamp, it says this
24 is 8/16, 20:27. That's obviously in military time, correct?

25 A Yes.

1 Q Okay. So what would be the regular time, Pacific
2 Standard Time?

3 A 8:27 --

4 Q Okay.

5 A -- P.M.

6 Q So this particular clip is from 8:26 to 8:45?

7 A Yes.

8 Q Okay. I'm going to fast-forward again. Okay, sir.
9 Do we see one individual or two individuals?

10 A Two.

11 Q Okay. And what's the timestamp?

12 A 8:29.

13 Q Okay. In non-military time?

14 A 8:29 P.M.

15 Q Okay, sir. And are we looking at the same mall area
16 that you described?

17 A Yes.

18 Q And, again, those two suspects walking together?

19 A Yes.

20 Q And this is still eight -- what -- I'm sorry. What
21 time is it right now?

22 A 8:29 P.M. and 26 seconds.

23 Q Thank you. Again, sir, what are we looking at in
24 this video? Is this the mall area that you referenced, or --

25 A Yes.

1 Q -- is it different?

2 A Mall area.

3 Q Okay. And this is specifically in the Paris?

4 A Yes.

5 Q And then, again, sir, in this frame, are we still
6 looking at the same two suspects depicted?

7 A Yes.

8 Q Okay. And can you please describe the clothing or
9 what the two are wearing?

10 A Okay. African-American male is wearing a white
11 shirt, ball cap, and jeans. African-American female is
12 wearing a, like, two-tone, looks like black and white or black
13 and gray striped outfit, with a black purse with white side
14 with black stripes.

15 Q Okay. And when you refer to "purse," is that the
16 bag on her left-hand shoulder?

17 A Yes.

18 Q Is that what you're referring to --

19 A Yes.

20 Q -- depicted right here? Thank you. Okay, sir.
21 Where -- what are we looking at right here?

22 A The elevator lobby.

23 Q Okay. And this is at the Paris, correct?

24 A Yes.

25 Q And, sir, just for reference, I'm going to pause.

1 We're looking at video surveillance from 8/16, and now this
2 says 20:30. Is that 8:30?

3 A Yes.

4 Q Thank you.

5 MS. COLE: Okay, going to -- brief indulgence. Get
6 up our next video.

7 (Pause in the proceedings.)

8 MR. HART: Your Honor, could we have a quick
9 sidebar?

10 THE COURT: All right.

11 (Sidebar begins.)

12 THE COURT: All right. Because of the
13 identification issues, if you speak -- this is Judge Villani.
14 If you speak, please identify yourself and then make your
15 comment. Mr. Hart?

16 MR. HART: Hello. Marty Hart. And I -- on the walk
17 back here, Ms. Cole figured out what I was doing the sidebar
18 about. It appears that the elevator that they were just going
19 into with the mirrors in it is in Bally's, not in Paris, and
20 part of our discussion we had earlier was not any information
21 about possible room burgs at Bally's.

22 MR. LEXIS: This is Chad Lexis for the State. But
23 you also ruled, Judge, that, as you stated, we need to prove
24 that they're aiding and abetting and conspiring with one
25 another. I don't care if I have pictures of them at Hoover

1 Dam together; that is relevant evidence to show that these two
2 know each other, are closely connected with one another.

3 I assure you we're not going to ask any of these
4 people, are you -- do you see them going up to commit a
5 burglary at the Bally's in a hotel room. We're not -- we're
6 not doing that, but it's absolutely relevant to show when
7 they're in any place due to the conspiracy nature and the
8 aiding and abetting of this.

9 MR. ARNOLD: Well, we'll discuss that.

10 THE COURT: Yes, Mr. Arnold?

11 MR. ARNOLD: And this is Carl Arnold. And we'll
12 discuss that more because there is a mere presence instruction
13 that has to be given in this case. However, this is the
14 problem that we're running into now is we just showed a
15 picture of Bally's elevator lobby. Most jurors may have some
16 kind of, you know, visit to Bally's and be able to identify
17 that. You have already put it on the record again that this
18 thing happened at Bally's. You just showed them getting into
19 the elevator bank. And, again, you know --

20 MS. COLE: And --

21 MR. ARNOLD: -- it's just confusing at this point.

22 MR. LEXIS: Judge, if the only charge was the
23 Sbarro's at Bally's, it would be 100 percent relevant to show
24 that they were together going up the elevators; they even had
25 a room, if that was the case, at Bally's. So, not to mention,

1 all of these charges, once again, it is highly relevant to --
2 I see absolutely no basis to object to showing these people
3 going in and out of the elevators, even if there is no video
4 of them in the elevator going up or in the hallways in the
5 residence, but I would still argue that that's relevant. Once
6 again, I got to show that these people are intertwined to
7 this point of a conspiracy.

8 Mr. Arnold just brought up where we're going to
9 argue about mere presence, even more of a reason on why I --
10 why this is relevant, for me not to -- for him not to just
11 argue, oh, well, you know, he just happened to be there at the
12 time. No. These people are closely connected with one
13 another throughout this entire event and even caught together,
14 living together, driving together. This is all relevant,
15 Judge.

16 THE COURT: Okay. This is Judge Villani here. Are
17 there any videos showing the two defendants going into an
18 elevator together in Bally's?

19 MR. LEXIS: Yes.

20 MR. HART: The one we just looked at.

21 THE COURT: Okay.

22 MR. LEXIS: Yes.

23 THE COURT: I mean, actually going in the elevator?

24 MR. LEXIS: Yes, sir, there's --

25 THE COURT: Okay, there's other ones? And is there

1 a video that picks them up at a later time in Bally's? I
2 mean, does it go to -- I know the different floors, there's
3 maybe a -- you know, a different level of the casino or
4 perhaps a convention area. I mean, I don't know what it
5 shows, but --

6 MS. COLE: Your Honor, Madilyn Cole for the State.
7 Your Honor, this is the problem that we're running into is the
8 Paris and the Bally's are interconnected, so a lot of times,
9 the video surveillance shows them walking from the Bally's
10 into the Paris. The CD that I was currently playing with Mr.
11 Lemons is the CD that is labeled Paris 8/16, but in that, on
12 that date and time, they're back and forth between Bally's and
13 the Paris. There is no video surveillance that the State has
14 whatsoever that depicts the defendants in hallways. The State
15 is not going --

16 THE COURT: There is none?

17 MS. COLE: There is none.

18 THE COURT: Okay. All right.

19 MS. COLE: We do not have any video surveillance, it
20 doesn't exist, of them in the hallways at the Paris, of them
21 in the hallways at the Bally's. But it absolutely is relevant
22 evidence that they are in hotels at the Bally -- hotel
23 elevators at Bally's and hotel elevators at Paris because on
24 8/16, they are charged with a burglary at Sbarro's at Bally's,
25 so it's relevant to prove that they are in that area at the

1 time that the burglaries are committed.

2 Furthermore, because the hotels are really one and
3 the same. That's the State's position is that even though
4 they're technically called two different properties, they are
5 connected. You don't have to exit the Paris before you get to
6 Bally's.

7 So at no point is the State going to argue -- we can
8 certainly cure this or limit this. At no point is the State
9 going to argue that room burglaries were occurring at Bally's,
10 but Bally's video surveillance and the location of Bally's is
11 absolutely relevant to prove the conspiracy, to prove that
12 they burglarized the -- Gary Krusinski's room on 8/16, and to
13 prove that they burglarized the Sbarro Pizza in Bally's on
14 8/16.

15 MR. ARNOLD: Gary --

16 MS. COLE: And this is the video from 8/16.

17 MR. ARNOLD: This is Carl Arnold. Gary's room was
18 not at Bally's.

19 MS. COLE: That's correct.

20 MR. ARNOLD: Okay.

21 MS. COLE: Madilyn Cole for the State. Gary
22 Krusinski's room was at Paris.

23 MR. ARNOLD: Right.

24 MS. COLE: But Sparro's Pizza, which they
25 burglarized on 8/16, is in the Bally's because the hotels are

1 connected.

2 MR. ARNOLD: Okay. So the cure is just show video
3 of them going into the Sbarro's, that we don't have to show
4 video of them going into a elevator bank at Barry's -- I mean
5 at Bally's.

6 THE COURT: Okay. I'm going to allow the video
7 depiction of the defendants in Bally's in the elevator area,
8 even, in fact, in the elevators, as long as you -- you're
9 telling me you will not show any video depiction for any of
10 the floor -- room floors in Bally's, and you will not argue
11 anything about room burglaries.

12 MS. COLE: That -- Madilyn Cole for the State. Your
13 Honor, that's correct. I do -- would note that the elevator
14 videos stop at them exiting the floors, but at no point can
15 you tell what floor. We're not going to argue that they're
16 getting off on specific floors. Even if you can see the floor
17 level, it's not my understanding that they correspond with the
18 floors that are burglarized. We're not going to make that
19 argument.

20 We are just going to say that they're in the hotel
21 -- or they're in the elevators, but at no point are we going
22 to argue that they're burglarizing hotel rooms at Bally's.

23 THE COURT: All right, so that's the Court's ruling.
24 Mr. Arnold, Mr. Hart, if you want the Court to make any
25 admonishment to the jury to say that there's no allegation of

1 any room burglaries in the Bally's Hotel.

2 MS. COLE: Okay.

3 MR. HART: I'm afraid that just brings more
4 attention to it.

5 MR. ARNOLD: Yeah. For --

6 THE COURT: Well, it's up to you. I'm --

7 MR. ARNOLD: For right now, no, not --

8 THE COURT: Okay.

9 MS. COLE: And --

10 MR. ARNOLD: -- to the jury, but --

11 MS. COLE: Your Honor, Madilyn Cole for the State.
12 I will also -- when I go back out with the witness, I will ask
13 him specifically, is there any hall room video surveillance
14 from the Paris, Bally's at all, so it's very clear that
15 there's no hallway --

16 MR. ARNOLD: Bally's? Why Bally's? Stay away from
17 Bally's.

18 THE COURT: Yeah.

19 MS. COLE: Okay, then I'll just say the Paris. I'll
20 just say the Paris.

21 THE COURT: All right. Thank you.

22 (End of sidebar.)

23 THE COURT: All right. Counsel, restate your last
24 question, please.

25 BY MS. COLE:

1 Q Mr. Lemons, just to confirm, at the -- this video
2 that you provided from the Paris, is there any surveillance
3 video in actual hallways?

4 A In the hotel, no.

5 Q Okay. And is that particularly for privacy reasons?

6 A Correct.

7 Q Okay. So there's never going to be any surveillance
8 video of actual hallways where the hotel rooms are?

9 A No.

10 Q Okay. Okay, playing.

11 (Surveillance video played)

12 BY MS. COLE:

13 Q Okay, sir, so we just pulled up a different video
14 clip. This is 8/16. Can you tell the jury what the timestamp
15 of this particular video goes through?

16 A 8:44 and 15 seconds to -- it looks like, at the
17 bottom right -- my eyes are going bad. 8:48 and 19 seconds.

18 Q Okay. So if we -- if we're looking at the bottom
19 left-hand corner, that says 8/16, 20:44?

20 A Um-hum.

21 Q And then, to the right bottom hand corner, does that
22 say 8/16/2020, 22:18?

23 A Yes.

24 Q Okay. So this is essentially video from 8:45 to
25 10:18?

1 A Yes.

2 Q Okay. Okay, sir, I'm going to pause it right there,
3 and I'm just going to fast-forward to a pertinent timestamp.
4 Okay. What time is this right now? What date and time?

5 A It's 8/16 at 22 -- 10:15 P.M.

6 Q Okay. And what are we looking at right here?

7 A Elevator shot. A camera inside the elevator.

8 Q Okay.

9 A An African-American male with a white shirt inside
10 the elevator.

11 Q Okay. And, again, the time and date stamp is 8/16
12 at 22:15?

13 A Yes.

14 Q And we're at the Paris?

15 A Yes.

16 Q Okay, sir, I'm going to pause it right now. What
17 are we looking at right here?

18 A Another elevator with an African-American female
19 with a black bag and white stripes on the side.

20 Q Okay. And is that the only individual depicted in
21 the elevator?

22 A Yes.

23 Q And, again, the date and timestamp, this is 8/16 at
24 10:15?

25 A Yes.

1 Q Okay, sir, and I'm going to pause it right here.
2 We're looking at timestamped 8/16, 10:15 P.M. What are we
3 looking at right here?

4 A The elevator foyer.

5 Q Okay. And what's the individual depicted in this
6 shot?

7 A African-American male with a white shirt, ball cap,
8 and the shorts.

9 Q Okay, sir. I'm just going to back that up really
10 quickly. I'm pausing it right there at 8/16, 22:16, so 10:16
11 P.M. What are we seeing right here?

12 A You see the African-American female coming out of
13 the other elevator --

14 Q Okay.

15 A -- along with a bag.

16 Q And that elevator, that was the far right elevator?

17 A Yes.

18 Q And, sir, what part of the hotel are we looking at
19 right here?

20 A This is just outside the rooming area.

21 Q Okay. And, sir, at 8/16 -- I'm going to pause it
22 right there, 22:16. What are we looking at right here?

23 A The African-American female with a striped one-piece
24 outfit, with a black bag with white and black stripes on the
25 side.

1 Q And, sir, I'm going to pause it briefly and just
2 fast-forward to the relevant time frame. I'm pressing play at
3 8/16/2020, 22:17, so 10:17. What are we looking at right
4 here?

5 A Looks like the exit doors.

6 Q Same two suspects?

7 A Yes.

8 Q And, again, that timestamp is 10:17?

9 A Correct.

10 Q And, sir, the direction that the suspects are going,
11 what direction is that?

12 A They're going over towards Bally's.

13 Q Okay.

14 MS. COLE: Court's brief indulgence.

15 (Surveillance video played)

16 BY MS. COLE:

17 Q Sir, is this the other angle where that last camera
18 picked up?

19 A Yes.

20 Q Okay, and the time and date stamp is 8/16, 22:17?

21 A Yes.

22 Q And, again, sir, at 22:18, the suspects are still
23 walking?

24 A Yes.

25 Q Now, what are we looking at right here?

1 A This is Bally's Casino.

2 Q Okay. So at this point, we've crossed over into
3 Bally's?

4 A Yes.

5 Q Okay. And this is at 8/16, 22:18?

6 A Yes.

7 Q Okay. And so I'm going to stop it right there.
8 Again, Paris and Bally's, smooth transition?

9 A Yes.

10 Q You might not even know if you're entering into
11 another property because they flow together?

12 A Correct.

13 Q Are we looking at the casino floor?

14 A Yes.

15 Q And I'm going to fast-forward to a pertinent time
16 frame. Okay, sir, 22:19:49. What are we looking at here?

17 A The same two individuals. African-American male
18 with a white shirt, ball cap; African-American female with a
19 black bag over at Bally's like in the mall area.

20 Q And I'm going to fast-forward. Okay, sir. What are
21 we looking at right here?

22 A Okay. Over at Bally's, they have like a little food
23 court area. You got Sbarro's Pizza in that area, and a
24 Subway, and like a burger place.

25 Q Okay. And for reference, I'm going to pause the

1 video at 8/16, 22:22, so that's 8/16 at 10:22. And if you
2 could please -- and you can get off the stand. I just want
3 you to point on the screen, or if you can -- I don't know if
4 you can touch that monitor and describe --

5 THE COURT: You can draw on the monitor, sir --

6 THE WITNESS: Okay.

7 THE COURT: -- with your finger. You should be able
8 to.

9 THE WITNESS: Okay.

10 MS. COLE: Okay.

11 BY MS. COLE:

12 Q Can you point out where the food court is, in
13 particular, the Sbarro's?

14 A They're all right up in there.

15 MS. COLE: Your Honor, do you mind if he just stands
16 up off the stand and points at the screen?

17 THE COURT: That's fine.

18 THE WITNESS: Okay.

19 BY MS. COLE:

20 Q Okay, sir, you can --

21 A All right.

22 Q -- get off the stand and show us on the screen where
23 the food court -- in particular, where Sbarro's is.

24 THE COURT: And, sir, since we do not have a
25 microphone where you're at, please speak up very loudly so we

1 can pick up your answer.

2 THE WITNESS: Okay. Sbarro's would be right up in
3 this area.

4 BY MS. COLE:

5 Q Okay, so for the record, you're pointing to the very
6 top right of the screen?

7 A Yes.

8 Q And this is the video that's depicting 8/16/2020,
9 and the timestamp is 22:22:19 --

10 A Yes.

11 Q -- PDT? Thank you, sir. Continuing to play. Okay,
12 sir, and I just fast-forwarded. The timestamp is now 8/16/20,
13 22:29:10. And, sir, we're still looking at the still frame of
14 the food court?

15 A Yes.

16 Q Okay, and this is in the Bally's?

17 A Yes.

18 Q I'm going to fast-forward just a little further.
19 Okay, sir.

20 A Yes.

21 Q I'm going to direct your attention to -- I'm going
22 to pause it right there. Oh, let me just back up a little
23 bit. Okay. Sir, I'm going to direct your attention to where
24 you were pointing to in the right-hand corner, that part of
25 the food court. What are we looking at right there?

1 A The African-American female with a black bag with
2 white on the side up in the seating area, walking through the
3 seating area.

4 Q Okay, and I'm going to pause it right there. Is she
5 by herself, or is there an --

6 A No, the --

7 Q -- another individual?

8 A The African-American male with a white shirt and a
9 ball cap appears to be with her.

10 Q Okay. And for the record, this is 8/16/2020 at
11 10:30 P.M.?

12 MR. HART: 10:31.

13 THE WITNESS: Yes.

14 BY MS. COLE:

15 Q Okay. And those two appear to be walking together?

16 A Yes.

17 Q Okay. And that's on the outer portion of the food
18 court?

19 A Yes.

20 Q Okay. And from what you can see, same clothing?

21 A Yes.

22 Q Okay, sir, and I'm going to stop right there. We're
23 looking at 8/16/2020, and it looks like it's 10:31. Is that
24 the exit of the Bally's?

25 A Yes.

1 Q Okay. And, again, can you tell us what we're
2 looking at right here?

3 A The African-American female with a black bag and the
4 African-American male with a white shirt, and a ball cap, and
5 the shorts. They just exited the food court area, what we
6 call the Race and Sport stores.

7 Q Okay. And the male individual, is he handling
8 anything else that he hasn't prior -- that he hasn't had
9 before?

10 A Looks -- yeah, looks like a bag.

11 Q Okay. Can you make out the color of the bag?

12 A It's a white bag.

13 Q Thank you, sir. Okay. Okay, and I'm now getting
14 ready to publish State's Exhibit 173. Sir, this is what's
15 been marked as the Harrah's video surveillance.

16 MS. COLE: And for the record, this is going to be
17 Exhibit No. 173.

18 (Surveillance video played)

19 BY MS. COLE:

20 Q Sir, what are we looking at right here?

21 A This is the porte cochere over at Harrah's, the cab
22 drop-off area.

23 Q Okay. And can you also state the date and time
24 frame?

25 A 8/23/2020 at 8:11 P.M.

1 Q Okay. And that technically says 20:11, but you're
2 just saying it in --

3 A Yes.

4 Q -- what time it is --

5 A It's 20:11 and 27 seconds.

6 Q Okay. And what camera are we looking at?

7 A Camera 185.

8 Q Thank you. And, sir, I'm going to stop it right
9 there. I'm going to have you describe that female individual
10 with the large bag.

11 A African-American female with a black bag with white
12 stripes on the side of it, white and black stripes on the
13 side.

14 Q Okay. Okay, sir, and I'm going to pause it right
15 here. Can you describe that individual that just got out of
16 the same cab?

17 A African-American male with black shorts and a
18 light-colored shirt.

19 Q Okay. And, again, this is Camera 185?

20 A Correct.

21 Q This is the date stamp of 8/23/2020 at 20:11?

22 A Yes.

23 Q Okay. Okay, switching to Camera 306. Okay. Can
24 you tell us the date and timestamp of this camera that we're
25 looking at?

1 A 8/23/2020 at 20:12 and 22 seconds.

2 Q Okay. And, again, that's 8:12 P.M.?

3 A Yes.

4 Q Okay. And we're inside of the Harrah's at this
5 point?

6 A Yes.

7 Q Okay. Can you please describe the female depicted
8 in this still?

9 A African-American female with shorts, a tank top,
10 with a black bag with white and black stripes on the side.

11 Q Okay, sir, and I'm going to pause it right here.
12 Oh, let me go back. Okay. That's the same frame we just saw?

13 A Yes.

14 Q Still looking at Camera 306. And, sir, what are we
15 looking at right here?

16 A I see the African-American male with a light shirt
17 and dark-colored shorts.

18 Q Okay. And what is the -- what is the time and date
19 stamp on Camera 306 --

20 A Eight --

21 Q -- the angle we're looking at right now?

22 A 8/23/2020 at 20:12 hours and 55 seconds.

23 Q Okay, and that's 8:12 P.M.?

24 A Yes.

25 Q Sir?

1 A Yes.

2 Q That's 8:12 P.M.?

3 A Yes.

4 Q Thank you. Okay, sir, I'm going to pause it right
5 here. What frame are we looking at now? Can you state the
6 camera, the date, and the time?

7 A Camera 60, 8/23/2020 at 20:13 hours, 8:13 P.M.

8 Q Thank you. And --

9 MR. HART: Your Honor, that'd be closer to 8:14,
10 technically. It's --

11 THE COURT: I'm sorry. I can't hear, Mr. Hart.

12 MR. HART: Sorry. I believe it'd be closer to 8:14.
13 We keep rounding it off, but there's minutes in between -- you
14 know, almost a full minute in between a lot of these.

15 THE COURT: Sir, if there's a specific time frame,
16 and counsel asks you about the time, please give the exact
17 time.

18 THE WITNESS: Okay.

19 THE COURT: All right, thank you. Go ahead,
20 counsel. Next question.

21 BY MS. COLE:

22 Q Yes, sir, please read the full number for the time.

23 A 20:13 and 56 seconds.

24 Q Okay, and so it's almost 8:14?

25 A Correct.

1 Q Okay, and what are we looking at? Can you please
2 describe the individual depicted here?

3 A African-American male, light-colored shirt with dark
4 shorts.

5 Q Thank you. And what area of the hotel are we in
6 right now?

7 A That is going into the Mountain Tower, the elevator
8 banks.

9 Q Okay. Okay, sir, I've changed the camera again.
10 Can you tell us the camera, the date, and the full timestamp?

11 A Camera 2,001. 8/23/2020 at 20:21 and 12 seconds.

12 Q Okay. So at 8:21; is that correct?

13 A Yes.

14 Q Okay, and can you describe the individual depicted
15 in this still?

16 A The African-American female wearing a hat, with dark
17 halter top, with a black bag with the white stripes on the
18 side, and you can see a C on it.

19 Q Okay, the letter C?

20 A The letter C, yes.

21 Q Thank you, sir. And, again, is this the elevator
22 well we're looking at?

23 A Yes, going in the Mountain Tower.

24 Q Okay. And then can you tell us what camera and the
25 timestamp we're looking at here?

1 A Camera 60. 8/23/2020 at 20:55 and 30 seconds.

2 Q Okay, so that's 8:55?

3 A Correct.

4 Q Okay. And what's depicted there?

5 A An African-American male wearing a light-colored
6 shirt, dark shorts. African-American female with a black bag
7 with the letter C, ball cap, black top, black shorts, looks
8 like wearing a wig.

9 Q Thank you. What camera are we looking at right
10 here?

11 A Camera 2,000.

12 Q Okay. And the date and timestamp?

13 A 8/23/2020 at 21:28 and 42 seconds.

14 Q Okay. And who -- what is -- what part of the hotel
15 are we in right now?

16 A The elevator lobby.

17 Q Okay. And who is depicted in this?

18 A The African-American female with a black bag, letter
19 C, the black hat, tank top, shorts.

20 Q And this is the elevator lobby?

21 A Correct.

22 Q Okay, sir. And what camera are we at right now?

23 A 2,001.

24 Q Okay. And the date -- oh, excuse me. Let me get to
25 this one. Okay, I apologize. Sir, can you tell us -- this is

1 Camera 2001, and what is the date and timestamp --

2 A 8/20 --

3 Q -- of this particular video?

4 A 8/23/2020 at 21:41 and 28 seconds.

5 Q Okay. And what time is that in Las Vegas time?

6 A 9:41 and 28 seconds P.M.

7 Q Thank you. And who did we just see depicted there?

8 A Can you repeat, please?

9 Q I'm sorry?

10 A I didn't hear you.

11 Q Who did we see depicted there?

12 A The African-American male with a light-colored shirt
13 and dark shorts.

14 Q Okay, and that's the elevator well?

15 A Correct. Mountain Tower.

16 Q Sir, directing your attention to -- okay, sir. What
17 camera, and date, and timestamp is this?

18 A Camera 73. It's 8/23/2020 at 22, looks like 34 and
19 36 seconds.

20 Q Okay. Okay, sir, and who's being depicted right
21 here?

22 A The African-American male with a light-colored shirt
23 and dark pants -- dark shorts. I'm sorry.

24 Q Okay. Anything new about how he's depicted here?

25 A He has a backpack.

1 Q Okay. Sir, what camera are we looking at right
2 here?

3 A 502.

4 Q Okay. And what's the time and date stamp?

5 A 8/23/2020 at 22:35 and 10 seconds.

6 Q Okay. And who are we viewing and what are we
7 viewing here?

8 A African-American male with a light-colored top, now
9 have a backpack, dark-colored shorts. He's at one of our NRT
10 machines.

11 Q Okay. And I'm sorry, what color did you say the
12 shirt was?

13 A It's a light color.

14 Q Okay. And, sir, I'm just going to pause it. What
15 is the date and timestamp?

16 A 8/23/2020 at 22:35 and 36 seconds.

17 Q Okay. And what time is that in Las Vegas time?

18 A That would be 10:35 and 36 seconds --

19 Q Thank you, sir.

20 A -- P.M.

21 Q And then I'm going to direct your attention to
22 Camera 98. Can you please state the date and timestamp?

23 A 8/23/2020 at 22:35 and 25 seconds.

24 Q Okay. And, again, in Las Vegas or Pacific Standard
25 Time?

1 A Yeah, 10:35 and 29 seconds P.M.

2 Q Sir, I'm going to pause it right there at 22:35:42.

3 What are we looking at right here?

4 A The African-American female with a tank top, dark
5 tank top, dark shorts, with a black bag with a C --

6 Q Thank you, sir.

7 A -- and the white stripes on the side, possibly a
8 wig, going out our north doors.

9 Q Okay. Sir, can you tell us the date and timestamp
10 of where I paused this Camera 98 video?

11 A 8/23/2020 at 22:36:01.

12 Q Okay. And is that 10:36:01 --

13 A Yes.

14 Q -- Las Vegas time?

15 A Yes.

16 Q Okay. And who is depicted here?

17 A The African-American male with a light-colored
18 shirt, dark shorts, now with the backpack.

19 Q Thank you, sir.

20 MS. COLE: Madam Clerk, can I get Exhibit No. 2,
21 please? Thank you. For the record, I'm showing defense
22 counsel what's been marked as State's stipulated Exhibit No.
23 2.

24 MR. ARNOLD: Okay.

25 MS. COLE: And for the record, I'm publishing

1 State's stipulated Exhibit No. 2.

2 THE COURT: All right, thank you.

3 BY MS. COLE:

4 Q Sir, while this is starting, I'm going to show you
5 State's stipulated Exhibit No. 174.

6 MS. COLE: Your Honor, permission to approach?

7 THE COURT: Yes.

8 BY MS. COLE:

9 Q Can you tell us what we're looking at in that still
10 photo? Or can you -- first off, do you recognize that still
11 photo?

12 A Yes, I do.

13 Q Okay. And where is that still photo from?

14 A That's from Harrah's.

15 Q Okay, on what date and time?

16 A The date is going to be -- looks like the 5th, it's
17 a little blurry, at 21:34 hours.

18 Q Okay. Sir, can I have that?

19 MR. ARNOLD: Your Honor, for clarification, did he
20 say a date?

21 THE WITNESS: It said -- I saw it said 5th.

22 MS. COLE: And I'm just --

23 THE COURT: I'm sorry?

24 MS. COLE: I'm going to -- I'm going to publish it.
25 I believe that actually says 6th.

1 THE WITNESS: 6th? Okay. I did -- it was blurry.

2 MS. COLE: Let me just zoom in.

3 THE COURT RECORDER: Oh, you want the doc cam?

4 MS. COLE: Yes.

5 THE COURT RECORDER: Oh, I'm sorry.

6 MS. COLE: Can you switch over?

7 THE COURT RECORDER: Yeah, I have to switch it here.

8 MS. COLE: Oh, thank you.

9 THE COURT RECORDER: There you go.

10 BY MS. COLE:

11 Q And, sir, that number right there, is that actually
12 a six?

13 A Yes.

14 Q Now that you can see it better?

15 A Yes.

16 Q Okay. And you mentioned this was, in fact, from the
17 Harrah's?

18 A Yes.

19 Q Okay. And that date again and time?

20 A The 6th at 21:34 hours even.

21 Q Thank you.

22 MS. COLE: And then if we could just switch back
23 over.

24 THE COURT RECORDER: Okay.

25 MS. COLE: Okay.

1 (Surveillance video played)

2 BY MS. COLE:

3 Q Sir, can you tell us the date and time of this
4 particular video?

5 A 8/21 --

6 Q Okay.

7 A -- at 07:27 and 36 seconds.

8 Q Okay. And this particular video surveillance,
9 again, because we're on a new one, is this time and date range
10 from 8/21/2020, 7:27, to 8/21/2020, 8:36 P.M. -- or 8:36 A.M.?
11 Excuse me.

12 A Yes.

13 Q Sir, this is the Paris, correct?

14 A Yes.

15 Q Okay. I'm going to skip ahead a little bit. Okay.
16 Sir, can you please describe the individual that we see
17 depicted in this surveillance still?

18 A African-American female with a white, like, halter
19 top, dark shorts, with a black bag with white stripes on the
20 side with the letter C.

21 Q Okay. And the date and time -- or the date and
22 timestamp, please?

23 A 8/21 at 07:30 and 31 seconds.

24 Q Thank you. And that's 7:30 in the morning, correct?

25 A Yes.

1 Q Okay, sir, I'm going to pause it right here. Where
2 are we at in the hotel?

3 A Elevator banks.

4 Q Okay. And was that the same female depicted?

5 A Yes.

6 Q Thank you. What are we looking at right here?

7 A Inside the elevator.

8 Q And we're at the Paris?

9 A Yes.

10 Q And this is at 7:31 A.M.?

11 A Correct.

12 Q Just to fast-forward it, sir, now the time and date
13 stamp is 8/21 at 7:41 A.M.; is that correct?

14 A Yes.

15 Q And what are we looking at right here?

16 A The same African-American female inside the
17 elevator.

18 Q Okay. Is she carrying anything?

19 A She has a black bag with the letter C.

20 Q And this is inside an elevator at the Paris?

21 A Yes.

22 Q Okay. Sir, what are we looking at right here?

23 A This is the prior -- the African-American female
24 with a white halter top, dark shorts, with a black bag with
25 the white stripes on the side, letter C, and an

1 African-American male with a red shirt, ball cap, and blue
2 jeans.

3 Q Okay. And what color is the hat?

4 A Red.

5 Q Okay. And this is at 8/21/2020 at 7:42:28?

6 A Correct.

7 Q And, again, we're at the Paris?

8 A Paris, yeah, before you go into the elevator lobby
9 area.

10 Q Okay. And, sir, is this the elevator at the Paris?

11 A Yes.

12 Q Okay. And are the female and the male suspect both
13 in this elevator?

14 A Yes.

15 Q Okay. And the time and date stamp, please?

16 A 8/21/20 at 07:43 and 17 seconds.

17 Q Thank you. And, sir, do both male and female
18 suspects exit the elevator?

19 A Yes.

20 Q Okay. And that's at 8/21/20, 7:38?

21 A Yes.

22 Q Briefly, sir, can you tell me the date and timestamp
23 that we're looking at right here? And I know this video is a
24 little bit fuzzy.

25 A It's 8/21/20 at 08:30 and 51 seconds.

1 Q Okay. And who is depicted?

2 A You have the male -- can you rewind it? I -- I --

3 Q Is there an individual wearing a red shirt --

4 A Yes.

5 Q -- and a hat?

6 A I see the male with a red -- with a red shirt, red
7 hat, and back -- looks like he has a backpack.

8 Q Is this, again, 8/21/20, 8:31 A.M.?

9 A Yes.

10 Q And this is in the elevator at the Paris?

11 A Yes.

12 Q He exits the elevator?

13 A Say it again, please.

14 Q Did he just exit the elevator?

15 A Yes.

16 Q And, sir, is that the same individual that was in
17 the elevator?

18 A Yes. African-American male with a red shirt, red
19 hat, jeans, and backpack.

20 Q Okay.

21 THE COURT: So, everybody, we're 12:10 at this time.

22 I think it's a good time for us to take our lunch break.

23 Ladies and gentlemen, we're going to take a one-hour lunch, so

24 we'll come back at 1:10. It's 12:10 now, so one hour, 1:10.

25 Again, please wait outside the courtroom until the marshal

1 escorts you in. Please make sure your notebooks remain on
2 your table.

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

16 Again, ladies and gentlemen, during the lunch break,
17 you may see some of my staff, myself, some of the attorneys,
18 some of the witnesses at the lunch hour. Please understand
19 everyone's under strict orders basically to ignore you, so we
20 will not have any communication to you. Oftentimes, people
21 will say hello, nice weather, something like that. None of us
22 are going to make any comments towards you, so please ignore
23 us. We are not going to take any offense to that, and we're
24 going to ignore you, okay? Have a great lunch. We'll see you
25 back at 1:10.

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

2 (Outside the presence of the jury.)

3 THE COURT: All right. Sir, we'll need you to come
4 back at 1:10, please.

5 THE WITNESS: Yes.

6 THE COURT: All right. Anything by the State before
7 I leave?

8 MR. LEXIS: No, Judge.

9 THE COURT: Anything by Mr. Arnold?

10 MR. ARNOLD: No, Your Honor.

11 THE COURT: Mr. Hart?

12 MR. HART: No, Your Honor.

13 THE COURT: All right, see everybody back at 1:10.
14 Have a good lunch.

15 (Court recessed at 12:12 P.M. until 1:20 P.M.)

16 (Outside the presence of the jury.)

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

18 (Inside the presence of the jury.)

19 THE COURT: All right. Welcome back, ladies and
20 gentlemen. We're going to recall our witness.

21 All right, sir, do you understand that you are still
22 under oath?

23 THE WITNESS: Yes.

24 THE COURT: All right. Go ahead and have a seat,
25 sir. Go ahead, counsel.

1 MS. COLE: Thank you, Your Honor. So, Mr. Lemons --
2 and just for the record, we are -- we still have State's
3 Exhibit No. 2 that has been stipulated into evidence. The
4 current timestamp is 8/21/20 at 8:33, and Mr. Lemons, I'm
5 going to continue playing that as soon as you're ready.

6 (Surveillance video played)

7 BY MS. COLE:

8 Q Sir, I'm going to pause it right there. Can you
9 please state the date and timestamp and what we're looking at
10 right here?

11 A 8/21/20, 08:33 and 57 seconds.

12 Q Okay. And the individual depicted?

13 A African-American male with a red hat, red shirt,
14 blue jeans, and a backpack.

15 Q Okay. And, again, we're at the Paris, and this is
16 8:30 in the morning?

17 A Correct.

18 Q Sir, I'm going to pause it right there. Is that
19 that same individual you described depicted right there?

20 A I'm sorry?

21 Q Sir, is that that same individual depicted right
22 there that you just previously described?

23 A Yes.

24 Q Okay. And --

25 A African-American male with a red shirt, red hat,

1 backpack, and blue jeans.

2 Q Okay. And can you please state the date and
3 timestamp?

4 A 8/21/20 at 08:34 and 40 seconds.

5 Q Same individual we're looking at right here?

6 A Yes.

7 Q And, sir, can you please describe the individual
8 depicted right there?

9 A African-American female with black shorts and a
10 white halter top, with a black bag with a C on the side and
11 the white and black stripes on the side. Excuse me.

12 Q Okay. Sir, at Harrah's and the Paris, what is the
13 retention of video surveillance? What is the retention
14 period?

15 A Seven days.

16 Q Okay. And what happens after seven days?

17 A It gets taped over.

18 Q Okay. And, sir, directing your attention to what's
19 been previously stipulated to, State's Exhibit No. 174, just
20 put that on the projector. And what you earlier described as
21 an exhibit -- or as a still photo from surveillance video from
22 the Harrah's on August 6th, by the time there was a request
23 for video surveillance, did you still have that video
24 surveillance in your system?

25 A No, tape retention had expired.

1 Q Okay. And that's referencing the video on August
2 6th, 2020, at the Harrah's?

3 A Correct.

4 Q Okay. So this still -- this still of the
5 surveillance video is what you had left?

6 A Yes.

7 MS. COLE: Court's brief indulgence. And, Your
8 Honor, at this time, I'll pass the witness.

9 THE COURT: All right. Defense counsel, any
10 questions for this witness? Mr. Arnold?

11 MR. HART: Mr. Arnold, he's calling you first.

12 MR. ARNOLD: Oh, you want me to go first? Can we
13 switch back?

14 THE COURT RECORDER: Oh, you want the Elmo?

15 MR. ARNOLD: Yeah, just for that picture.

16 THE COURT RECORDER: All right.

17 (Pause in the proceedings.)

18 CROSS-EXAMINATION

19 BY MR. ARNOLD:

20 Q Good morning, Mr. Lemons.

21 A Good morning.

22 Q Or good afternoon. Sir, that picture of 174, you
23 said that's a still photograph. How did you get the still
24 photograph, though? What's that from?

25 A That's from the elevator bank up in surveillance.

1 Q So there wasn't a camera that took that. Wasn't
2 that taken off a video?

3 A Well, you can take a snapshot photo from video,
4 yeah.

5 Q Okay. So you had the video, and you took a snapshot
6 photo, and that's how we're seeing Exhibit 174?

7 A Correct.

8 Q Is that correct?

9 A Yes.

10 Q So, again, you were asked, where is the video
11 footage for 8/6?

12 A Correct. We didn't have it. At that point in time,
13 what had happened, all we had was a description of a
14 individual committing a crime. That's all we had to go --
15 these individuals matched that description. Nothing was saved
16 at that point in time.

17 Q So why wasn't it saved? If you had this, somebody
18 alerted to you that there are two African -- a male and a
19 woman that was involved or suspects of, you know, robberies.
20 It gave you enough information to go ahead and take this still
21 photograph. How come you just didn't keep the whole video?

22 A Because that's -- that's all we had to go on was
23 just a basic description, so they didn't save video at that
24 point in time.

25 Q So are you trying to say that all the video from 8/6

1 at Harrah's was destroyed?

2 A Correct.

3 Q Why?

4 A Because it had been taped over.

5 Q And why was it taped over?

6 A Because it passed the retention time. Like I said,
7 all we had was just a vague description. These two
8 individuals match that description. That's all we had at that
9 point in time.

10 Q So how come this video wasn't taped over?

11 A Which one?

12 Q The one that we're looking at, the still photograph.

13 A Well, the video was taped over.

14 Q If it was taped over, how come you got a still
15 photograph from it?

16 A Well, at that -- at that point in time, when you
17 start looking through cameras, hey, these might be people of
18 interest or something to that extent. They snapped a photo.
19 That's all we had done at that point in time.

20 Q Let's go through your background, sir. What's your
21 position again at Caesars?

22 A Investigator.

23 Q And are you in charge of the video surveillance?

24 A Well, we have access to the rooms, yes, and we can
25 pull video.

1 Q You have access to the rooms; you have access to
2 video surveillance. In regards to how the video surveillance
3 works, isn't there video in the hallways of the rooms?

4 A No.

5 Q There's no video at the end of the hallway? No
6 video at the back?

7 A No.

8 Q No video at the staircase?

9 A No.

10 Q What about inside the elevator itself, is there
11 video?

12 A There are certain elevators cameras, yes. So --

13 Q And we saw some of those today --

14 A Yes.

15 Q -- is that correct?

16 A Correct.

17 Q And you have the ability to zoom in and out with the
18 video; is that correct?

19 A If you're watching it live.

20 Q If you're watching it live?

21 A And it depends on which type of camera.

22 Q Earlier this morning, I believe we were watching it
23 live; is that correct?

24 A Well, what I mean, live is -- you have two different
25 types of cameras. You have a PTZ that can zoom in, so if I'm

1 at the control, I can zoom in on somebody. But if you're
2 watching something that's afterwards, you can't zoom in.

3 Q Okay. So, again, earlier this morning, we were
4 watching the video. I think a button was accidentally pulled,
5 and we got a zoom-in picture of a lady on a bench where --
6 excuse me, where we could clearly see her face. Don't we have
7 that in these videos that have been introduced into evidence?

8 A Well, once you record a video, you can zoom -- I
9 mean, certain systems, you can zoom in a little bit, but
10 usually, it pixelizes.

11 Q It would what?

12 A Usually, it'll -- sometimes it'll pixelize.

13 Q Sorry, I didn't hear you. He was talking to me.

14 A Well, once a video is recorded, certain systems have
15 capabilities you can zoom in a little bit, but when it blows
16 up the picture like she did here with this one, it'll
17 sometimes start pixelizing.

18 Q Well, wouldn't you agree that most of the video that
19 we saw this morning, that was fuzzy?

20 A Some of it was, yes.

21 Q And do we have any clear photographs of that video?

22 A No. What we have is what's on video.

23 Q So, like, we don't have a close-up of the face of
24 the individuals where you can take the photograph and easily
25 compare this man's face or this woman's face to the video?

1 A What we have is what we showed earlier.

2 Q So, mostly, how you're making these identifications
3 of who was upstairs and who was downstairs is based upon the
4 clothing because you said there was similarity in clothing; is
5 that correct?

6 A Correct.

7 Q But we don't know whose face is in that clothing; is
8 that correct?

9 A Well, it is whoever's on that video.

10 Q And I was staring at these videos, trying to see.
11 Can you even tell if that individual has a mask on or not, the
12 black male?

13 A It depends on --

14 Q I mean, in this video, it's clear that he has a
15 mask.

16 A Yeah, it looks like he has one here.

17 Q Right. But in the other ones that we saw, can you
18 tell if there was -- individual had a mask on or not?

19 A It's hard to tell.

20 Q It's very hard to tell. It's hard to tell any
21 features of that person's face from the video; isn't that
22 correct?

23 A You saw what I saw.

24 Q And I want to come back to this zoom feature. In
25 the zoom feature, can't you look -- does the zoom feature work

1 in the elevators? Yes or no?

2 A No, I've never seen it work in the elevator.

3 Q But --

4 A Those are fixed cameras.

5 Q How come we can't tell what floor is pushed on the
6 videos?

7 A Because certain cameras just -- they've been around
8 for a long time, and some video is better than others.

9 Q We saw video from Harrah's, we saw video from Paris,
10 both elevator banks, right?

11 A Yes.

12 Q So, and this all falls under Caesars Entertainment,
13 right?

14 A Yes.

15 Q So you're going to tell me that Caesars
16 Entertainment doesn't have strong enough video that I could at
17 least see the buttons of where a person pushes?

18 A Depends on where they're standing in the elevator.
19 Sometimes you see it; sometimes you don't.

20 Q Did you see Ocean's Eleven?

21 A It's been a long time.

22 Q Ocean's Twelve, Thirteen, any of those?

23 A Yeah.

24 Q And how they broke in there, and there was cameras
25 everywhere?

1 A That's in the movies.

2 Q That's not what we have in -- at the hotel?

3 A We do have cameras, yes.

4 Q But not everywhere?

5 A Well, at one point in time. Cameras can be moved.

6 Q It would seem --

7 A At one --

8 Q -- at one point in time, in this generation, the
9 cameras should even be better; isn't that correct?

10 A That's your opinion.

11 Q Well, that's not true. You're the guy that works --

12 A Yeah.

13 Q -- works there. Is it not true that cameras -- are
14 we saying that the cameras in the '70s are still the same
15 cameras here in 2021?

16 A No, more than likely not. I wasn't working there in
17 the '70s.

18 Q So they got better, didn't they?

19 A I would think so.

20 Q And so it baffles me that I can't have a clear
21 video. Does it baffle you?

22 A Well, there's thousands of cameras out there, so, I
23 mean, there's different things. They need to be maintained,
24 things like that.

25 Q How much video footage -- hours of video footage did

1 you look at during the course of your investigation?

2 A That's hard to say. A lot of hours.

3 Q Was it days?

4 A Pardon?

5 Q Was it days?

6 A Is it -- that is hard to say.

7 Q And did you see other individuals that frequent
8 those establishments, the Paris and the Harrah's, on a regular
9 basis coming in and out of the hotel in your days of looking
10 at video?

11 A Not the same individuals, no.

12 Q Do you have any video of any alleged suspect
13 carrying some type of tool, like a jack or a hammer, to get to
14 the doors and open them?

15 A No.

16 Q As part of your investigation, did you go look at
17 the doors that were broken into?

18 A Yes.

19 Q And would it be, in your opinion as an investigator,
20 that there was some type of tool used to enter into those
21 rooms?

22 A Well, there was pry marks on the door -- on the
23 doorframes and the door -- and the door, yes.

24 Q So, yes. Because of the pry marks, you believe that
25 some type of tool was used; is that correct?

1 A Yes.

2 Q And in those videos, we didn't see anybody with any
3 tools in their hands, did we?

4 A No.

5 Q I want to go -- focus your attention back to the
6 doors again. It sounds like an older hotel. I haven't been
7 there, but do you have key cards to get inside the rooms?

8 A Yeah, we have like little access cards. Yes.

9 Q Okay. If a room is breached as it was in this case,
10 and the key card wasn't used, isn't there an alarm or
11 something that goes off?

12 A No.

13 Q Why not?

14 A They don't have no alarms like that.

15 Q Isn't there a way to detect if the door opens
16 without the use of a key card?

17 A Yes.

18 Q And isn't there a printout that demonstrate when the
19 door is opened or closed without a key card?

20 A It depends on the hotel.

21 Q Well, let's start with the Paris. Do they have that
22 feature?

23 A I believe so, yes.

24 Q Let's go to the Harrah's. Do they have that
25 feature?

1 A Yes.

2 Q That's the only two hotels we're talking about, sir.
3 Okay. So it has this feature, and it would notify us when
4 these doors are being breached --

5 A No.

6 Q -- is that correct?

7 A No, it wouldn't notify.

8 Q What would it do?

9 A Well, if a door is breached, there's no alarm or
10 anything like that that will go off.

11 Q Right, but there is some kind of electronic data
12 that would suggest the door is being opened without the key
13 card; is that correct?

14 A Yes.

15 Q I don't remember. Just on this last video of the
16 woman, you said that she was African-American. How were you
17 able to tell that so distinctly from that?

18 A Well, it's just from the complexion.

19 Q Well, she looked light-skinned to me, so how did you
20 know she was African-American?

21 A Just, like I said, by her complexion.

22 Q But we are looking at her from behind, and so you
23 were looking at her legs, her arms, and that's how you're able
24 to tell?

25 A Yes.

1 Q No other features?

2 A Well, which video are you talking about?

3 Q The very last one. We had a picture of a woman with
4 shorts on.

5 A Yeah.

6 Q And you said, well, she's African-American. I kept
7 looking --

8 A Well, that was because -- well, plus, also, the
9 stuff she was carrying. She had that bag.

10 Q There it is. And so, basically, since she had a
11 similar bag to the person in the other videos, you believe
12 that that woman that we saw in this video was
13 African-American?

14 A No, because I have seen enough video of the
15 individual carrying that bag.

16 Q Okay. Is there only one -- that -- is that bag so
17 unique that nobody else can have that bag?

18 A No.

19 Q Yeah. The last thing I was curious about, you had
20 -- are those timestamps that we saw running at the bottom of
21 each video, are those accurate?

22 A Usually within sometimes -- depends on the system --
23 a minute, 30 seconds sometimes. For the most part, within a
24 few seconds. Sometimes there has been other videos or
25 whatever, it might be off by, like, let's say 30 seconds to a

1 minute.

2 Q Okay. We were watching earlier video in the
3 morning, the one you stated that it was from the Paris Hotel.
4 We saw a gentleman with a white t-shirt, he had a coffee in
5 his hand, and you had him going out -- going in an elevator at
6 10:15 and then turning to his left. And then, approximately
7 still 10:15, according to the video, another woman comes up in
8 the elevator at the far right and then goes in the same
9 direction. Do you remember that video?

10 A Yes.

11 Q Okay. Then I was looking at the time and wrote it
12 down again. You had them at 10:17 coming down and walking in
13 the direction of Bally's. So between 10:15 and 10:17 is
14 approximately -- those are minutes, right?

15 A Yes.

16 Q Okay, so it took them two minutes. What floor was
17 that? Oh, you don't know because the video doesn't show the
18 floor, right?

19 A Correct.

20 Q Okay, but I'd imagine it had to be a couple of
21 floors up. It took them two minutes to get from a hotel room,
22 go and search through the hotel room, get whatever they got
23 from the hotel room, come all the way back down the elevator,
24 and then get all the way down to Bally's at 10:17? Two
25 minutes?

1 A It'd be pretty fast.

2 Q It was fast, but that's what your video showed,
3 right?

4 A Okay, if you say so.

5 Q I didn't say so; that's what I was looking at. Do
6 you have any information to dispute that?

7 A No.

8 MR. ARNOLD: I'll pass the witness, Your Honor.

9 THE COURT: Any questions, Mr. Hart?

10 MR. HART: Just a few.

11 CROSS-EXAMINATION

12 BY MR. HART:

13 Q I just want to follow up, and maybe I'm mistaken.
14 It's all digital recording you have there, correct?

15 A Yes.

16 Q Okay, at Harrah's?

17 A Yeah.

18 Q Digital, not analog?

19 A Yes.

20 Q At Paris?

21 A Yes.

22 Q At Bally's?

23 A Yes.

24 Q Okay. And you have literally thousands of cameras
25 at each place, right?

1 A Yes.

2 Q And you have stationary, and then you -- fixed
3 cameras --

4 A Yes.

5 Q -- that cover -- unless there's a corner somewhere,
6 cover the entire area, correct, on the floor of the casino
7 downstairs, correct?

8 A Now, say it again. I'm sorry.

9 Q They cover pretty much every square foot, absent a
10 little corner here or there, of the casino lobby, downstairs
11 area, correct?

12 A For the -- for the most part, yes.

13 Q Okay. You also have cameras that you can use a
14 little joystick and zoom in --

15 A Correct.

16 Q -- turn it around, follow, et cetera, correct?

17 A If you're watching it live, yes.

18 Q Okay. And so when you're saying you followed them
19 or surveilled them, it was -- you were watching stationary --
20 you have stationary cameras that go throughout the place,
21 correct?

22 A Yes.

23 Q Okay. And you're able to pick them up here, to
24 there, to the next place throughout?

25 A Correct.

1 Q Correct? And that's in the areas -- probably be --
2 you know, we're looking at 174 here. Like, the elevator
3 lobbies, stores, et cetera, and then it's even -- there are
4 even more cameras on the casino floor, correct?

5 A Yes.

6 Q Okay. Now, you said there's a seven-day retention?

7 A Yes.

8 Q Is that for all properties?

9 A That's the standard.

10 Q Okay. That's for all properties?

11 A Yes.

12 Q Paris?

13 A Yes.

14 Q Bally's?

15 A Yes.

16 Q And Harrah's, correct?

17 A Yes.

18 Q Okay. But you have backups so you can save whatever
19 you choose if there's a request or there's an incident,
20 correct?

21 A If there's a request, yes.

22 Q Okay. Well, if you have an event at your place, and
23 you're an investigator, you can start to investigate
24 immediately, correct?

25 A It depends on the situation. We handle multiple --

1 Q Within 24 hours?

2 A Pardon?

3 Q Within 24 hours?

4 A Yeah, but we handle multiple investigations.

5 Q Okay.

6 A We handle multiple properties.

7 Q Okay. And just to be clear, on No. 174, which is
8 this deal that says "pause," so for August 6th, somebody took
9 a picture of a paused video screen?

10 A Yes.

11 Q And that's all?

12 A Yes.

13 Q That's the only bit of video or anything else from
14 that day?

15 A Yes.

16 Q Only picture?

17 A Yes.

18 Q Were there any other events that day that you saved
19 stuff for?

20 A Not that I'm -- not that I have saved or anything,
21 no.

22 Q Okay.

23 A There could have been other events, yes, such as
24 they save stuff for gaming, things like that.

25 Q Would you have access to those?

1 A Yes.

2 Q Okay. And it's your testimony today that there are
3 no cameras in the lobby areas, getting out on the various
4 floors?

5 A Correct. In the hotel towers, yes, there's no
6 cameras in lobbies, on the floors -- or in the floors.

7 Q And none going down the hall?

8 A No. Correct.

9 Q Has that always been the -- been like that?

10 A As far as I know, yes. There is a couple towers at
11 one of our properties that has cameras, but that is it.

12 Q Okay, because I could have sworn I distinctly
13 remember seeing down a hall on one. That's why I'm asking.

14 A Yeah, not in --

15 Q For an event.

16 A Not in the hotel.

17 Q Okay. But there -- and not showing where people
18 come out?

19 A Pardon?

20 Q Not even in the lobbies, the foyers where they come
21 out of the -- out of the different elevators?

22 A Some of the hotels do have cameras point in that
23 direction. Depends on where the camera is. Like, at one of
24 our hotels, it's a PTZ.

25 Q Which is a?

1 A Pan and tilt, where -- that's one that can be moved.
2 So if they're -- let's say they're following somebody, then
3 they'll move the camera back in that direction.

4 Q Okay. But then they'd be going down the hall or
5 something, right?

6 A Yeah.

7 Q Correct?

8 A Yes.

9 Q Okay. Now, when we talked about -- so, like, at any
10 time, you can -- you have backups where you can save -- like,
11 this stuff was saved to a DVD, correct?

12 A Yes.

13 Q Okay, or you have other hard drives you can save --

14 A Yes.

15 Q -- information to, correct?

16 A Yes.

17 Q So you can save it if you choose, if you just
18 determine if it's significant enough?

19 A I didn't say that.

20 Q Okay.

21 A It depends on the situation, you know, when we get
22 the information. You know, we work with surveillance when
23 they get the information, so when it's reported.

24 Q Okay. Well, August 6th was supposed to be a
25 robbery, correct?

1 A Yes.

2 Q Okay. And you -- Mr. Arnold asked you about when a
3 door opens, do you guys have a log --

4 A Yes.

5 Q -- that you can do, electronic log for all doors?

6 A Yes.

7 Q Okay. Whether it's opened, and those are available
8 for going back a ways, correct?

9 A Yes.

10 Q Okay. Whether it's opened with a card or just
11 opened, forced, correct?

12 A Yes.

13 Q Okay. Now, you also have security by the elevators,
14 correct?

15 A No, not always. It -- the manpower. It depends.
16 Certain times, there is security by the elevators; certain
17 times, there's not.

18 Q Okay. You don't generally have somebody you have to
19 show a card to go into --

20 A No.

21 Q -- get to the elevators?

22 A No.

23 Q You said sometimes?

24 A Yeah. They used to have it posted, but then, when
25 the workflow gets busy, they'll pull those officers and have

1 them do other stuff.

2 Q Okay. Did you check to see if people were working
3 those elevators?

4 A At that time, we didn't have anybody posted at those
5 elevators. (Indiscernible) it was pre-pandemic, where, you
6 know, after the pandemic --

7 Q It's safe to say if I was to walk through any one of
8 these three casinos, through the lobbies, through the casino
9 floor, and back out, you would be able to track me, correct?

10 A To a certain extent. You know, if you walk into a
11 blind spot --

12 Q Yeah.

13 A -- our cameras turn another way.

14 Q Okay. But you also had the fixed pretty much
15 covering everything, correct? I mean, I could stand in one
16 place for a couple minutes, but you'd eventually get me
17 moving, correct?

18 A Well, if you walk through, and we have a
19 description, eventually, yes. I mean, you walk through a
20 casino, eventually, one camera's going to pick you up.

21 Q Yeah, okay. Especially on the casino floor?

22 A Yeah.

23 Q Okay. How long do you retain the information on
24 doors opening and closing?

25 A I'm not sure how long that goes back for.

1 Q Months --

2 A It goes by entries, so it's -- I'm not sure exactly
3 how -- how many entries it'll go back.

4 Q Okay. It can go back weeks and months, correct?

5 A I believe they can probably go back -- it depends on
6 how many times the door is accessed, and engineering usually
7 pulls those reports.

8 Q Yeah.

9 A Depends on the property, and depends on how many
10 times a door's been opened and closed.

11 Q Okay. How many does it record? Do you know?

12 A No, I don't.

13 Q Would you say at least 100?

14 A Yeah.

15 Q Okay. At least 100 openings and closings?

16 A Yeah.

17 Q And quite probably more, correct?

18 A Yeah.

19 MR. HART: Okay. Nothing further for this witness.

20 THE COURT: Any redirect by the State?

21 MS. COLE: Yes, Your Honor, briefly.

22 REDIRECT EXAMINATION

23 BY MS. COLE:

24 Q Mr. Lemons, let's talk a little bit about the
25 surveillance that was collected in this case. Ultimately,

1 when security is tasked, or yourself, an investigator, with
2 obtaining certain surveillance, was there certain time frames
3 that you were alerted to -- of?

4 A Yes.

5 Q Okay. And essentially, when you're surveilling
6 somebody, and I'm using that term as a term of art, is your
7 job to particularly track their movement in the properties?

8 A Yes.

9 Q Okay. And so the surveillance video that you
10 collected was essentially you got a suspect description, and
11 you tracked those suspect descriptions throughout their
12 movements when they were in Caesars properties?

13 A Yes.

14 Q Okay. And that was the video that we looked at
15 today at length?

16 A Yes.

17 Q Okay. Now, besides -- I believe the Harrah's video
18 from 8/23 is the only date that the video actually is in
19 chronological order?

20 A Yes.

21 Q Okay. So it's fair to say that the video that we
22 viewed from 8/16 and 8/21, not necessarily all video clips are
23 in chronological order?

24 A Correct.

25 Q Is it also fair to say that there's different angles

1 and different cameras for different time frames?

2 A Yes.

3 Q And some of the video might be out of order?

4 A Yes.

5 Q Okay. So, essentially, the video that you collected
6 in regards to 8/16 and 8/21 at the Paris that we viewed today
7 is not necessarily all in chronological order?

8 A No.

9 Q We have certain time frames, but the video within
10 those time frames isn't necessarily in chronological order?

11 A Correct.

12 Q Meaning that there might be some video segments that
13 come out of order?

14 A Yes. Due to camera location and stuff, and you're
15 trying to save stuff, yes, sometimes things get out of order.

16 Q Okay. And when you're conducting surveillance of
17 different suspects, it's fair to say that they're getting
18 picked up on multiple different cameras throughout a property?

19 A Yes.

20 Q Okay. And when that video is being compiled, it's
21 not necessarily all in order?

22 A Correct.

23 Q Okay. Since Mr. Arnold was specific about some time
24 frames on August 16th, let's go back to that video.

25 A Okay.

1 MS. COLE: I'm going to need State's Exhibit No.
2 172. Thank you.

3 (Surveillance video played)

4 BY MS. COLE:

5 Q So, sir, in this specific video, these times range
6 generally from August 16th, 2020 at 20:26 through August 16th,
7 2020 at 20:45?

8 A Correct.

9 Q Okay. Sir, I'm going to play a different video.
10 Let me get to that.

11 (Surveillance video played)

12 BY MS. COLE:

13 Q Okay, sir, so we're looking at the -- in this
14 particular video, this time frame is from 8/16, 20:44, through
15 8/16, 22:18?

16 A Correct.

17 Q So that's essentially 8:45 to 10:18?

18 A Correct.

19 Q Okay. And in this particular time period, this is
20 all the different camera angles that you guys were able to get
21 of these two suspects compiled into this time range?

22 A Correct.

23 Q Okay, sir. What is the timestamp right here?

24 A This is 8/16 at 20:46 and 58 seconds.

25 Q Okay. And, sir, what is this time frame?

1 A 8/16/2020 at 20:46, 53 seconds.

2 Q Thank you. And now certainly, after this, it's fair
3 to say that the camera angle's going to jump to a different
4 camera angle?

5 A Yes.

6 Q Okay. And that just -- time change just changed
7 from what? What does that read right there?

8 A Twenty -- 8/16/2020 at 22:15 and seven seconds.

9 Q Okay. So this is two hours later from the previous
10 one that we just looked at?

11 A Yes.

12 Q Okay. So that's what we're referring to when
13 there's different portions? Not necessarily the first still
14 that we're seeing of those two suspects enter an elevator ends
15 with them coming out of that exact elevator; is that correct?

16 A Correct.

17 Q This could be a completely different elevator? This
18 is just --

19 A Yeah.

20 Q -- the next surveillance photo or video that you got
21 of them?

22 A Correct.

23 Q So, essentially, what we have here isn't a
24 real-time, chronological order movie from 8:45 to 10:18?

25 A Correct.

1 Q We don't have every second of that depicted. That's
2 -- those are just the two time frames where there's video in
3 those two time frames?

4 A Yes.

5 Q Okay. So it would be unfair to say that from the
6 last still that we saw -- let me back up. Where the time
7 frame here says 20:46, the next one we have is at 22. So we
8 don't know necessarily if it was when they got back onto this
9 elevator. This is just the next time that we have video
10 picked up during this time period; is that correct?

11 A Correct.

12 Q Okay. So there is a two-hour difference from those
13 two video clips?

14 A Yes.

15 Q Okay, sir, and what's the timestamp on this
16 particular still that we're looking at?

17 A 8/16/2020 at 22:15 and 36 seconds.

18 Q Okay. So, again, this isn't a two-hour difference
19 like the last one; this is just several minutes' difference?

20 A Correct.

21 Q And, again, sir, that frame that we just saw the
22 male suspect come out, again, that's not the same elevator
23 that we just saw the woman alone in, correct?

24 A Correct.

25 Q This just picked up a different camera angle?

1 A Yes.

2 Q Again, showing that this isn't necessarily a movie?

3 A Yes.

4 Q These are a bunch of clips that are put in this time
5 period; is that correct?

6 A Yes.

7 (Surveillance video played)

8 BY MS. COLE:

9 Q Now, sir, in this particular video, are the relevant
10 time frames 8/16/2020 -- or excuse me. 8/16/2020, 22:17 --

11 A Correct.

12 Q -- through 8/16/2020, 22:32?

13 A Yes.

14 Q Okay. So, essentially, this is a smaller time frame
15 of 10:17 to 10:32?

16 A Yes.

17 Q And, again, this would be different camera angles
18 and clips that fall within this time frame?

19 A Yes.

20 Q But not every second of this time period is
21 accounted for?

22 A Correct.

23 MS. COLE: Thank you. No further questions for this
24 witness.

25 THE COURT: Any recross, Mr. Arnold?

1 MR. ARNOLD: No, Your Honor.

2 THE COURT: Any recross, Mr. Hart?

3 MR. HART: I can do it from here.

4 RECROSS-EXAMINATION

5 BY MR. HART:

6 Q On the foyers, those were all on the bottom floor?

7 A Say it again. I'm sorry.

8 Q All the elevator foyers, those were all on the
9 bottom floor?

10 A Yes.

11 Q And when you assembled this, you tried to gather as
12 much -- everything you have and present it to either the
13 police or the district attorney, correct?

14 A Yes.

15 MR. HART: Okay. Nothing further.

16 THE COURT: All right, thank you. Any questions by
17 our jurors? We do have a question. All right. Write your
18 question down with your juror number, ma'am, and the marshal
19 will pick it up. I'll meet counsel in the back room.

20 MR. ARNOLD: All right.

21 (Bench conference begins.)

22 THE COURT: Okay, this is Judge Villani. One
23 question is, "Why only seven days," I'm assuming it says
24 "saved."

25 MR. ARNOLD: Yeah.

1 MR. HART: Who -- what -- do we know what juror that
2 was?

3 THE COURT: Juror 8.

4 MR. HART: Okay.

5 MR. ARNOLD: It's a valid question.

6 MR. HART: It's a valid question.

7 THE COURT: Any -- okay, I'll ask that question.
8 Next one's from Juror 10. "Where suspects -- were suspects
9 actually in the elevator and doors -- where suspects actually
10 in the elevator and doors open, can you tell what floor
11 elevator suspect got off on? The number of floor is on the
12 wall of the elevator bank frame when door opens. Can you tell
13 what the floor is?"

14 MR. ARNOLD: Good question.

15 THE COURT: Sort of confusing.

16 MR. ARNOLD: I know what she's referring to. She's
17 talking about when the elevator opens --

18 THE COURT: Remember, say who's talking.

19 MR. ARNOLD: Oh, this is Attorney Arnold. She's
20 talking about when the elevator banks open, usually there's a
21 number, you know, to your left or right indicating what floor
22 it is, so she's asking if that number can be identified.

23 MR. HART: Or at the top.

24 MS. COLE: I mean, I guess --

25 THE COURT: Identify yourself just for the

1 transcript.

2 MS. COLE: Madilyn Cole for the State. I mean, the
3 video's admitted into evidence. It is what it is. I don't
4 think it's proper for us to comment on that. I mean, they
5 have access to the video. They can re-watch it as much as
6 they want and try to identify what floor number, but, I mean,
7 the video speaks for itself, and that's been admitted.

8 MR. HART: And Marty Hart. I believe
9 (indiscernible) answer, though, if there's a log or anything
10 else that would go also, if there's --

11 THE COURT: So, State -- State -- Villani. State
12 objects to the question?

13 MR. LEXIS: Chad Lexis for the State. I mean, he'd
14 be speculating. There certainly is not a log where, when you
15 got on an elevator, it knows what particular person is getting
16 off an elevator, so that's pure speculation.

17 MS. COLE: Exactly.

18 THE COURT: Well, the bottom -- the last question --
19 part of that question is, "Can you tell what the floor is?"
20 So he can say or no.

21 MR. ARNOLD: Right.

22 MS. COLE: Okay.

23 THE COURT: So I will ask -- I can't really -- I
24 can't change the question because it sort of rambles on here,
25 but I think I'll just emphasize the last portion of that, and

1 we'll go from there. All right.

2 MR. HART: Okay.

3 (End of bench conference.)

4 THE COURT: All right. Sir, we have a couple
5 questions from some of our jurors. First question is, why
6 only seven-day storage?

7 THE WITNESS: I cannot answer that question. That's
8 just -- as long as I've worked there, that's all it's ever
9 been.

10 THE COURT: All right. Another question from one of
11 our jurors, sir, is, during the elevator scenes, it says,
12 where suspects actually in the elevator and doors open, can
13 you tell what floor the elevator suspects got off on? The
14 number of floor is on the wall of the elevator, the bank
15 frame, when doors open. Can you tell what the floor is?

16 THE WITNESS: No.

17 THE COURT: Okay. Any follow-up by the State to
18 jurors' -- the witness's answers to the jurors' question?

19 MR. LEXIS: No, Your Honor.

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

21 MR. ARNOLD: No, Your Honor.

22 THE COURT: Any follow-up, Mr. Hart?

23 FOLLOW-UP EXAMINATION

24 BY MR. HART:

25 Q Just to be clear, these seven days, if it's running,

1 you can gather it any time during that seven days and put it
2 on an off-site disk, correct?

3 A Say it again.

4 Q The seven days is as your servers override, correct?

5 A Yeah.

6 Q Okay, but you can always download before the seven
7 days and save it if you so choose?

8 A For the most part, yes.

9 Q Okay. And is there a way to figure out what floors
10 they got off on the elevators?

11 A No.

12 MR. HART: Nothing further.

13 THE COURT: Any additional questions by our jurors?
14 Looks like no questions. Sir, thank you for your testimony.
15 You are excused. Next witness for the State?

16 MS. COLE: And, Your Honor, the State calls Larry
17 Minister.

18 THE MARSHAL: Watch your step. Raise your right
19 hand. Face the clerk. Once she swears you in, scoot your
20 chair all the way up to that red dot. Speak loud because they
21 can't hear you behind this glass.

22 LAWRENCE MINISTER, STATE'S WITNESS, SWORN

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

25 THE WITNESS: Yeah. Lawrence Minister.

1 L-a-w-r-e-n-c-e, M-i-n-i-s-t-e-r.

2 THE COURT: Go ahead, counsel.

3 DIRECT EXAMINATION

4 BY MS. COLE:

5 Q Good afternoon, Mr. Minister. Where do you work?

6 A Sbarro.

7 Q Okay, and what is your position at Sbarro?

8 A Senior director of operations.

9 Q And how long have you been in that position in that
10 capacity?

11 A Over 12 years.

12 Q Okay. So in your position, do you have access to
13 the system that essentially tracks receipts, video
14 surveillance, things of that nature?

15 A Yes.

16 Q Okay. And, sir, I'm going to be directing your
17 attention --

18 MS. COLE: This is State's Exhibit No. 20 that's
19 been stipulated, and I've showed both Mr. Arnold and Mr. Hart.
20 Permission to approach, Your Honor?

21 THE COURT: Yes.

22 BY MS. COLE:

23 Q Sir, can you take a look at this and tell me if you
24 recognize it?

25 A Yes. It's a Sbarro receipt.

1 Q Okay. And how do you know that?

2 A It has our store number, the name of the store, and
3 the address of the store, along with the information of what
4 was ordered.

5 Q Okay, thank you. And that is a fair and accurate
6 depiction of a receipt from Sbarro?

7 A Yes.

8 MS. COLE: And, Your Honor, permission to publish
9 State's 20?

10 THE COURT: Yes, go ahead.

11 MR. HART: It's trying to pull me over.

12 THE COURT RECORDER: Oh. And someone's got the
13 screen. Someone locked it up.

14 MS. COLE: On the computer?

15 THE COURT RECORDER: Yeah, on this --

16 MR. HART: We can't do it on ours, can we?

17 THE COURT RECORDER: Yeah, you can. I think you
18 can.

19 MR. HART: So lower right?

20 THE COURT RECORDER: Yeah, the right.

21 MR. HART: It doesn't work on this one.

22 THE COURT RECORDER: Oh, okay.

23 MR. HART: I'm drawing.

24 MS. COLE: Oh.

25 THE COURT: There we go.

1 MS. COLE: Okay.

2 THE COURT RECORDER: Thank you.

3 BY MS. COLE:

4 Q Okay, sir, I'm going to zoom in on this and have you
5 describe. So tell me if you can see this. I know this is
6 small. Okay. So, sir, I'm going to direct your attention to
7 the top of this receipt. What is this number in the left-hand
8 corner?

9 A The store number, 1064.

10 Q Okay. And is this the address of this store?

11 A It is.

12 Q Okay. So this is the -- this specifically is the
13 Sbarro's inside of Bally's?

14 A That is correct. It's downstairs, right across from
15 the Sportsbook.

16 Q Okay. Is it in the food court?

17 A It's in the food court, yes.

18 Q Okay. Thank you, sir. Now, directing your
19 attention to where it says "open time" --

20 A Okay.

21 Q -- what is that in reference to?

22 A The time that the ticket was opened.

23 Q Okay. Is that in relation to the register, what
24 type of numbers and transactions are being transmitted?

25 A Yes.

1 Q Okay. And in regards to the close time?

2 A It was when it was rung in and then closed out.

3 Q Okay. And, sir, I know that's in military time.

4 What time is this in Las Vegas?

5 A 10:29 P.M. and 10:30 P.M. close.

6 Q Okay. So in relation to the open time, the register
7 opened at 10:29, or should I say the transaction started at
8 10:29?

9 A Yes, ma'am.

10 Q And the transaction ended at 10:30?

11 A That's correct.

12 Q And this transaction occurred at the Sbarro's inside
13 the Bally's?

14 A That is what the receipt is indicating, yes.

15 Q Okay. And, sir, referencing this number at the
16 bottom that states "total," what is that total?

17 A That's the total of the order, the total amount.

18 Q Okay, and what is that?

19 A \$20.10 is what it shows.

20 Q Okay. And then, sir, pointing your attention to the
21 bottom, is this the card that was used?

22 A That's the -- that AMEX, the last four digits, yes.
23 It was an American Express with -- the four digits was 1004,
24 is what was used.

25 Q Okay. So this represents the card that was used,

1 which you stated was an American Express, ending in 1004?

2 A That's what it shows. Yes, ma'am.

3 Q Okay. And it's showing that that transaction was
4 completed?

5 A Yes.

6 Q And then, sir, just directing your attention to the
7 top, this specific date, can you read that into the record?

8 A August 16th, 2020.

9 MS. COLE: No further -- no further questions for
10 this witness. I'll pass the witness.

11 THE COURT: Any questions, Mr. Arnold?

12 MR. ARNOLD: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. ARNOLD:

15 Q Sir, you said that your responsibilities include
16 tracking video surveillance and receipts; is that correct?

17 A I have access to, yes.

18 Q You have access to video of --

19 A No, no video. We do not have video at this
20 location.

21 Q None at this location?

22 A No.

23 Q Do you know who the employee was that was working at
24 the time of this AMEX purchase?

25 A No, I do -- I don't. It's went off my screen. I

1 don't know who the name -- I don't recall who it was.

2 Q But you can look at the receipt and determine who
3 the employee was that this purchase was made in front of; is
4 that correct?

5 A Yes, it should have the employee's name on the
6 receipt.

7 Q And then you also can go back to the time records
8 and determine who was working at that time; is that correct?

9 A Yes.

10 Q And so that individual would be able to tell us or
11 may be able to tell us who used the AMEX card at that
12 location; isn't that correct?

13 MR. LEXIS: Judge, I'm going to object to
14 speculation. Purely speculative.

15 THE COURT: Sustained.

16 BY MR. ARNOLD:

17 Q In order for there to be an AMEX purchase at the
18 store, wouldn't there had to have been an employee on the
19 other side of the register?

20 A In order for a purchase to be rung in, yes, but --

21 Q Right. And someone to -- that would have made the
22 sandwiches or whatever the food items were on that receipt
23 would also have been present at the store; is that correct?

24 A If you're asking if there were employees working,
25 yes, there should have been employees working.

1 Q Okay. And then, again, you have no video
2 surveillance at this location?

3 A That's correct.

4 Q And why is that?

5 A I don't make those decisions, sir.

6 MR. ARNOLD: Okay. No further questions, Your
7 Honor.

8 THE COURT: Mr. Hart, any cross-examination?

9 CROSS-EXAMINATION

10 BY MR. HART:

11 Q Just to be clear, do you remember seeing the name
12 Fatima (phonetic) on there, on the receipt?

13 A The -- the employee's name? I think --

14 Q Yes.

15 A Yes, I think it was Fatima.

16 Q Okay. And that would have been the person that was
17 -- that took the payment?

18 A Should have been, yes.

19 MR. HART: Okay, nothing further.

20 THE COURT: Any redirect?

21 MS. COLE: No, Your Honor.

22 THE COURT: Any questions by our jurors? No
23 questions. Sir, thank you for your testimony. You are
24 excused.

25 THE WITNESS: Thank you.

1 THE COURT: Next witness for the State?

2 (Pause in the proceedings.)

3 THE MARSHAL: Watch your step. Raise your right
4 hand. Face the clerk. Once she swears you in, scoot your
5 chair all the way towards the red dot and speak loud.

6 THE WITNESS: Thank you.

7 MARIE PRICE, STATE'S WITNESS, SWORN

8 THE CLERK: Thank you. You may have a seat.

9 THE WITNESS: Thank you.

10 THE CLERK: And state and spell your first and last
11 name for the record.

12 THE WITNESS: Marie Claire (phonetic) Price.

13 THE CLERK: Can you spell it for me?

14 THE WITNESS: M-a-r-i-e, P-r-i-c-e.

15 THE COURT: Go ahead, counsel.

16 DIRECT EXAMINATION

17 BY MS. COLE:

18 Q Good afternoon, Ms. Price. Where do you work?

19 A I work in a Big Daddy's Oil, ARCO ampm.

20 Q Okay. You work at ARCO am and pm?

21 A Yes, ma'am.

22 Q Okay, ma'am. I'm just going to remind you,
23 everything that you're saying right now is being transcribed,
24 so I'm going to need you to speak very loudly and close to the
25 microphone so we can hear you.

1 A Okay.

2 Q What is your position at ARCO?

3 A I'm a manager.

4 Q Okay. And do you specifically manage the location
5 at 209 East Flamingo here in Las Vegas, Clark County, Nevada?

6 A That's correct.

7 Q Okay. And how long have you worked at that ARCO?

8 A I've been working for the owner for 25 years. In
9 that ARCO, almost four or five years.

10 Q Okay. And as a manager, are you familiar with the
11 video surveillance at ARCO?

12 A Yes, ma'am.

13 Q Okay. And someone from your -- you or someone from
14 your store collected some surveillance video from August 17th
15 at approximately midnight, and you gave that to Metro; is that
16 correct?

17 A That's correct.

18 Q Okay. And you had an opportunity to review that
19 video surveillance; is that also correct?

20 A Correct.

21 Q And that video surveillance you reviewed fairly and
22 accurately depicted your store on that date and time?

23 A Correct.

24 MS. COLE: Your Honor, at this time, permission to
25 publish State's stipulated Exhibit No. 4?

1 THE COURT: Go ahead.

2 (Surveillance Video played)

3 BY MS. COLE:

4 Q Okay, ma'am, so can you identify the date in this
5 top left-hand corner?

6 A 8/17/2020.

7 Q Okay. And that's -- is this the --

8 A Midnight.

9 Q -- the timestamp?

10 A Midnight.

11 Q Okay. So this is -- this 00 is reflecting that it's
12 midnight?

13 A Correct.

14 Q Okay. And to your knowledge, are the date and
15 timestamp correct?

16 A Always, yes.

17 Q Okay, thank you. And can you tell us the view that
18 we're looking at?

19 A This is -- where the gentleman is, Donald
20 (phonetic), that's Register 1, and the other register is
21 Register 2.

22 Q Okay.

23 A That's right there in front of the store.

24 Q And this angle that we're looking at, this is kind
25 of a birds-eye view? The camera's from above?

1 A Correct.

2 Q And I'm just going to fast-forward to the relevant
3 time period. And, ma'am, can you describe the individual that
4 -- when you're looking at the screen, all the way to the left?

5 A That's the gentleman with the black khaki shorts,
6 white shirt, and he got a white bag with red letters. I
7 can't --

8 Q Okay. And specifically, I have it paused at
9 12:02:08, and this is again on 8/17?

10 A Yes.

11 Q And I'm going to pause it right there. Can you
12 describe that bag that you were discussing?

13 A It's a white bag with a -- with a red mark -- red
14 letters. S, H.

15 Q So you see some letters on that bag?

16 A Yes. S, H.

17 Q Now, ma'am, can you describe what the female
18 individual is wearing right there?

19 A She got a jumpsuit, black with stripes. It's one
20 piece.

21 Q And are you able to tell what those colors are?

22 A Yeah, they're black with stripes, white stripes.
23 She got her wallet, kind of brownish, and a purse. And I can
24 see what the bag say now. S -- oh.

25 Q Okay, and I'm going to just show you another angle.

1 Okay. What are we looking at right here? What angle of the
2 store is this?

3 A That's my whole store.

4 Q So you can see the entire store from this --

5 A The entire store.

6 Q -- camera angle?

7 A In what is all the front, correct.

8 Q Let me just relaunch this really quickly. And I'm
9 just going to fast-forward to the relevant time period. Back
10 up just a second. Okay. The two individuals that walked in
11 the store, can you describe those two people?

12 A Yes. It's a -- it's a black lady with a jumpsuit,
13 black with stripes. She -- she got a black bag, a white mask
14 -- mask that she didn't have put on. And the gentleman, she
15 got a white shirt with a hat and khaki shorts. She got white
16 tennis shoes.

17 Q And just for the record, that was at timestamp
18 12:01:34?

19 A That's correct.

20 Q And this video is on August 17th, 2020?

21 A That's correct.

22 Q Okay, ma'am, and I'm showing you another camera
23 angle. Now, this is again another birds-eye view over the
24 register?

25 A One.

1 Q This specific angle is just showing -- I believe you
2 called that Cash Register 1?

3 A Um-hum.

4 Q And I'm going to fast-forward to the relevant time
5 frame. And, ma'am, can you please describe that individual
6 that's at the register right now?

7 A It's a black female with a jumpsuit, black jumpsuit
8 with stripes, a white mask, and a black purse with white
9 stripes on the side. She got like a brownish wallet, long
10 black hair, white tennis shoes.

11 Q Okay. And the male that's standing next to her, can
12 you please describe him?

13 A He got a gray hat with a white shirt, a gold chain,
14 black khaki shorts, and gray with black shoes, tennis shoes.

15 Q And I see --

16 A And he got a bag, white bag with a black -- a red
17 stripe -- like a red tag with letters on it.

18 Q Okay, ma'am. And I'm just going to show you one
19 more angle. Oh, that's what we just watched. Okay, and I'm
20 just going to fast-forward back to where we were at the end,
21 that last still. And just for the record, what is the time
22 and date stamp in the upper left-hand corner?

23 A It's 8/17/2020, Monday, at 12:04:52.

24 Q Is that 12:04 --

25 A Yes.

1 Q -- 52?

2 A 12:04, 52 seconds, yeah.

3 Q And, ma'am, in looking at this video surveillance,
4 this fairly and accurately depicts your store on this date and
5 time; is that correct?

6 A Yes, ma'am.

7 MS. COLE: And, Your Honor, at this time, I'll pass
8 the witness.

9 THE COURT: All right. Any cross-examination,
10 counsel?

11 MR. ARNOLD: Yes, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. ARNOLD:

14 Q Ma'am, in any of the -- you said you watched that
15 whole Exhibit 4, the entire length of the video from ARCO; is
16 that correct?

17 A Yes, ma'am.

18 Q And in that video, was there any footage ever of the
19 male with the white hat making a purchase at the counter?

20 A I didn't see the gentleman buy anything on the
21 counter. That was the lady that I saw.

22 Q It was only the lady that made the purchase, not the
23 male; is that correct?

24 A That's correct, sir.

25 MR. ARNOLD: I have no further questions, Your

1 Honor.

2 THE COURT: All right. Any questions, Mr. Hart?

3 MR. HART: No, Your Honor.

4 THE COURT: Any redirect by the State?

5 MS. COLE: No, Your Honor.

6 THE COURT: Any questions by our jurors? No
7 questions. Ma'am, thank you for your testimony.

8 THE WITNESS: Thank you, sir.

9 THE COURT: You are excused.

10 THE WITNESS: Have a good day.

11 THE COURT: You, too. Next witness for the State?

12 MR. LEXIS: Arteaga.

13 MS. COLE: And, Your Honor, the State calls Officer
14 Arteaga.

15 THE COURT: All right, thank you.

16 THE MARSHAL: Watch your step. Raise your right
17 hand. Face the clerk. Once she swears you in, scoot your
18 chair all the way up to the red light and speak loud.

19 THE WITNESS: Yes, sir.

20 JOSE ARTEAGA, STATE'S WITNESS, SWORN

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

23 THE WITNESS: My name is Jose Arteaga.

24 THE CLERK: Can you spell that, sir?

25 THE WITNESS: It is J-o-s-e, A-r-t-e-a-g-a.

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.

7 Q How long have you worked there?

8 A Going on a little over six years, sir.

9 Q On August 24th, 2020, did you respond to the
10 Harrah's Hotel at around 1:42 in the morning here in Clark
11 County, Nevada?

12 A Yes, sir.

13 Q Did you go up to Room 15058?

14 A Yes, sir.

15 Q Okay. Did you notice anything unusual about the
16 door?

17 A I noticed there was a couple pry marks on the door.

18 Q Okay. It appeared had -- that it had been tampered
19 with by some type of hard object, some tool?

20 A It did appear that way. Yes, sir.

21 Q Okay. Was anybody in there?

22 A At the time, no.

23 Q Okay. Did you make contact with the people that
24 were staying there?

25 A Yes, sir.

1 Q Did you identify them as one Jewell Love, Raven
2 Hough, and Devonica Jones (phonetic)?

3 A Yes, sir.

4 Q How was their demeanor at the time?

5 A They seemed upset, a little bit distraught, sir.

6 Q Okay. Did you -- did they point you to anything
7 that you impounded?

8 A They -- they stated that there was a black beanie
9 that didn't belong to them that was left in the room.

10 Q Okay. And did you impound that under Event No.
11 200800101167?

12 A Yes, sir.

13 Q Okay. Did they -- you said that they were upset.
14 Did they give you a possible suspect?

15 A Yes. They believed it was a LaShandra Castelllos
16 (phonetic).

17 Q Is that a relation to them?

18 A It was a friend of their cousin that had come into
19 Las Vegas for vacation.

20 Q Okay. Did you inform them that you -- that you
21 would make contact with this person they suspected?

22 A Absolutely.

23 Q Okay. And what -- did they want you to do that
24 eventually?

25 A They said no. They believed it was going to cause

1 more problems between their cousin and Ms. Castelllos.

2 Q Okay. And is this something they personally saw, or
3 they were just guessing on who might have been?

4 A They believed that was the suspect.

5 Q They were guessing?

6 A Yes, sir.

7 Q Okay. It's not like they saw this person coming in
8 and out?

9 A No, sir.

10 Q Okay. Did you then note the damage to the door and
11 then submit your report over to the detective in the case?

12 A Yes, sir.

13 MR. HART: I'm going to object to leading at some
14 point here, Your Honor.

15 MR. LEXIS: I'll rephrase, Judge.

16 THE COURT: All right, there were some previous
17 leading question. I would agree. Just rephrase the question.

18 MR. LEXIS: Sure.

19 BY MR. LEXIS:

20 Q Did you make a report?

21 A Yes, sir.

22 Q Did you then turn it over to the detective on the
23 case?

24 A Yes, sir.

25 Q Okay.

1 MR. LEXIS: Nothing further, Judge.

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

3 MR. ARNOLD: Yes, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. ARNOLD:

6 Q Did you -- you said you impounded the black beanie.
7 Where is the black beanie right now?

8 A I do not have it in my possession, sir.

9 Q Where is it?

10 A I believe it might be in our evidence vault, sir.

11 Q Did you place it there?

12 A No, not directly.

13 Q Who'd you give the beanie to?

14 A So when we impound the items, we impound them at our
15 substation. We have an evidence vault drop, and then it is
16 picked up by the evidence vault.

17 Q Okay. So as far as you know, the black beanie
18 should still be in the evidence vault and should still be
19 available for any type of inspection?

20 A I believe so, sir.

21 Q So if we wanted to do DNA on the black beanie, we'd
22 be able to, since it's in the evidence vault?

23 A I believe so, sir.

24 MR. ARNOLD: No further questions.

25 THE COURT: Any questions, Mr. Hart?

1 CROSS-EXAMINATION

2 BY MR. HART:

3 Q Just to make sure, you put your P number on it and
4 seal it, correct?

5 A Yes, sir.

6 Q You were the impounding officer on it?

7 A Yes, sir.

8 Q I just want to make sure. And that's so there can
9 be a chain of custody to see who opens it when it goes through
10 testing, et cetera, correct?

11 A Yes, sir.

12 Q But ultimately, you were not the lead detective on
13 this?

14 A No, sir.

15 Q Okay.

16 MR. HART: Nothing further.

17 THE COURT: Any redirect by the State?

18 MR. LEXIS: No, Your Honor.

19 THE COURT: Any questions by our jurors? No
20 questions. Sir, thank you for your testimony. You are
21 excused.

22 THE WITNESS: Yes, sir.

23 THE COURT: Next witness for the State?

24 MS. COLE: And, Your Honor, at this time, the State
25 calls Mr. Patel.

1 THE MARSHAL: Watch your step. Raise your right
2 hand. Face the clerk. Once she swears you in, scoot your
3 chair all the way up to the red light there and speak loud.

4 THE WITNESS: All right.

5 BRAGNESH PATEL, STATE'S WITNESS, SWORN

6 THE CLERK: Thank you. Have a seat, sir. And state
7 and spell your first and last name for the record.

8 THE WITNESS: First name is Bragnesh; last name is
9 Patel.

10 THE CLERK: Can you spell it?

11 THE COURT: Will you spell your name, sir?

12 THE WITNESS: Oh. B-r-a-g-n-e-s-h, P-a-t-e-l.

13 THE COURT: Go ahead, counsel.

14 MS. COLE: And, Your Honor, for the record, I'm
15 showing defense counsel State's stipulated Exhibits to No. 3
16 and 21.

17 MR. HART: Did you say 3 and 21?

18 MS. COLE: Yes, State 3 and 21.

19 MR. HART: Okay, thank you.

20 THE COURT: I'm sorry, counsel. I couldn't hear the
21 numbers, please.

22 MS. COLE: I'm sorry. State's Exhibit -- State's
23 stipulated Exhibit 3 and 21.

24 THE COURT: Okay, thank you.

25 //

1 DIRECT EXAMINATION

2 BY MS. COLE:

3 Q Good afternoon, sir. Where do you work?

4 A At 7-Eleven.

5 Q Okay. And what specific 7-Eleven do you work at?

6 A It's the one on Koval and Flamingo. 4158 Koval
7 Lane, Las Vegas, Nevada.

8 Q Okay. And can you state that specific number again?

9 A The address?

10 Q Yes, the address and your store number.

11 A Store number is 13691.

12 Q And your specific address, sir?

13 A 4158 Koval Lane.

14 Q Okay. And how long have you worked there?

15 A Four years.

16 Q And I believe you said that you're the manager?

17 A Manager/owner. Both. So I'm a owner, but I also do
18 day-to-day operations, so manager, too.

19 Q Okay, sir. And in your capacity as the owner and
20 manager, you have access to the video surveillance system, as
21 well as any system that saves and stores receipts; is that
22 fair to say?

23 A Correct.

24 Q Okay. And in this particular case, did you, in fact
25 -- did you or someone from your location on Koval collect and

1 give some surveillance video from August 16th from your store
2 to police?

3 A Yes.

4 Q Was there also a receipt that was collected and
5 given to Metro?

6 A Yes.

7 Q Okay. And, sir --

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

9 THE COURT: Yes.

10 BY MS. COLE:

11 Q Sir, I'm showing you what's been marked as State's
12 Exhibit 21. Can you take a look at that and tell me if you
13 recognize it?

14 A Yes.

15 Q And how do you recognize that?

16 A First, I mean, it has our store number on it, and
17 then it's a similar receipt that we print out for our
18 customers, and when we do, one we print out for ourself, too.
19 So --

20 Q Okay. So what is the specific document that you're
21 -- that you're looking at?

22 A It's basically a receipt that prints out from back
23 office computer when we -- like, let's say a customer shows up
24 hour or two hour later and be like, hey, can I get a receipt
25 of my transaction? So this will be something printed out from

1 back office computer.

2 Q Thank you. And that is a fair and accurate
3 depiction of a receipt from your location of 7-Eleven on Koval
4 Lane?

5 A Correct.

6 MS. COLE: Your Honor, permission to publish --

7 THE COURT: Yeah.

8 MS. COLE: -- State's stipulated Exhibit 21?

9 THE COURT: Yes, go ahead.

10 BY MS. COLE:

11 Q Okay, sir, I'm going to direct your attention to the
12 top of this, looks like it's called an electronic journal.
13 This number that I'm pointing to, the store number, is that,
14 in fact, your unique store identifying number?

15 A Correct.

16 Q And can you state that for the record?

17 A 13691.

18 Q Okay. And then, at the top, is that a -- is that
19 the name of your business?

20 A Correct.

21 Q Okay. And it looks like, over to the left, there's
22 a timestamp?

23 A Yes.

24 Q Okay. And it also looks like the date might have
25 gotten cut off, but if we go down, is this, in fact, the date?

1 A Yes.

2 Q Okay. And then we have a timestamp at the top and a
3 timestamp at the bottom?

4 A Yes.

5 Q What do those two numbers reflect?

6 A Well, the top one is when the transaction started
7 happening, and then the bottom one is when this transaction
8 was completed, so whatever time it took to start the
9 transaction and complete the transaction.

10 Q Okay. And, sir, specifically directing your
11 attention, was this, in fact, the total that's indicated right
12 here?

13 A Yes.

14 Q For this specific transaction?

15 A Yes.

16 Q Okay. And can you state that total for the record?

17 A Yes. \$20.68.

18 Q Okay. And here, this number that's indicated, is
19 this the card that was used?

20 A No. That's -- that's the approval code from
21 probably the credit card company or something. The last four
22 digit is the 0452. That's the card number or account number.

23 Q Okay, I'm sorry. So this would be the last four of
24 the card that was used?

25 A Correct.

1 Q Okay. And then, again, when referring to these two
2 numbers, this was the start time of the transaction and the
3 end time of the transaction?

4 A Correct.

5 Q And I know that this is in military time, but can
6 you state it in regular time?

7 A Like 10:39.

8 Q Okay. And, again, the date that's indicated right
9 here?

10 A Yeah, 8/16.

11 Q Okay. So this particular transaction happened on
12 August 16th, 2020, at 10:39?

13 A Correct.

14 Q Okay. And it was for this amount?

15 A Correct.

16 Q Which is?

17 A \$20.68.

18 Q Okay, off this card?

19 A Yeah.

20 Q And that's a card ending in -- can you read those
21 four numbers?

22 A 0452.

23 Q Okay. Thank you, sir. You also had an opportunity
24 to review some video surveillance from the date in question;
25 is that accurate?

1 A Yes.

2 Q Okay. And in reviewing that video surveillance, did
3 it fairly and accurately depict your store on August 16th?

4 A Yes.

5 Q And you're familiar with your video surveillance
6 system?

7 A Yes.

8 Q It was working appropriately on that date and at
9 that time?

10 A Yes.

11 Q And to the best of your knowledge, the time and date
12 stamp on the video is also accurate?

13 A Correct.

14 MS. COLE: Court's brief indulgence.

15 Do we still have WePresent up?

16 THE COURT RECORDER: Yeah, yeah.

17 MS. COLE: Okay, let's see.

18 THE COURT RECORDER: With the doc cam, yeah.

19 MS. COLE: Oh, I think it's connected to the Elmo.

20 THE COURT RECORDER: No, I took it off.

21 MS. COLE: Oh, you took it off?

22 THE COURT RECORDER: I was just testing to make sure
23 the mike system was okay. We're good.

24 MS. COLE: Okay, let's see. I apologize for that,
25 Your Honor. I think we're up and running.

1 THE COURT: That's all right. Take your time.

2 BY MS. COLE:

3 Q Okay, sir, if you could state the date and timestamp
4 in the upper left-hand corner, please.

5 A 8/16/2020, Sunday, 22:36.

6 Q Okay. And that 22:36, that's 10:36?

7 A Correct.

8 Q Okay. And in looking, what angle is this of your
9 store?

10 A That's the front entrance. That's when you're
11 walking in; it's right at the main entrance.

12 Q Okay. And, sir, I'm going to pause it right here,
13 8/16/2020 at timestamp 22:36:15. Can you describe the two
14 individuals at the front of the store?

15 A Yeah. I have a gentleman sitting in the -- the
16 chair right there, and then the girl in the back.

17 Q Okay. And what is the gentleman wearing?

18 A A white t-shirt with looks like white -- or white
19 shorts.

20 Q Is he holding any bag?

21 A Yes.

22 Q Can you describe that?

23 A Just looks like a shopping bag with the letter
24 S-b-a-v. Yeah.

25 Q Okay. And what color is that?

1 A Red.

2 Q Okay. Can you please describe the female depicted?

3 A I mean, I can't see her really. It's just her back,
4 so.

5 Q Okay. Can you just describe her clothing?

6 A A striped romper.

7 Q And what colors are those?

8 A Looks like black and gray or black -- yeah, black
9 and white or black and gray.

10 Q And, sir, in looking at this video surveillance --

11 A Yeah.

12 Q -- you've reviewed it prior to your testimony today,
13 and again looking at it, it fairly and accurately depicts your
14 store?

15 A Correct.

16 Q Just going to back up a little bit. And, sir, can
17 you describe that bag that we're looking at?

18 A I mean, it looks like a little shopping carrying bag
19 with black and white. Has a big "G" or --

20 Q And, sir, fast-forwarding to 8/16/20, 22:39:31,
21 those individuals you previously described, what are they
22 doing now?

23 A Leaving the store.

24 Q Okay, and that was at 22:39:37?

25 A Correct.

1 Q Can you tell us what angle of the store this is?

2 A It's the back of the register.

3 Q And I'm going to fast-forward to the relevant
4 portion. And, sir, can you describe the female subject
5 depicted in that frame? And, again, for the record, this is
6 at 8/16/2020 at timestamp 22:38:42.

7 A Yeah. The same clothed female that I saw earlier
8 entering the store, so African-American walking with a white
9 cup in her hand and a Gatorade bottle, actually.

10 Q Sir, I'm going to approach with State's Exhibit 21.
11 Can you note the time again on this exhibit?

12 A 22:39, so 10:39.

13 Q Okay. And is that 22:39 on the screen right now?

14 A Correct.

15 Q So it's safe to say that the transaction that we're
16 watching right now is what's depicted on that receipt?

17 A Correct.

18 Q And as you can see, those items are consistent with
19 what's listed on the receipt?

20 A Yes.

21 Q As well as the timestamp?

22 A Correct.

23 Q And, sir, this is -- can you state the date and
24 timestamp in the upper left-hand corner?

25 A 8/16/2020, Sunday, 22:36, 02 seconds.

1 Q And what angle -- or what camera are we looking at
2 here?

3 A This is the -- the front of the door, parking lot
4 outside. Main entrance.

5 Q That's the main entrance those two individuals are
6 walking through?

7 A Correct.

8 Q And are those the same two individuals leaving?

9 A Correct.

10 Q Sir, again, what camera angle is this?

11 A It's our coffee area.

12 Q Same date, August 16th?

13 A Correct.

14 Q And, sir, all the video that we have reviewed, this
15 is the same date and timestamp, these are just different
16 angles; is that fair to say?

17 A Yes.

18 Q Sir, what part of the store are we looking at here?

19 A Just the back of the grill area.

20 Q And if we're looking at this, can you describe where
21 the front entrance would be?

22 A I mean, if I'm watching the video, it would be to my
23 left.

24 Q Okay, to your left? Do you want to point? You can
25 -- you should be able to mark on your screen. You can go

1 ahead and draw on it.

2 A Oh, okay. Yeah, around this area.

3 Q So that's the front of the store?

4 A That's the front, yeah.

5 Q Thank you, sir.

6 A Yeah.

7 Q I'm pulling up -- looks like Camera 7. I'm just
8 seeking to the relevant portion. Oh. And, sir, pausing it at
9 8/16/2020, the timestamp being 22:39:31, can you describe the
10 individuals that are depicted by the entrance and the slot
11 machine?

12 A Yeah. What are you -- like, what do they look like,
13 or?

14 Q Just, yes, describe their -- the clothing. Describe
15 what they're wearing.

16 A Which one?

17 Q The two individuals that are depicted by the slot
18 machine.

19 A Oh, okay. The one wearing a white t-shirt and the
20 short, and then the woman with a black striped romper or
21 dress.

22 Q And this is the same female individual you've been
23 describing?

24 A Correct.

25 Q Same clothing?

1 A Yes.

2 MS. COLE: No further questions for this witness.

3 Pass the witness.

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

5 THE WITNESS: I have one of your page here.

6 CROSS-EXAMINATION

7 BY MR. ARNOLD:

8 Q Sir, in reference to the video, Exhibit 3, you
9 reviewed that video, all of it; is that correct?

10 A Yes.

11 Q At any point during that video, did the person with
12 the white hat approach the counter?

13 A No.

14 Q At any point, did he move from anywhere other than
15 the chair and outside the store?

16 A No.

17 Q And that's throughout the whole video; is that
18 correct?

19 A Correct.

20 Q Sir, was there anything wrong with the timestamp in
21 the video, 8/16, and that's the date, and then the time that
22 it occurred?

23 A No.

24 Q So as far as you know, it was accurate and
25 accurately reflected the time that this occurred?

1 A Correct.

2 Q And one last area. Sir, you said that your place
3 was located on 415 Koval Lane?

4 A It's 4158 Koval Lane.

5 Q 4158 --

6 A Eight.

7 Q -- Koval Lane?

8 A Correct.

9 Q Where is that in location to Bally's Hotel and
10 Casino?

11 A Bally's Hotel?

12 Q Yes, sir.

13 A It's actually right behind Bally's.

14 Q It's right behind Bally's?

15 A Well, I mean, it's -- it's basically behind Bally's.
16 So I'm not, like, saying they share a wall, but it's behind
17 Bally's Casino.

18 Q Do you have to walk across a street to get there?

19 A Flamingo Street, yes.

20 Q So you have to cross Flamingo to get to your
21 location?

22 A So you have to cross Koval. So if you're walking on
23 Flamingo, you cross Koval, and it's right there.

24 Q Okay. And so could you estimate how much time it
25 would take you to walk there?

1 A Me?

2 Q Yes.

3 A From Bally's to Koval, or --

4 Q Yeah, from the --

5 A -- or Bally's to my store?

6 Q To your store.

7 A Probably 15 minutes.

8 Q Okay, 15?

9 A Yeah. I mean, that's me. I don't know.

10 Q So it's not like, like, how you just described it to
11 me, it'd be from me walking from here to where you're sitting
12 at; it's a further distance than that?

13 A Correct.

14 Q Okay. And you're saying approximately a 15-minute
15 walk without, you know --

16 A Yeah, a 15-minute normal walk. Yeah.

17 Q Okay.

18 MR. ARNOLD: No further questions. Thank you.

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

20 CROSS-EXAMINATION

21 BY MR. HART:

22 Q Just to be clear, you said the time -- that you
23 believe the time was correct?

24 A Yes, sir.

25 Q Okay. Do you check it regularly?

1 A Yes.

2 Q And the time on your credit card, is it synched with
3 the surveillance? Those are separate systems, correct?

4 A Separate systems.

5 Q Okay.

6 MR. HART: Nothing further.

7 THE COURT: Any redirect by the State?

8 MS. COLE: No, Your Honor.

9 THE COURT: All right. Any questions by our jurors?
10 No questions. Sir, thank you very much for your testimony.

11 THE WITNESS: Uh-huh. Thank you.

12 THE COURT: You are excused. Ladies and gentlemen,
13 let's take a mid-afternoon recess.

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

1 you. We'll see you back at 3:35.

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

3 (Court recessed at 3:21 P.M. until 3:36 P.M.)

4 (Outside the presence of the jury.)

5 (Pause in the proceedings.)

6 (Inside the presence of the jury.)

7 THE COURT: All right. Welcome back, ladies and
8 gentlemen. State, who is our next witness?

9 MS. COLE: Our next witness is Rebecca from American
10 Express.

11 THE COURT: All right, thank you.

12 THE MARSHAL: Get her?

13 MS. COLE: Yep.

14 THE MARSHAL: Okay.

15 MS. COLE: Rebecca.

16 THE MARSHAL: Watch your step. Raise your right
17 hand. Face the clerk. Once she swears you in, scoot your
18 chair all the way up to the red light and speak up loud.

19 THE WITNESS: Okay.

20 REBECCA MULDOON, STATE'S WITNESS, SWORN

21 THE CLERK: Thank you. Have a seat. State and
22 spell your first and last name for the record.

23 THE WITNESS: Rebecca Muldoon. R-e-b-e-c-c-a. Last
24 name is M-u-l-d-o-o-n.

25 THE COURT: Go ahead, counsel.

1 DIRECT EXAMINATION

2 BY MS. COLE:

3 Q Good afternoon, Ms. Muldoon. What do you do for a
4 living?

5 A I'm an assistant custodian of record for American
6 Express.

7 Q Okay, and what does that mean? What does a
8 assistant custodian of record for American Express do?

9 A We authenticate business records and provide
10 testimony for American Express.

11 Q Okay. And so, in regards to business records, you
12 have access to the record system?

13 A Yes, I do.

14 Q So that means you can pull credit card statements
15 and authorizations?

16 A Yes.

17 MS. COLE: For the record, I'm showing defense
18 counsel what's been marked as State's stipulated-to Exhibit
19 No. 14.

20 MR. ARNOLD: Okay.

21 MR. HART: Okay.

22 MS. COLE: And, Your Honor, permission to approach
23 the witness?

24 THE COURT: Yes.

25 BY MS. COLE:

1 Q Ma'am, I'm showing you what's been marked as State's
2 stipulated Exhibit No. 14. Will you go ahead -- you can take
3 it out of the plastic and take a look at it, and let me know
4 when you're done.

5 A Yes.

6 Q Okay, ma'am. And do those -- do you recognize those
7 documents?

8 A Yes, I do.

9 Q What are those documents?

10 A These are documents that were prepared from American
11 Express systems.

12 Q Okay. And you recognize it as -- as actual
13 statements and authorizations from American Express?

14 A Correct.

15 Q Those fairly and accurately depict the records that
16 you have -- you yourself have access to?

17 A Yes.

18 Q Okay. And are these related to a specific
19 individual?

20 A Yes, they are.

21 Q Okay. And who are -- what -- who is the specific
22 individual these records are related to?

23 A Gary A. Krusinski.

24 Q Okay, thank you. And, ma'am, you've had an
25 opportunity to review these records before your testimony

1 today?

2 A Yes.

3 Q Okay. First, I'm going to show you -- let's see.
4 It's going to be 14C, so the third page. Okay, ma'am, what
5 are we looking at right here?

6 A This was a letter from American Express to Gary A.
7 Krusinski.

8 Q Okay. And in this top right-hand corner, is this
9 the account number?

10 A Yes, it is.

11 Q Okay. If an individual had an American Express
12 card, would this number reflect the last four digits of that
13 card?

14 A Yes, it would.

15 Q Okay. And then this is an authorized user or the
16 owner of the account?

17 A Correct.

18 Q Okay. I'm flipping pages. Okay. What are we
19 looking at right here? And excuse me. For the record, this
20 is page -- this is page 11 of State's 14. What are we looking
21 at here, ma'am?

22 A This is an American Express statement that was
23 issued to Gary A. Krusinski for --

24 Q Okay.

25 A Um-hum.

1 Q And what is the relevant closing date?

2 A The closing date listed is 9/10 of 2020.

3 Q Okay. So how long is the approximate billing cycle?

4 A Thirty days.

5 Q Okay. And on this statement, was there any
6 transactions?

7 A There was a credit of \$2.15 on the right-hand side,
8 but no transactions, no.

9 Q Okay. And in looking at this top number right here,
10 that number is different from the first number that we saw?

11 A Correct.

12 Q Okay. And why would that number change?

13 A That number could change for different reasons. It
14 would change if a card was lost, if the card is stolen, or if
15 there's fraud on the account.

16 Q Okay. So, essentially, this would become the new
17 account number?

18 A Correct.

19 Q And this date is September 10th of 2020?

20 A Yes.

21 Q Okay. And, ma'am, I'm showing you page 2 of State's
22 14. I know that this is small, so I'm going to zoom in.

23 Okay. What is this document that we're looking at right now?

24 A This is information from American Express systems
25 for the authorizations that were issued for the card.

1 Q Okay. And is an authorization -- is it going to be
2 represented in this document even if it doesn't come up on the
3 statement?

4 A Yes.

5 Q Okay. Would there be a reason that an authorization
6 would be displayed in this graph but not in the actual
7 statement?

8 A Yes. So if a -- we will provide an authorization,
9 but it still has to be processed. So anybody who uses a card,
10 if they process a transaction, they'll -- it'll show like a
11 pending charge. If somebody were to dispute a pending charge
12 before the statement or before it posted, then it wouldn't
13 show on the statement if it was in dispute.

14 Q Okay. For example, if there was an individual that
15 had, you know, fraud on a credit card and then reported it
16 immediately, is it possible that that wouldn't show up on the
17 statement?

18 A Yes. It takes two to three days for a transaction
19 to post to an account, so if they call during that time frame,
20 it wouldn't appear on the statement.

21 Q Okay. But any time a card is used, whether it's,
22 you know, chip-enabled or swiped, it's going to appear on this
23 graph?

24 A Yes.

25 Q Because this is the authorizations?

1 A Yes.

2 Q Okay. Ma'am, I want to reference you to the third
3 entry from the top.

4 A Okay.

5 Q Okay, and I'm going to zoom in. Can you
6 specifically tell me what establishment that card was used at?

7 A Sbarro 1064.

8 Q Okay. And is that in the column of the merchant
9 name?

10 A Yes.

11 Q Okay. And then I'm going to scroll over to the card
12 number. Can you read the last four of that card number?

13 A Yes. On the third column, 1004.

14 Q Okay. And then, specifically going to merchant
15 address, can you specifically read that line?

16 A 3645 Las Vegas Boulevard, South Las Vegas, Nevada,
17 89109.

18 Q Okay. And this specific transaction date, ma'am?

19 A August 16th of 2020.

20 Q Okay. And the transaction time?

21 A 22:30.

22 Q Okay, so is that 10:30?

23 A Correct.

24 Q Okay. And then the amount?

25 A \$20.10.

1 Q Okay. And then this also says that it was approved?

2 A Yes.

3 Q So does that mean whoever was utilizing that card
4 was able to use that card in exchange to receive whatever they
5 were trying to purchase?

6 A Correct. If it's approved, they can continue on
7 with making the purchase.

8 Q Okay. And then, looking in this column right here,
9 what does that mean?

10 A That the credit card that was used was swiped. So
11 on the machine, it's swiped instead of chip-read.

12 Q Okay. And then, this last column we're looking at,
13 it appears to be terminal ID. What does that represent?

14 A That would be the terminal that the merchant owns.
15 It would be their ID.

16 Q Okay. So, essentially, the information from this
17 graph tells us that a card ending in 1004 was used on this
18 date, at this time, at this establishment?

19 A Correct.

20 Q Whether or not it shows up in the statement?

21 A Yes.

22 Q And I think you previously testified, if it is
23 reported, it can take how many days for a charge to process
24 before it will actually hit your account?

25 A So when you get an authorization, it usually takes

1 two to three days for it to actually be posted to your
2 account. So if this particular transaction was not on the
3 statement, which it wasn't, we would know that it didn't
4 because he called in the two to three-day time frame. So when
5 that happens, instead of posting it to the account -- in this
6 case, it was fraud -- we posted it to the fraud card, which he
7 would not receive a statement for.

8 Q Okay. And then, ma'am, would that also explain why
9 there was, in fact, a different card number on this
10 individual's statement after the 1004 card number?

11 A Yes, we do change the card as soon as it's reported
12 as fraud.

13 Q Okay. And just this is what -- I'm just going to
14 pull this up. And this is the number that you're referring
15 to?

16 A Correct.

17 Q That's what it was changed to?

18 A Yes.

19 MS. COLE: No further questions. I'll pass the
20 witness.

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

22 MR. ARNOLD: No, Your Honor.

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

24 CROSS-EXAMINATION

25 BY MR. HART:

1 Q And just to be clear, you're not the one that
2 actually did those records; it was another custodian of
3 records, correct?

4 A I'm sorry, what do you mean?

5 Q Well, the certificate has a different name on it,
6 correct?

7 A Yes.

8 Q Okay. So somebody else provided it, correct?

9 A Provided the documents, yes.

10 Q Okay. And you guys work on Mountain Time?

11 A Yes.

12 Q Okay. Two hours' difference?

13 A I'm sorry, I don't -- two-hour difference from which
14 time zone?

15 Q Okay. We'll just -- you -- your central location is
16 Mountain Time, correct?

17 A Correct.

18 Q Okay.

19 MR. HART: Nothing further.

20 THE COURT: Any redirect by the State?

21 MS. COLE: No, Your Honor.

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

25 (Bench conference begins.)

1 THE COURT: All right. This is Judge Villani. The
2 question is, "Is 22:30:15 transaction time MST or PST?" I'm
3 assuming that means Mountain Standard Time or Pacific Standard
4 Time.

5 MR. HART: Yep.

6 THE COURT: Any objection to the question, Mr. --

7 MR. HART: I have no objection. (Indiscernible)
8 follow up what I asked.

9 MR. ARNOLD: No objection.

10 MR. LEXIS: No objection.

11 THE COURT: State?

12 MS. COLE: No objection.

13 THE COURT: All right, and that was Juror 11.

14 MS. COLE: Okay.

15 (End of bench conference.)

16 THE COURT: Ma'am, we have a question from one of
17 our jurors. It says, is 22:30:15 transaction time, is that
18 MST or PST? I'm assuming Mountain Standard Time or Pacific
19 Standard Time.

20 THE WITNESS: Mountain Standard Time.

21 THE COURT: All right. Any follow-up by the State
22 to the -- to the juror's question?

23 MS. COLE: Court's brief indulgence.

24 FOLLOW-UP EXAMINATION

25 BY MS. COLE:

1 Q So, ma'am, just to clarify, the 22:30, would that be
2 10:30 Mountain Standard Time?

3 A Yes.

4 MS. COLE: Okay, thank you.

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

6 MR. ARNOLD: No, Your Honor.

7 THE COURT: Mr. Hart?

8 FOLLOW-UP EXAMINATION

9 BY MR. HART:

10 Q Just to be clear, the 1:43 -- any other times on
11 there would be Mountain Standard Time also, correct?

12 A I'm sorry, can you repeat the question?

13 Q Any other times listed there would be Mountain
14 Standard Time also, correct?

15 A I just can attest that our system reports in
16 Mountain -- Mountain Standard Time.

17 Q Okay. So if there was one -- we saw one of them
18 there was 1:43, that would have been Mountain Standard Time?

19 A Correct.

20 MR. HART: Okay.

21 THE COURT: Any follow-up?

22 MS. COLE: Yes, Your Honor.

23 FURTHER FOLLOW-UP EXAMINATION

24 BY MS. COLE:

25 Q So, ma'am, I know this has been brought up. I just

1 want to make a clarification. Okay. So this specific record
2 is what we're referring to, this time frame, and you said that
3 that's indicated in Mountain Standard Time?

4 A Yes.

5 Q Okay. The different time zones, it can matter
6 whether daylight savings time has happened or not; is that
7 accurate?

8 A Correct.

9 Q Okay. So this doesn't necessarily mean that this
10 did not happen at 10:30 in Las Vegas; is that accurate?

11 MR. ARNOLD: Objection, leading.

12 THE COURT: Rephrase the question, please.

13 BY MS. COLE:

14 Q So, ma'am, I guess the point that I'm trying to make
15 is this can be confusing regarding what time of year this
16 record was created, whether day -- it was during daylight
17 savings or had -- or we had sprung forward, and you're not
18 sure when that occurred?

19 MR. ARNOLD: Objection, leading again, Your Honor.

20 THE COURT: No, I'm going to -- she's trying to --

21 MS. COLE: I'm just trying to clarify.

22 THE COURT: I'm going to overrule the objection. Do
23 you understand the question, ma'am?

24 THE WITNESS: Yes. So it can be confusing when
25 these records are pulled, yes, but I can just attest that when

1 the transaction is reported, we have it listed with that time
2 on Mountain Standard Time. I can't attest to the time zone in
3 certain states and what time it was. I can only tell you what
4 the document states.

5 BY MS. COLE:

6 Q Okay, that's exactly what I'm asking you. So you
7 don't know, when this record was pulled, whether it was
8 daylight saving time or whether we had sprung forward; you
9 just know that this is the time when the record was produced?

10 A Correct.

11 MS. COLE: Thank you. No further.

12 THE COURT: Anything -- any follow-up, Mr. Arnold?

13 MR. ARNOLD: No, Your Honor.

14 THE COURT: Any follow-up, Mr. Hart?

15 FURTHER FOLLOW-UP EXAMINATION

16 BY MR. HART:

17 Q So just to be clear, if it was daylight savings
18 time, it would be Mountain Daylight Time, correct?

19 A Again, I can only attest to what was produced on
20 that document, and it's Mountain Standard Time. I can't tell
21 you what time that is or what daylight savings time that is.

22 MR. HART: Nothing.

23 THE COURT: Nothing further?

24 MR. HART: No.

25 THE COURT: All right, any --

1 MS. COLE: No redirect, Your Honor.

2 THE COURT: Any additional questions by our jurors?
3 No additional questions. Ma'am, thank you for your testimony.

4 THE WITNESS: Thank you.

5 THE COURT: You are excused. Next witness for the
6 State?

7 MR. LEXIS: State calls Fletcher.

8 THE MARSHAL: Watch your step. Raise your right
9 hand and face the clerk. Once she swears you in, scoot your
10 chair all the way to the front to that red light and speak up.

11 THE WITNESS: Okay.

12 SHAWN FLETCHER, STATE'S WITNESS, SWORN

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

15 THE WITNESS: Shawn Fletcher. S-h-a-w-n,
16 F-l-e-t-c-h-e-r.

17 THE COURT: Go ahead, counsel.

18 DIRECT EXAMINATION

19 BY MR. LEXIS:

20 Q Where do you work, ma'am?

21 A Las Vegas Metropolitan Police Department as a senior
22 crime scene analyst.

23 Q And how long have you worked there?

24 A 24 and a half years.

25 Q Can you tell the jury what training and experience

1 you have to become a crime scene analyst?

2 A Well, I have a bachelor's degree in cardiac rehab
3 and nutrition, and then I have an associate's degree in
4 criminal justice. When I got hired, I went through an academy
5 and then a long field training program, and then we -- we get
6 quite a bit of training. We do a lot of in-house training,
7 and then any -- a lot of seminars and conferences and stuff.

8 Q Were you involved in an Event No. 20080071911?

9 A Yes, I was.

10 Q Okay. And basically, you responded to the Paris
11 Hotel, Room 2198P, on August 17th, 2020, here in Clark County?

12 A Yes.

13 Q Ma'am, tell me -- tell the jury, basically, what is
14 a latent print?

15 A A latent print is a fingerprint that you leave
16 behind that's not visible to the naked eye. What we usually
17 do and what I did in this particular case is we use a
18 fingerprint powder that's black in nature, and we brush it
19 over the areas that we think might have latent prints, and it
20 will adhere to the ridges of the latent print and make it
21 visible.

22 Q So I've been up here touching this podium. Is it
23 possible for me to leave multiple prints behind?

24 A It's possible, yes.

25 Q Okay. Is it possible for me not to leave any viable

1 prints behind?

2 A Yes.

3 Q Okay. So just because I touch something doesn't
4 mean that I'm going to leave a print?

5 A That's correct.

6 Q And even when I do need a -- leave a print, is there
7 a following step where it needs to be of good enough quality
8 for you to pull?

9 A Yes. Normally with prints, we look -- if it's a
10 fingerprint, we look for roughly a dime-size amount of a
11 print, amount of ridge detail. If it's a palm, we look more
12 for about a quarter-size worth of ridge detail, and it also
13 needs to be very clear. And then if we -- once we lift it,
14 sometimes they're complete enough that they can be run through
15 a system and run against everybody that's in the system.
16 Other times, we need to develop a subject first to do a manual
17 comparison to, and our latent print examiner completes that
18 task.

19 Q Okay, so then there's a third step? Not only do --
20 somebody needs to leave a print, but then it needs to be good
21 enough quality for you to pick up, and then good enough
22 quality for them to analyze?

23 A Correct.

24 Q Okay. So long story short, surely not every time
25 you touch something you're going to leave a good enough

1 quality print to analyze?

2 A That's correct.

3 Q Okay. When you responded to this scene, did you
4 take pictures, ma'am?

5 A Yes.

6 MR. LEXIS: Can you switch it over?

7 BY MR. LEXIS:

8 Q So just so we're clear, this is room -- can you read
9 that?

10 A 2198P.

11 Q Okay, and that is State's Exhibit 25. Showing you
12 State's Exhibit 26. Just a different picture of the -- the
13 room number, correct?

14 A Yes.

15 Q Was there anything that caused you to zero-in on a
16 particular item when you got there?

17 A Inside the room, you mean?

18 Q No. When you went into the room, the door.

19 A Oh, I'm sorry. Yes, the door had been pried.

20 Q Okay. And did it appear that it had been tampered
21 with with some type of tool-type object?

22 A Yes.

23 Q Showing you State's 27. What are we looking at?

24 A This is the exterior knob or lever, and there's
25 gouge marks. You can see them right -- oh, is it not a touch

1 screen?

2 THE COURT RECORDER: It is.

3 THE WITNESS: Okay. Well, they're right --

4 BY MR. LEXIS:

5 Q You can just generalize it, ma'am. It's fine.

6 A Yeah. There -- there are some gouge marks that are
7 just to the right of the handle there.

8 Q Showing you State's 28.

9 A That's a closer-up view.

10 Q Basically, are you talking about this right in the
11 middle of the screen?

12 A Yes.

13 Q Showing you State's 29. What are we looking at
14 here?

15 A That's the striker plate and the -- the receiver for
16 the deadbolt, so that's going to be kind of on the inside of
17 the door --

18 Q Once again --

19 A -- where it latches.

20 Q Once again, showing some type of tool-type object
21 being shoved in there, like a screwdriver or something?

22 MR. HART: Objection, leading.

23 MR. LEXIS: I'll rephrase.

24 THE COURT: Sustained.

25 MR. HART: And speculation.

1 THE COURT: Can you -- ma'am, can you determine what
2 type of item may have made that marking?

3 THE WITNESS: No, just something with some kind of a
4 flat edge. You can see the gouge marks along here.

5 THE COURT: All right, thank you. Next question.

6 BY MR. LEXIS:

7 Q In your training and experience, some type of hard
8 object that you could force into there?

9 A Yes.

10 Q Okay. Showing you State's Exhibit 30. What are we
11 looking at?

12 A That's going to be -- oh, okay, I see. This is the
13 outside of the door. The -- the same interior receiver is on
14 the left, and then you can see more gouge marks on the
15 outside. That's on the jamb on the outside of the door.

16 Q State's 32?

17 A That's just a closer picture up. This is my scale
18 that I put in there so that you can see roughly how big they
19 are.

20 Q Okay. State's 31?

21 A I'm not sure. That glare from the --

22 Q Yeah, let me try to --

23 A -- thing is right on the top of it.

24 THE COURT: I believe that you can turn off one of
25 the lights on that, Mr. Lexis.

1 MS. COLE: There are some sort of arrows on the
2 screen, too. I don't know if that's --

3 THE WITNESS: Those are my marks, but I'm not sure
4 if they can -- oh, there we go. Okay.

5 MS. COLE: Oh, we got to hit the screen.

6 MR. HART: Yep, it's cleared.

7 MS. COLE: It's cleared. Thank you.

8 THE WITNESS: Okay. That's just going to be another
9 closer-up view of those gouges.

10 MR. LEXIS: Okay.

11 THE WITNESS: And that's actually on the door
12 itself. You can see the -- the handle's here, and then this
13 is a little push button here.

14 MR. HART: That's the --

15 BY MR. LEXIS:

16 Q So that's on -- this is where we're saying the
17 damage is on, the smooth surface when the door is closed,
18 correct?

19 A That's the edge of the door, I believe.

20 Q Correct.

21 A Yes, where it's closed.

22 Q State's 33. Again, is this -- this you taking your
23 scale to this?

24 A Correct. That's just another -- another shot of the
25 same thing just to show the size.

1 Q State's 34?

2 A Another close-up. That's the wood gouges right
3 adjacent to the push button or the latch.

4 Q So, basically, documented the damage to the door,
5 correct?

6 A Correct.

7 Q Did you then go in and photograph the room and see
8 if you could take any prints?

9 A I did.

10 Q Showing you State's 35. Is this inside the room at
11 issue?

12 A Yes. This is showing the -- the TV, the
13 entertainment center. The closet is over here, and I believe
14 this had a ironing board and things of that nature in it. And
15 then this is the other side of the armoire over here.

16 Q State's 36?

17 A That's the same thing, just from the other side of
18 the room.

19 Q State's 37?

20 A This is going to be the bathroom counter.

21 Q State's 38?

22 A Just another view of the room from over toward --
23 closer towards the door, showing the nightstands.

24 Q State's 39?

25 A This is just a little table in front of the window.

1 Q And State's 40?

2 A This is -- this is the area that I printed on top of
3 the nightstand.

4 Q And basically, can we tell that by --

5 A Oh, there we go. Okay.

6 Q -- where you lifted it right there?

7 A Yes. This is the fingerprint that I lifted right
8 here. You can see the number 1 and the arrow that's written
9 on the top of my tape that I laid down to recover the print.

10 Q So, essentially, ma'am, you're just trying to
11 document the scene to then give it over to the detective,
12 correct?

13 A Correct.

14 Q Basically guessing as far as whether or not you're
15 going to find a print and if it's going to mean something?

16 A Correct.

17 Q Okay.

18 MR. LEXIS: Nothing further, Your Honor.

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

20 CROSS-EXAMINATION

21 BY MR. ARNOLD:

22 Q Ma'am, the fingerprint that was lifted, did it come
23 back as a print that you can use?

24 A I recovered it and turned it in, and I'm not sure
25 what happened after that.

1 Q So we don't know if that print is matching to any
2 suspect in this case?

3 A I don't have any knowledge of that, no.

4 Q But you did lift one print?

5 A Correct.

6 Q Out of that whole entire room, that was the only
7 print you got?

8 A That's correct.

9 Q And you didn't get any prints off of the door?

10 A I did not print the door.

11 Q Okay.

12 A The entry/exit door, I did not print.

13 Q And was there anything else in the room that you
14 attempted to take prints off of?

15 A Yeah, yes. I printed the closets. I printed the
16 armoire, the bathroom countertop. There was another
17 nightstand in there that I printed, and I printed the safe.

18 Q And did you get any prints off of any of those?

19 A I did not.

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

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

22 MR. HART: Yeah, just be real quick.

23 CROSS-EXAMINATION

24 BY MR. HART:

25 Q You say you go through -- you went through a fairly

1 long training?

2 A Correct.

3 Q Kind of an apprenticeship?

4 A Yes, a field training program.

5 Q Yeah, okay. And you go to where, based on your
6 training and experience, you're likely to find possible
7 evidence, correct?

8 A Correct.

9 Q You didn't -- well, I think Mr. Lexis used the term
10 "guessed" where to go. It's not just a guess, correct?

11 A Correct.

12 Q Okay. What about DNA? Was there any DNA swabbing
13 done?

14 A I did not swab for DNA on anything, no.

15 Q Okay. You are also trained in that, correct?

16 A I am, correct.

17 Q Do you guys have toolmark experts?

18 A We do not do any examination of toolmarks at our
19 lab.

20 Q Okay.

21 A That -- that gets sent out.

22 MR. HART: Okay. Nothing further.

23 THE COURT: Any redirect?

24 MR. LEXIS: Yes.

25 //

1 REDIRECT EXAMINATION

2 BY MR. LEXIS:

3 Q Ma'am, what I mean by "guess" is you have no idea
4 what a person touched or what a suspect touched, correct?

5 A Correct. Normally, and in this situation, I can
6 only go by what the victim tells me, you know, items that were
7 disturbed, and that's everything that I printed.

8 Q Okay. And then you go in, and you try to find what
9 you're going to find?

10 A Correct.

11 MR. LEXIS: Nothing further.

12 THE COURT: Any recross, Mr. Arnold?

13 MR. ARNOLD: No, Your Honor.

14 THE COURT: Any recross, Mr. Hart?

15 RECROSS-EXAMINATION

16 BY MR. HART:

17 Q And just to be clear, was there anything taken from
18 a safe?

19 A I don't believe there was, no.

20 MR. HART: Okay. Nothing further.

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

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

23 You are excused. Next witness for the State?

24 MR. LEXIS: Halm.

25 THE MARSHAL: Watch your step. Raise your right

1 hand and face the clerk. Once she swears you in, scoot your
2 chair all the way up to the red light and speak loud.

3 THE WITNESS: Okay.

4 SAMANTHA HALM, STATE'S WITNESS, SWORN

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

7 THE WITNESS: Samantha, S-a-m-a-n-t-h-a. Halm,
8 H-a-l-m.

9 THE COURT: Go ahead, counsel.

10 DIRECT EXAMINATION

11 BY MR. LEXIS:

12 Q Where do you work, ma'am?

13 A I'm a crime scene analyst for LVMPD.

14 Q How long have you worked there?

15 A Going on six years.

16 Q And what's your title?

17 A Crime scene analyst.

18 Q Okay. Can you tell the jury your training and
19 experience to become a crime scene analyst?

20 A Yes. I have a bachelor's in criminal justice from
21 UNLV. I attended a approximate three-month academy through
22 LVMPD for crime scene analysts. Upon completion of that, I
23 went into field training, working crime scenes under
24 supervision, and then after that, I progressed to individual
25 casework.

1 Q Did you respond on June 15th, 2020, to the Harrah's,
2 particularly, Room 44001 and Event No. 200600059192 here in
3 Clark County?

4 A Yes.

5 Q And as part of your duties as a crime scene analyst,
6 did you take pictures?

7 A I did.

8 Q Showing you State's 63. Do you recognize this,
9 ma'am?

10 A Yes. This is a photo I -- I took of a -- the room.

11 Q Okay, room ending in 001?

12 A Yep.

13 Q Showing you State's 64. Why did you take a picture
14 of this?

15 A It's a closer view of the door and the doorjamb
16 area.

17 Q State's 63. What is this, and why did you take a
18 picture of it?

19 A Those are toolmarks on the edge of the door.

20 MR. HART: And --

21 THE WITNESS: They're evidence that someone pried
22 into the -- the door.

23 MR. HART: I'm sorry. Did we do 63? I thought the
24 first one was 63.

25 THE COURT RECORDER: That's what I have in my notes.

1 MR. LEXIS: This is a -- oh, it's a five. It looks
2 like a three. My fault.

3 BY MR. LEXIS:

4 Q 65? Same --

5 A That's a photograph --

6 Q Same one we just put up, right, ma'am?

7 A Yes.

8 Q Okay. State's 66. What is that a picture of, and
9 why did you take it?

10 A That's the doorjamb, and it's another view of the
11 tool or pry marks on the door -- the doorframe, rather.

12 Q State's 67?

13 A It's a closer view of the same photograph.

14 Q State's 68?

15 A The pry marks again.

16 Q When you say pry marks, consistent with some
17 hard-type object?

18 A Yes.

19 Q State's 69?

20 A Again, pry marks.

21 Q State's 70?

22 A In this, it's pry marks as well with a scale.

23 Q Ma'am, did you also search for prints?

24 A I did.

25 Q And what is a latent print?

1 A A latent print is the detailed ridges of the
2 friction skin on your fingers or your palms.

3 Q Okay. Ma'am, and once again, we just went over it
4 with the other crime scene analyst, just because you touch
5 something doesn't mean you're going to leave a print behind;
6 is that correct?

7 A Yes, that's correct.

8 Q Okay. And even when you do leave a print behind, it
9 needs to be of good enough quality for you to lift; is that
10 correct?

11 A That's correct.

12 Q And then a separate second step, for the analyst to
13 analyze?

14 A Yes.

15 Q So did you go in this room and basically search for
16 any type of object you could lift a print off of?

17 A Correct.

18 Q Showing you State's 71. What is this a picture of?

19 A This is a view of the inside of the hotel room.

20 Q State's 72?

21 A This is another view of the hotel room facing the
22 dresser and the table.

23 Q State's 73?

24 A This is a view of the nightstand in the same hotel
25 room. On that photograph, you can also see the latent print

1 tape that I placed.

2 Q Okay. Let me show you a close-up. 74, what is
3 that?

4 A Those are latent prints that I developed and then
5 placed tape to lift them in order to collect them.

6 Q Okay. And we basically see a number 1?

7 A Yes.

8 Q Does that correspond with your -- your lift?

9 A Yeah, so this would be Lift 1.

10 Q I'm showing you State's 75. What is this?

11 A This is the table, and I have Lifts 2 and 3 on top
12 of the table.

13 Q State's 76? Is that --

14 A This is a --

15 Q -- that No. 2?

16 A Yes.

17 Q And State's 77, is that on that same table?

18 A Yes.

19 Q Just another print?

20 A Yes.

21 Q Okay. Now, directly across from 44001, is there a
22 44002?

23 A Yes.

24 Q Okay, and why did you go to that area?

25 A When I arrived to the scene, I got briefed by the

1 officers and detectives, and there was a gum -- gum wrapper on
2 the floor adjacent to the door that was believed to be placed
3 over the eyehole of the door.

4 Q Okay. Showing you State's 59. Do you recognize
5 that, ma'am?

6 A Yes. This is the door directly across from 44001.

7 Q Okay. And those are believed to be the wrappers
8 that were in the peephole of 002?

9 A I can only see the top of the door.

10 Q Okay. State's 60. Are those those wrappers on the
11 floor?

12 A Yes.

13 Q State's 61?

14 A Those are a closer view of the wrappers that were on
15 the floor.

16 Q Okay. And State's 78?

17 A That's a closer view of the wrappers on a clean
18 envelope with a scale in place.

19 Q And did you impound those for possible DNA?

20 A I did.

21 MR. LEXIS: No further questions.

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

23 CROSS-EXAMINATION

24 BY MR. ARNOLD:

25 Q Ma'am, would you have conducted the DNA on the gum

1 wrapper?

2 A I did not do the analysis of the gum wrapper; I just
3 impounded it. I preserved the evidence, the DNA that would
4 have been on it, and then I impounded it for a lab to look at.

5 Q Additionally, with the fingerprints, you said you
6 did three lifts; is that correct?

7 A Yes, sir.

8 Q And then did you turn those over to a fingerprint
9 examiner to be examined?

10 A Yes. I impounded them, and then that eventually
11 goes to the latent print examiner.

12 Q Just for reference, I'll let you look at State's
13 Exhibit 69. That's the doorjamb and the damage that you
14 photographed?

15 A Yes.

16 Q Exhibit 70, that's also a photograph of the damage?

17 A Yes, that's the damage with a scale in place.

18 Q I'm going to show you what's been introduced as --
19 as State's Exhibit 33, and I will advise you that this has
20 been introduced as damage to a doorjamb. In comparison to the
21 damage that you saw on the -- on the door that you examined,
22 is this significantly different?

23 A It is different, yes. They are still toolmarks, I
24 believe.

25 Q Show you again page 31 if I can get this glare out

1 of there. And page 31 -- Exhibit 31, I'm sorry, again, is
2 that damage that we see right by the doorjamb significantly
3 different than the damage that you saw in your doorjamb at the
4 Harrah's Hotel?

5 A Those are similar. They're both toolmarks.

6 Q Did you see that extensive tear that we see in
7 Exhibit 33 and 31 as you did in your doorjamb at the Harrah's
8 Hotel?

9 A I'm sorry, can you rephrase? I --

10 Q Yeah. Again, the significant damage that we see in
11 Exhibit 31 and 33 on those doorjambs, the one that's in front
12 of you, is that in comparison, or was it slighter than the
13 damage that we saw in the Harrah's door?

14 A They're all toolmarks, and I don't examine
15 toolmarks, but I can tell you that they look different, yes.
16 Two of them are similar, and the other one doesn't look like
17 those.

18 Q We see a gouge in Exhibit 31, and a similar gouge is
19 not on the doorjamb that you inspected at Harrah's; is that
20 correct?

21 A Yes.

22 MR. ARNOLD: I'll pass the witness, Your Honor.

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

24 CROSS-EXAMINATION

25 BY MR. HART:

1 Q And to be clear, your training is you start out,
2 then you kind of zoom in to take pictures, correct?

3 A Yes.

4 Q And you take pictures with and without the scale --

5 A Correct.

6 Q -- when taking photos? And did you try to lift
7 prints anywhere besides that table?

8 A Yes, I processed several areas in the hotel room.

9 Q Okay. What about DNA?

10 A No.

11 Q You are trained in DNA, but --

12 A I am.

13 Q Okay.

14 MR. HART: Nothing further.

15 THE COURT: Any redirect by the State?

16 MR. LEXIS: Yes.

17 REDIRECT EXAMINATION

18 BY MR. LEXIS:

19 Q Ma'am, you have no idea how much force someone used
20 to pry open that door, correct?

21 A Correct.

22 Q For either door, right?

23 A Right.

24 Q In fact, your event was at the Harrah's?

25 A Yes.

1 Q Okay. The previous picture shown to you was at
2 Paris. Two different places, correct?

3 A Yes.

4 Q Two different doors?

5 A Yes.

6 Q But you did say you know that everything looked
7 consistent with what you say as a toolmark?

8 A Yes.

9 Q Which, hard-type object?

10 A Yep.

11 MR. LEXIS: Nothing further.

12 THE COURT: Any recross, Mr. Arnold?

13 MR. ARNOLD: No, Your Honor.

14 THE COURT: Any recross, Mr. Hart?

15 RECROSS-EXAMINATION

16 BY MR. HART:

17 Q Just to be clear, it's not uncommon for you to be
18 looking for toolmarks on home invasion or burglary-type
19 situations, correct?

20 A Yes, I look for toolmarks. Was that the question?

21 Q Yes.

22 A Okay. Yes, I --

23 Q It's not common, correct?

24 A To look for toolmarks?

25 Q Yeah.

1 A No, it's not uncommon.

2 Q It's part of your training?

3 A Yes.

4 MR. HART: Nothing further.

5 THE COURT: Any questions by our jurors? We do have
6 a question. All right, counsel, let's meet in the back room.

7 (Bench conference begins.)

8 THE COURT: All right, this is Judge Villani. The
9 question is from Juror 8. "What was the material of each
10 door?" Any -- any objection, Mr. Arnold?

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

12 THE COURT: Mr. Hart?

13 MR. HART: No objection.

14 THE COURT: State, you can answer.

15 MR. LEXIS: I think I -- yeah, it's pure
16 speculation. She wants to know the --

17 THE COURT: Well --

18 MR. LEXIS: -- type of wood grain, or?

19 THE COURT: I don't know if she wants to know if
20 it's wood or some composite. I mean, I think it's an
21 appropriate question --

22 MR. LEXIS: Okay.

23 THE COURT: -- so I'm going to ask it.

24 MR. LEXIS: And, Judge, just so you know, I have one
25 more, and then we'll be done.

1 THE COURT: How long do you expect this next
2 witness?

3 MR. LEXIS: It's -- it's another CSA, so --

4 THE COURT: Okay. All right.

5 MR. LEXIS: -- probably similar.

6 MR. HART: It's 4:30, so we're --

7 MR. LEXIS: I'll be -- I'll be done (indiscernible).

8 (End of bench conference.)

9 THE COURT: Ma'am, we have a question from one of
10 our jurors. Obviously, if you know, what was the material of
11 each door?

12 THE WITNESS: I don't know. I know that they had
13 some paint on them. I did process the doors for fingerprints
14 with negative results.

15 THE COURT: Any follow-up by the State --

16 MR. LEXIS: No, Judge.

17 THE COURT: -- to this last question?

18 MR. LEXIS: No, Judge.

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, Your Honor.

23 THE COURT: Any additional questions by our jurors?

24 No additional -- oh, we do have an additional question. All
25 right. I'll meet counsel in the hallway again.

1 MR. LEXIS: Brackin.

2 (Bench conference begins.)

3 THE COURT: All right. This is Judge Villani. We
4 have a question from a juror, and, "What was the door made of,
5 wood or metal?" Any objection, Mr. Hart?

6 MR. HART: Can we just tell her wood and get it over
7 with? No.

8 THE COURT: Mr. Arnold?

9 MR. ARNOLD: No, Your Honor.

10 THE COURT: Counsel for the State?

11 MR. LEXIS: No, Judge.

12 THE COURT: All right.

13 MR. LEXIS: You were going to ask it anyway, Judge.

14 THE COURT: I was.

15 (End of bench conference.)

16 THE COURT: We have another question from one of our
17 jurors. What was the door made of, wood or metal?

18 THE WITNESS: I believe it was a metal door with a
19 heavy layer of paint on it.

20 THE COURT: Any follow-up by the State to that last
21 question?

22 MR. LEXIS: I will, Judge.

23 THE COURT: All right.

24 FOLLOW-UP EXAMINATION

25 BY MR. LEXIS:

1 Q State's 69. Do you recognize that, ma'am?

2 A I do. This is the toolmarks.

3 Q And does that reiterate your metal door?

4 A Yes.

5 MR. LEXIS: Can't find it, Judge, but I'll pass the
6 witness.

7 THE COURT: All right. Anything further, Mr.
8 Arnold?

9 MR. HART: Where are the rest of them?

10 THE COURT: Anything further, Mr. Arnold?

11 MR. ARNOLD: No, Your Honor, but I'll pass to Mr.
12 Hart.

13 THE COURT: All right. Mr. Hart?

14 MR. HART: Can I see the exhibits?

15 MR. LEXIS: Yeah.

16 (Pause in the proceedings.)

17 MR. HART: Sorry, Your Honor.

18 FOLLOW-UP EXAMINATION

19 BY MR. HART:

20 Q State's Exhibit 63. So you got a frame here, and of
21 course, it's -- and you're saying that is metal or wood?

22 A I'm saying it's metal.

23 MR. LEXIS: Can we -- can we --

24 BY MR. HART:

25 Q The frame is metal?

1 MR. LEXIS: Can we have a foundation as to if this
2 is her door she processed or if this is the other door the CSA
3 processed?

4 THE COURT: All right, let's -- what's the number?

5 MR. HART: State's 63. She did 61 through 70
6 something, right?

7 MR. LEXIS: This -- actually, yes, it's hers.

8 MR. HART: Okay.

9 BY MR. HART:

10 Q How about State's 70? Is that a door that you
11 processed?

12 A Yes.

13 Q Okay, and is there chipping there?

14 A Yes.

15 Q Okay. Do you remember if it was wood or metal?

16 A I believe the door itself was wood, but I had
17 toolmarks on both the wood frame -- or I'm sorry, on the
18 doorframe and the door itself. I believe the door was metal
19 with paint.

20 Q You mean the doorframe was metal, and the door was
21 wood?

22 A No. The door was metal, and the doorframe was
23 possibly wood, but I don't -- I don't fully recall. That's
24 what I believe to -- that it was made of.

25 Q Okay. So I'm going to show you State's 64. Are you

1 saying you believe this frame on the left side was wood?

2 A Yes, where the toolmarks were, but I also had
3 toolmarks on the leading edge of the door itself. Does that
4 make sense?

5 Q Okay. State's 66, this is door -- the doorframe,
6 correct?

7 A Correct.

8 Q You can agree the way the -- looking at that cut,
9 would you say that's a metal frame or a wood frame?

10 A Where are you looking?

11 Q Right about there.

12 A The toolmarks I'm referring to are on the inner
13 part.

14 Q Okay, I'm just talking about the frame itself.

15 A Well, there's both metal and possibly wood on the
16 frame.

17 MR. HART: Okay. Nothing further.

18 THE COURT: Any further by the State?

19 MR. LEXIS: Quickly, Judge.

20 FURTHER FOLLOW-UP EXAMINATION

21 BY MR. LEXIS:

22 Q Ma'am, whether this was aluminum, wood, metal, or
23 whatever it's made out of, did they appear to be breached by a
24 toolmark-type object?

25 A Yes.

1 MR. LEXIS: Nothing further.

2 THE COURT: Anything further, Mr. Arnold?

3 MR. ARNOLD: No, Your Honor.

4 THE COURT: Mr. Hart?

5 MR. HART: No, Your Honor.

6 THE COURT: Any additional questions by our jurors?

7 No additional questions. Thank you very much for your
8 testimony. You are excused.

9 THE WITNESS: Thank you.

10 THE COURT: Next witness for the State?

11 MR. LEXIS: Brackin.

12 THE MARSHAL: Raise your right hand and face the
13 clerk. Once the clerk swears you in, scoot your chair all the
14 way forward to the red light and speak loud.

15 THE WITNESS: Okay, thank you.

16 JANEL BRACKIN, STATE'S WITNESS, SWORN

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

19 THE WITNESS: Okay. Janel Brackin. J-a-n-e-l,
20 B-r-a-c-k-i-n.

21 THE COURT: Go ahead, counsel.

22 DIRECT EXAMINATION

23 BY MR. LEXIS:

24 Q Ma'am, where do you work?

25 A I'm sorry?

1 Q Where do you work?

2 A I work at the Las Vegas Metropolitan Police
3 Department.

4 Q And how long have you worked there?

5 A I started in January 23rd, 2019, so about two years
6 now.

7 Q And what is your title?

8 A I'm a crime scene analyst.

9 Q What kind of training and experience do you have to
10 be a crime scene analyst?

11 A To be a crime scene analyst, I got a bachelor's
12 degree in biology. And then we -- as -- prior to starting the
13 field -- the academy, we do two weeks of ride-alongs to get an
14 idea of what the job is like. And then we start a 13-week
15 academy where we learn all of the policies and procedures and
16 the technical aspects of doing the job.

17 And then we go through 12 weeks of field training,
18 and so that's supervised training where we go out and run
19 calls with a field trainer to ensure that we're doing the
20 proper policies and procedures and analyzing the crime scenes
21 in the proper way. And then, after that, we take a
22 proficiency exam, and that's what clears us to do independent
23 field work.

24 Q All right. Ma'am, on August 21st, 2020, were you
25 dispatched to the Paris Room 2186 under Event No.

1 200800088817?

2 A Yes.

3 Q Here in Clark County, Nevada?

4 A Yes.

5 Q Okay. When you got there, did you take some general
6 photographs?

7 A I did.

8 Q Showing you what's marked as State's 91. What is
9 this?

10 A This is a photo showing the exterior side of the
11 door and also demonstrating that this is the 2186 -- the hotel
12 room 2186.

13 Q Okay. Showing you State's 43. Why did you take
14 this picture?

15 A So there was -- there was damage to the leading edge
16 of the doorframe, as well as the leading edge of the door, and
17 so this photo demonstrates the damage. And there was also
18 that white adhesive paper that was kind of sticking to the
19 door latch or the strike plate.

20 Q State's 44, showing -- is that just showing more
21 damage?

22 A Sorry, can you repeat that?

23 Q Showing you 94, do you recognize that?

24 A Yes.

25 Q And is that just a photograph taken, too, to depict

1 the damage?

2 A Yeah.

3 Q State's 95. What is that a picture of?

4 A This is just additional close-up photos of the
5 damage.

6 Q State's 46. Do you recognize this?

7 A Yes.

8 MR. LEXIS: Judge, I'm going to go back for a second
9 because --

10 MR. HART: Is it 46 or 96?

11 MR. LEXIS: -- some of them appear to be four, some
12 of them appear to be nine, so I'm going to go back.

13 BY MR. LEXIS:

14 Q 43, picture of the doorframe?

15 A Yes.

16 Q Correct, ma'am? State's 46, same thing, picture of
17 the doorframe? And it depicts --

18 A That's actually a picture of the door itself.

19 Q Oh, okay. I --

20 A The leading edge of the door, yeah.

21 Q All right. The edge of the door where it had been
22 breached?

23 A Correct.

24 Q And does it appear to have been breached by a
25 possible toolmark, hard object?

1 A Yes. So on the leading edge of the door, there was
2 damage to the wood, in particular, what I deemed as a toolmark
3 based on the width or size of it, as well as striations that I
4 saw, so like the grooves that could have possibly been created
5 by some sort of a tool on that surface.

6 Q Okay. State's 49, is this a better picture of the
7 front?

8 A Yes. I believe that's the interior side of the --
9 the hotel room door.

10 Q Okay. State's 47?

11 A So this is a close-up showing the toolmark that was
12 casted that I recovered from scene. And so if -- if you look
13 closely, you can see that it demonstrates a width or a size of
14 some sort, as well as striations in the wood.

15 Q State's 45? I think I already showed you that,
16 ma'am. Basically, same thing, showing the type of damage that
17 went through the lock-type object?

18 A Yes, that's correct.

19 Q And State's 44, same thing, just a overview?

20 A Correct.

21 Q Okay. So, basically, you took pictures to document
22 the damage to the door, which was breached by a possible
23 toolmark?

24 A Yes. So the damage to the door, there was -- there
25 was, as I said, some wood damage, as well as some like

1 scratched paint, but in particular, the photo that we talked
2 about already was deemed by myself to be enough to cast,
3 what's -- what's called a PVS cast, a polyvinyl siloxane cast
4 of that toolmark.

5 Q Okay. And then that was submitted to whoever was
6 the detective?

7 A Yes. So I -- after I casted that toolmark, I
8 impound it, along with the rest of my evidence. And then it's
9 determined by the detectives what happens with that, if it
10 goes any further than my investigation or my crime scene work
11 or not, so that's up to the detective.

12 Q Okay. Showing you State's 48, and is that basically
13 the cast, as you say?

14 A This is not the cast. So this is actually just a
15 close-up of the white adhesive paper that I noticed on the
16 latch. The way that our casts look, we -- we use -- the
17 toolmark casting material is like a goo. So we kind of
18 squeeze the goo onto the toolmark and spread it around, and
19 then we put a latent print card on top of that to stick to the
20 goo, and we mark it as like Toolmark 1 and photograph it that
21 way. And then the goo kind of dries a little bit but stays
22 molded to the toolmark, and then we pull it off, and then
23 we've essentially preserved that toolmark as evidence. And so
24 then that's -- that's what I recover and impound.

25 Q Okay. Showing you State's -- showing you State's

1 50, do you recognize this?

2 A Yes.

3 Q What is it?

4 A It's a view from -- a view showing Room 2186 from
5 essentially the front door. On the left side of the photo,
6 you can see the two beds and the far wall of the hotel room.

7 Q Okay. You basically document the area and see if
8 you can take any lifts of fingerprints?

9 A Correct. So we -- I do a walk-through of the room.
10 After I get a briefing from the officer, and he informs me of,
11 you know, the situation as he knows it at that time, I do my
12 own independent walk-through, and then I begin taking photos.
13 And so this is one of my overall photos or orientation photos
14 showing just an overall view of the scene. And then, after I
15 do my photos, then I -- then I -- you know, as I'm doing my
16 photos and after I do my photos, I go through the scene and
17 think about what's conducive to fingerprint processing.

18 Q Okay. State's 51. Why did you take that?

19 A This is just another view of the room. So
20 typically, when we do like our overall photos, we'll go from
21 each corner of the room inward, so we kind of get a whole view
22 of the entire room, essentially.

23 Q State's 52?

24 A So this is just another view of those two beds
25 coming from a different direction.

1 Q State's 58?

2 A So this is a photograph of a latent print lift, and
3 so this was taken after I used fingerprint powder to develop
4 fingerprints on this surface. This is the -- I believe the
5 leading -- the doorframe, the leading edge of the doorframe.

6 So after I powder for prints, the powder makes the
7 prints visible and allows me to see them, and then I'm able to
8 go over it with tape, which is like -- basically like Scotch
9 Tape or packing tape, to preserve that print. So I put the --
10 I put the tape on there. I number it in sequential order, so
11 this was the third latent print, LP3. The arrow indicates
12 that up is up in the photo, and we photo document -- I took a
13 photo to document that that's the location of that print, and
14 then I pull it off and put it on a latent print card to turn
15 it -- impound it as evidence.

16 Q So you took a total of three prints in this case,
17 correct?

18 A I did.

19 Q Showing you State's 53. Can you tell me what
20 brought your attention to that phone in the upper left?

21 A Yes. So on that bed, there is a cell phone face-up
22 on the bed. When I arrived, I got my briefing from the
23 officer, as I -- as I mentioned prior, and he mentioned to me
24 that the victims had noticed the phone and realized that it
25 did not belong to any of them. And so that cues in my mind

1 that it may be evidence; it may belong to suspect or have been
2 brought into the room by suspect as the -- as all of the
3 victims did not recognize it.

4 Q Showing you State's 54.

5 A This is just a close-up showing that same phone.

6 Q Okay. And State's 55?

7 A So these are two latent print tape lifts on the
8 phone. So once I realized that the phone was present and that
9 victims stated that it did not belong to any of them, I -- I
10 processed the phone both for DNA and for latent prints, and
11 these are the two prints I recovered from the phone.

12 Q Okay. As your job as a crime scene analyst and
13 during your briefings, if you get word that you think one of
14 the victims have touched an object like this, what do you do?

15 A So I was told that two of the victims may have
16 touched this object. Originally, they thought it might have
17 been their -- one of their phones and later realized it was
18 not. So, in that case, I just take what's called elimination
19 fingerprints, and these are just fingerprints from the victim
20 so that the latent print examiners can then compare that --
21 compare that to the latent print tape lifts that I recover so
22 they can determine whether or not it really was that victim or
23 -- or another person.

24 Q So did you take those prints from two of the
25 victims, Marissa Metro and a Brooke Bargholtz?

1 A I did.

2 Q Did you do anything else with the phone?

3 A Yes. Because I knew that this phone was not
4 belonging to any of the victims on scene, I swabbed it for DNA
5 as well. So when I first saw the phone, I noticed that there
6 were -- there were visible prints on it, and so I swabbed for
7 DNA around, avoiding those areas of latent print detail. So I
8 swabbed the back of the phone, the sides of the phone, the
9 mouthpiece of the phone, avoiding those areas of latent print
10 detail.

11 Q And then you impounded everything under the
12 corresponding event number?

13 A Yes. And then I impounded this phone, as well as
14 the latent prints, and the swab of DNA, and the elimination
15 prints, and buccal swab kits from the victims that I
16 recovered.

17 MR. LEXIS: Nothing further, Judge.

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

19 CROSS-EXAMINATION

20 BY MR. ARNOLD:

21 Q Ma'am, I didn't hear what hotel this was. Did you
22 say Harrah's or Paris?

23 A This was -- this was at the Paris.

24 Q Oh, it was at Paris? Thank you. And you also said
25 that it was significant there is white paper, adhesive on the

1 door itself -- doorjamb itself?

2 A Yes. It was on the -- like the striker plate area
3 of the doorframe.

4 Q And then you also stated that you casted the
5 toolmark that was made at the door; is that correct?

6 A That is correct.

7 Q Based upon your experience, can you tell what type
8 of tool was being used to make that mark?

9 A No, I cannot. Toolmark examiners, that's -- that's
10 their forte. I -- my duty on scene is just to recognize what
11 is and is not evidence and recover that evidence for
12 determination at a later date.

13 Q I understand that you're not here to make a toolmark
14 expert opinion, but based upon your education, your
15 experience, can you tell if it was a larger tool or a smaller
16 tool that made the mark?

17 A Yes. I mean, based on -- based on the size of it
18 that I -- I could see, it was a smaller tool as opposed to
19 something larger. But again, I can recognize that it was made
20 by some sort of a tool because of the striations and because
21 there was a size that I could see, and at that point, I
22 recovered it. I made the decision to recover it because it --
23 because of the striations that I could visibly see.

24 Q When you say small tool -- again, I'm not asking you
25 to, you know, tell us what tool it is, but I'm trying to get

1 your understanding of what a small tool is. But when you say
2 small tool, are -- similar to like a simple screwdriver, or --

3 A Sure, or -- or other similar -- some other
4 similar-sized item. It was not like a large saw or anything
5 like that. A small -- a small, possibly hand tool. Again, I
6 can't say. I can just say that I recognize it as a toolmark,
7 and at that point, I recovered it --

8 Q And --

9 A -- or recovered the cast.

10 Q And, again, was it just one tool being used, or did
11 it look to you to be multiple tools that were being used?

12 A From the damage, the only -- the only toolmark that
13 I saw was that -- was that one, but there was other damage to
14 the door, perhaps caused by overlapping of the same tool or
15 overlapping of multiple different tools. It's hard to say,
16 but again, what I -- what I did notice was that there was a
17 distinguishable toolmark amongst also all of the other damage,
18 and that's -- that's when I casted it.

19 Q Other than the phone, did you swab any other area of
20 the room for DNA?

21 A No, I did not.

22 Q And other than the three prints that we saw in the
23 photographs, were there any other prints that you discovered
24 in the resident (sic)?

25 A No, it was just the three.

1 MR. ARNOLD: I have no further questions for this
2 witness.

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

4 MR. HART: Yeah.

5 CROSS-EXAMINATION

6 BY MR. HART:

7 Q And just to be clear, you're not a toolmark expert?

8 A Correct.

9 Q But you have to have enough training to know if you
10 can cast it, correct?

11 A Correct. Um-hum.

12 Q Okay, just as you -- when you pull your prints, you
13 know, you can look at them and go, this will likely be used
14 while this will likely not?

15 A Correct, and that's what we call suitability for
16 recovery. So I can look at those items of evidence and say,
17 yeah, this is of quality enough for someone to determine --
18 make determinations later; therefore, it's of quality enough
19 for me to recover it on scene.

20 Q And you're not -- you don't know yourself whether
21 somebody else touched the phone from the people staying there,
22 correct?

23 A Correct. So the victims -- two victims stated that
24 they did touch the phone when they originally came back into
25 the room, and they thought maybe it was one of theirs --

1 Q Okay.

2 A -- or one of the victim's that were staying in the
3 room, but, you know, all I can go off of is what I see when I
4 arrive and what I'm told. And so that phone was not there --
5 per the victims, that phone was not there prior to them
6 leaving the room that morning, and when they returned and
7 noticed their stuff was missing, they also noticed that the
8 phone was there.

9 Q Did you ask where it'd been -- where they touched
10 it?

11 A Yes, I did.

12 Q Okay. And that's why you looked at the screen,
13 correct?

14 A Yes. So I looked at the screen, and there were --
15 the two latent prints that I recovered were visible enough for
16 me to determine that they were suitable for recovery, which
17 they were, again, essentially good enough to take. There was
18 enough latent print detail there for me to recover them.

19 Q And that's what you would call elimination prints if
20 you pull them, in theory?

21 A So the elimination prints are something separate.
22 We -- I take fingerprints from the victim themselves, so I
23 roll their fingerprints onto a card, and that also gets
24 submitted with the latent prints.

25 Q Okay. And you did that?

1 A I did.

2 Q Okay. And then you swabbed the other areas where
3 somebody that would use the phone would touch for DNA?

4 A Right. So I actually swabbed for DNA first, only
5 because the powders could contaminate what possible DNA may be
6 on the phone. And so because the latent prints that I -- that
7 I saw were slightly visible using side lighting with my
8 flashlight, I could swab the phone and avoid those locations
9 of the latent prints, and then I -- and then I recovered the
10 latent prints.

11 Q Okay. And you didn't attempt to do any DNA, other
12 than on the phone, inside or outside that room?

13 A Correct. I did take what's called buccal swab kits,
14 and those are essentially elimination prints but for DNA. And
15 so these -- those are cheek swabs that I recover from the
16 victims just like I recovered the prints in order to compare,
17 so the DNA detail could then have victim DNA to compare to
18 since they did touch the phone. It is -- it is understandable
19 that there might -- may be some of their DNA on the phone as
20 well because they touched it.

21 Q Okay. And the door at the Paris was wood, correct?

22 A Sorry, say that one more time.

23 Q The door was wood at the Paris? The door?

24 A Yeah. So the door was -- the doorframe and the door
25 were wood, and I think the metal -- the metal strike plates,

1 those were metal. I'm not sure like the contents of like what
2 the door is made out of, but it was painted over, and it -- it
3 was like a wood texture.

4 MR. HART: Okay. Nothing further.

5 THE COURT: Any redirect by the State?

6 MR. LEXIS: Yes.

7 REDIRECT EXAMINATION

8 BY MR. LEXIS:

9 Q Ma'am, no matter what an object is made out of, you
10 essentially are looking for striations?

11 A Correct. So you can -- striations are essentially
12 like the grooves on a tool. And so if a harder contact comes
13 -- a harder item comes into contact with a softer item, or
14 even equal hardness, it can leave, like, behind those grooves.
15 And that's what, you know, a toolmark examiner would then
16 compare is the grooves that are created by that tool versus
17 the grooves that were recovered from this scene if that were
18 to ever be examined.

19 Q And you yourself saw striations; that's what led you
20 to say toolmark?

21 A Correct.

22 MR. LEXIS: Nothing further.

23 THE COURT: Any -- any recross, Mr. Arnold?

24 MR. ARNOLD: No, Your Honor.

25 THE COURT: Recross, Mr. Hart?

1 RE CROSS-EXAMINATION

2 BY MR. HART:

3 Q Just to be clear, when you say toolmark, you could
4 mean knife? You could mean an -- any object?

5 A Yes. Yes, essentially. So it depends on the knife,
6 right? Like a butter knife might not leave striations because
7 it's a smooth surface, but it could because if you're pushing
8 it through a small space like the doorjamb, it could leave
9 striations. So, yes, it could be a number of things. Again,
10 that's -- that's not part of -- that's -- that's not part of
11 the -- the job duties that I -- that we -- you know --

12 Q Okay.

13 A -- that we are trained on or that we learn about.
14 We learn to recognize it and recover it.

15 Q So when you say tools, it doesn't have to
16 automatically come from a mechanic's box?

17 A A what?

18 Q A mechanic's box.

19 A Right.

20 Q Okay.

21 A Right. Yeah, any kind of -- yes. Any kind of
22 instrument, I guess, is a -- is a good way of saying. Like,
23 any sort of an instrument that could leave any sort of a mark
24 could be a toolmark in this case.

25 MR. HART: Nothing further.

1 THE COURT: All right, thank you. Any question by
2 our jurors? No questions. Thank you, ma'am, for your
3 testimony. You are excused.

4 THE WITNESS: Thank you.

5 THE COURT: Ladies and gentlemen, it's just a few
6 minutes after 5:00. We're going to adjourn for the day.
7 We'll come back at nine o'clock tomorrow morning.

8 During this evening recess, you are not to discuss
9 or communicate with anyone, including fellow jurors, in any
10 way 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 other way investigate or
18 learn about the case on your own, and you are not to form or
19 express an opinion regarding this case until this matter is
20 submitted to you.

21 Have a safe drive home, and we'll see you tomorrow
22 at 9:00 A.M.

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

24 (Court recessed at 5:03 p.m., until Wednesday,
25 April 14, 2021, at 9:05 a.m.)

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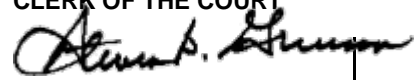
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ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case.

Julie Lord

VERBATIM DIGITAL REPORTING, LLC



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

MONDAY, APRIL 12, 2021

TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 1

APPEARANCES:

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

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

1 LAS VEGAS, CLARK COUNTY, NEVADA, MONDAY, APRIL 12, 2021

2 (Case called at 9:10 a.m.)

3 (Outside the presence of the prospective jurors.)

4 THE COURT: All right. Counsel, we are on the
5 record now. We're outside the presence of the jury panel. I
6 just wanted to -- have the parties discussed the length of the
7 trial? It looks like there's been some agreement on the
8 exhibits. But as far as the length of the trial so I can tell
9 the jurors what they should expect?

10 MR. LEXIS: Judge, to be safe, I would tell them
11 only --

12 THE COURT RECORDER: Mr. Lexis, your microphone.

13 MR. LEXIS: To be safe, Judge, I would tell them all
14 way up until next Tuesday.

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

16 MR. LEXIS: I would tell them all the way up until
17 next Tuesday or Wednesday to be safe, even though I anticipate
18 giving the stipulations of a lot of the exhibits, it being
19 faster than that. But I just don't want to -- I'd rather be
20 -- I'd rather tell you too long than not enough.

21 THE COURT: All right. Do you agree, Mr. Arnold, as
22 far as the estimated time?

23 MR. ARNOLD: Well, I'm hoping five days, Your Honor.
24 So --

25 THE COURT: All right. Mr. Hart, same thing?

1 MR. HART: Yeah. I mean, it's going to be quite a
2 few witnesses. Like I said, we're stipulating on custodian of
3 records, so that should shave half a day to a day.

4 THE COURT: And just so we can have this on the
5 record, have there been any offers to negotiate the case, Mr.
6 Lexis?

7 MR. LEXIS: Oh, there's been several offers in the
8 case. You'll have to ask Ms. Cole when she gets here. But I
9 know -- I know they went to a Settlement Conference and that
10 was rejected. And I'm -- I know that Ms. Oliver's wanted to
11 -- to deal, but it's all contingent. And Mr. Clark is the one
12 that rejected the last offer at the Settlement Conference.
13 And so here we are.

14 THE COURT: All right. Is that correct, Mr. Arnold,
15 for Mr. Clark? He's rejected the settlement offer?

16 MR. ARNOLD: Yes, Your Honor.

17 THE COURT: All right. And Mr. Hart, I guess, your
18 client wanted to take a deal, but they were contingent; is
19 that correct, Mr. Hart?

20 MR. HART: Yes, Your Honor. It was contingent at
21 the time. We couldn't get through the allocution.

22 THE COURT: Okay. Any questions by the State,
23 before we bring the jury in?

24 MR. LEXIS: No, Your Honor.

25 THE COURT: Any questions by Mr. Arnold for Mr.

1 Clark?

2 MR. ARNOLD: No, Your Honor.

3 THE COURT: Mr. Hart, any questions you have on
4 behalf of Ms. Oliver?

5 MR. HART: Not at this time, Your Honor.

6 THE COURT: All right. Where's the Marshal?
7 Where'd he go?

8 (Pause in the proceedings.)

9 MR. LEXIS: Judge, could I bring up something else?

10 THE COURT: I'm sorry?

11 MR. LEXIS: Can I bring up something else?

12 THE COURT: Yes.

13 MR. LEXIS: I sent everybody the Second Amended
14 Superceding Indictment and -- and the Third, as well, of
15 course, taking out the ex-felon in possession for part two,
16 and I would just ask for those to be filed at this time.

17 THE COURT: Okay. Any objection, Mr. Arnold?

18 MR. ARNOLD: No, Your Honor.

19 THE COURT: Mr. Hart?

20 MR. HART: No, Your Honor.

21 THE COURT: All right. You can go ahead and file
22 that.

23 Are those things awful loud today? I'm just having
24 trouble hearing.

25 (Pause in the proceedings.)

1 MR. LEXIS: Judge, also, the jury instructions for
2 both part one and part two have been sent to everybody.

3 THE COURT: All right. Thank you.

4 (Pause in the proceedings.)

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

6 (Inside the presence of the prospective jurors.)

7 THE COURT: All right.

8 Everyone have a seat. Thank you.

9 All right. Good morning, ladies and gentlemen. And
10 on behalf of the Regional Justice Center, my Department,
11 Department 17, and the attorneys, and the parties in this
12 matter, we appreciate all of you honoring your Jury Summons in
13 these difficult times. We -- we do appreciate you coming
14 down. And as you know, we have -- the court system has taken
15 numerous precautions for all of our safety. Everyone is
16 socially distanced.

17 In this courtroom, we have some black boxes you may
18 see here throughout this hearing room here. They are air
19 purifiers so it's probably cleaner in this room than any --
20 probably your home or any other place in our community. So we
21 do appreciate all of you coming down to honor your Jury
22 Summons.

23 And so before we go any further, I'm going to have
24 the Court Clerk swear all of you in. We assume you will be
25 honest with your answers, but we are required to place you

1 under oath. So when I ask you some questions, or any of the
2 attorneys ask you questions, we just have to confirm that all
3 of your answers will be honest to the best of your ability.

4 So if everyone can please rise, stand up, raise your
5 right hand, the Clerk will swear you in.

6 PROSPECTIVE JURORS SWORN BY THE CLERK

7 THE COURT: All right. Thank you. Everybody have a
8 seat.

9 Again, ladies and gentlemen, part of a Jury Summons
10 or jury duty is to perform your civic duty. All of you may
11 have received a similar Jury Summons in the mail and that's
12 why you're down here today. I think all the attorneys know
13 this. This Summons here has my name on it. As a sitting
14 Judge, I received a Jury Summons. I came down. It was pre-
15 COVID. I came down, sat in this room and went through a
16 selection process and after a couple days, lo and behold, even
17 though I was a sitting Judge, I was selected as a juror in a
18 civil case that went two-and-a-half weeks long.

19 So we all serve. A Supreme Court Justice up north
20 received a Jury Summons and he served on a jury. I think it
21 was in Story County. And we had, I think, another Judge down
22 here who's since retired, received a Jury Summons and has
23 served on a jury.

24 Whether it's a civil or criminal case, we need
25 individuals such as yourselves to serve on our juries to make

1 the decisions, again, whether it's civil or criminal.

2 I can tell you, just last week, I finished a jury
3 trial. I so selected a jury, we went to another room, we
4 conducted a trial, and it's been completed.

5 On Friday, one of our other Judges just finished a
6 four-week civil trial at the convention center. It was
7 reported in the newspaper. I don't know if any of you saw
8 that. And so that Judge was able to get jurors to sit for
9 approximately four weeks of time. Again, last week, I had a
10 one-week jury trial, and lo and behold, I got selected again,
11 and we're starting another trial today.

12 So again, we appreciate all of your service coming
13 down here.

14 I've spoken to the attorneys in this case. And
15 first -- well, actually, first, I want to tell you that you
16 have been assigned to this case here which is a criminal case.
17 It is State of Nevada versus Veneshia Oliver and Darrell
18 Clark. So this is a criminal case.

19 I've spoken to the attorneys and their best estimate
20 for me is six to seven days to try this case. Our trial
21 schedule, if you are selected as a juror, is that we would
22 start at 9:00 o'clock each morning. During the noon hour, we
23 try to take our lunch break. It would be a full hour. Mid-
24 afternoon, we take a mid-afternoon break, and we promptly
25 adjourn at 5:00 o'clock. Some days a little earlier, but

1 never any later.

2 And so before we go any further, I just want to ask
3 anyone if they have, with based upon our schedule, and it's a
4 criminal case, and the length of time that we expect this case
5 to be tried, is there anyone here who would have an extreme
6 hardship if they were selected to serve on this case?

7 Please raise your hand and if you would have an extreme
8 hardship.

9 Okay. We'll go to this part of the room here.

10 And if you are called upon, we need to you to state
11 your name and also your badge number. Now, if you look at
12 your badge, everyone should have 08 dash and then a set of
13 numbers. So even though we may call on you numerous times
14 throughout this trial, please each and every time, if you'd
15 come up to the microphone, please state your name and badge
16 number.

17 And actually, it'd be -- you know, since individuals
18 will be coming up to the microphone, I want to assure everyone
19 that, again, we are taking all the safety precautions that are
20 necessary.

21 What many of you have -- might be surprised to know,
22 that the Courts have never shut down. We have remained open
23 and working throughout this pandemic. In March, when Governor
24 Sisolak instituted the original shutdown, we did not cease.
25 We did cease jury trials for a period of time. During those

1 months, there was a group of seven judges, myself included,
2 that met weekly to study the national health trends from how
3 other jurisdictions were handling jury trials and safety
4 measures.

5 We then planned for the reopening of jury trials
6 meeting with social -- with local healthcare professionals at
7 the University Medical Center, as well as working with the
8 Southern Nevada Health District to make sure we put everything
9 in place to ensure your health and safety.

10 I'd like to briefly go over some of those things
11 with you right now. At all times, everyone will remain
12 socially distanced, whether in this room, or if you are
13 selected, in the actual trial, in the courtroom, excuse me.

14 We have hand sanitizers at all areas in this room,
15 the courthouse, as well as the trial courtroom. We have
16 worked with Clark County Property Management to ensure that we
17 have enhanced air quality and air disinfection within the
18 courthouse.

19 As you look around this room, you will see many
20 black boxes, one up front here to my right. These are --
21 these boxes allow for continuous use of dry hydrogen peroxide
22 to reduce levels of harmful bacteria and viruses, along with
23 fungi and mold in occupied spaces. We have instituted
24 infection and exposure event protocols should anyone feel ill.
25 Once we are done selecting a jury, we'll then move to one of

1 our two COVID courtrooms. These courtrooms were designed with
2 the help of medical professionals.

3 You will notice that all of you will be seated six
4 feet apart to maintain social distancing. Anyone such as
5 myself, the court staff, and parties who cannot be -- who
6 cannot be six feet apart will be separated by dividers. We
7 have installed plexiglass dividers as to limit contact with
8 one another.

9 There are many other things that we have done, but I
10 just wanted to give you a highlight of a few of these to make
11 sure you understand how seriously we take your health and
12 safety.

13 All right. Sir, again, your name and badge number.

14 And sir, since everyone's badge number will be 08
15 dash zero something, we just need the last three numbers on
16 your badge; okay?

17 So, sir, you name and badge number?

18 PROSPECTIVE JUROR NO. 006: Good morning. My name is
19 Michael Priest, Badge No. 6.

20 THE COURT: Yes, sir. And what's your hardship,
21 sir?

22 PROSPECTIVE JUROR NO. 006: So, it's two points. My
23 daughter is going to be out of town in a couple weeks for
24 surgery, so I'll be the primary caregiver for the family while
25 my wife takes her down for surgery. That will be on the 23rd

1 of this month.

2 And then we're actually moving out of state. I'm
3 under contract in a home in Phoenix right now, in the due
4 diligence period where I'm having to respond to mortgage
5 lending inquiries and property inspections and appraisals and
6 everything else, and that will be ongoing over the next two
7 weeks. But we're scheduled to close on the 30th.

8 THE COURT: Okay. Sir, so if we complete this trial
9 within five, six or probably the worst case scenario, seven
10 days, would you be -- if we -- would you be able to serve? I
11 understand if we went into the following week --

12 PROSPECTIVE JUROR NO. 006: I understand.

13 THE COURT: -- you would have those -- those family
14 issues to resolve.

15 PROSPECTIVE JUROR NO. 006: Correct. So if it is
16 done within --

17 THE COURT: So with our --

18 PROSPECTIVE JUROR NO. 006: -- that time frame, I
19 could serve. I just wasn't sure how reliable that time frame
20 was so I wanted to flag --

21 THE COURT: No, no.

22 PROSPECTIVE JUROR NO. 006: -- the issue.

23 THE COURT: I appreciate that, sir. Thank you very
24 much.

25 PROSPECTIVE JUROR NO. 006: Okay.

1 THE COURT: Okay. All right. Actually, ladies and
2 gentlemen, before we go any further, I know you met with our
3 Jury Commissioner and all of you were checked in, all of you
4 watched a video to better understand what you go through at
5 the courthouse.

6 And I had thought at that time that if a roll call
7 had been taken. Apparently, not. And so I'm going to have
8 the Court Clerk just call off your names, and just say "here"
9 or "present" and we'll get through that and we'll resume the
10 questioning by -- by the Court.

11 ROLL CALL OF PROSPECTIVE JURORS

12 THE COURT: All right. Great. Thanks very much.
13 We had another hand by the wall as far as a
14 hardship. And again, name and last three numbers of your
15 badge.

16 PROSPECTIVE JUROR NO. 008: Eugeena Horner, and I'm
17 Badge No. 8. I currently work full time for a school district
18 and I'm also doing my intern masters for administration. And
19 I have to have my hours complete by next month, because school
20 gets out. So if I miss a week of not doing intern hours every
21 day, I probably will have to graduate another semester and pay
22 for that entire semester.

23 THE COURT: All right. Thank you. And I'll address
24 that with the attorneys. Thank you.

25 Anyone else with an extreme hardship?

1 Sir, in the blue, come on up.

2 And as everyone can see, after each and every person
3 speaks at the microphone the Marshal disinfects the microphone
4 so we are very vigilant on keeping everyone safe.

5 Yes, sir?

6 PROSPECTIVE JUROR NO. 087: Steven Ciesiel, Badge
7 No. 0087. My hardship is I have two kids that I take to
8 school every day from -- let's see, 8:00 in the morning until
9 -- I've got to pick them up at 3:00. My wife is an overnight
10 nurse, so she will not be able to pick them up, so I've got to
11 take them to school. I can't rely on my elderly parents that
12 have to do that for me. And I do work a full-time job from
13 5:00 p.m. until 1:00 a.m. at the Palazzo Casino.

14 THE COURT: All right. Sir, so with our schedule,
15 you would be able to take them to school --

16 PROSPECTIVE JUROR NO. 087: Um-h'm.

17 THE COURT: -- because we won't start until 9:00 and
18 you said school starts around 8:00 o'clock.

19 PROSPECTIVE JUROR NO. 087: Yeah.

20 THE COURT: But the issue is picking them up from
21 school; is that correct?

22 PROSPECTIVE JUROR NO. 087: That's kind of -- yeah,
23 that's the issue.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 087: Yeah.

1 THE COURT: And is there anyone else, any friends,
2 neighbors, co-workers, relatives, that --

3 PROSPECTIVE JUROR NO. 087: I mean, just -- just my
4 parents or my wife. But my wife's schedule is always -- is
5 always, you know, different. It's not set. So she's always
6 working usually, let's see, like 7:00 p.m. until like 8:00
7 something in the morning. She's a nurse, so she works an
8 overnight schedule. So she does sleep during the day. I
9 don't know what her schedule is this week. I think it's --
10 it's always different every week. I can't keep up with it.

11 So I think she might be -- she might work some --
12 some weekdays this week. I'm going to have to check with her.
13 But the -- yeah, the problem -- part of the problem is -- is
14 the 3:00 p.m. pickup.

15 THE COURT: All right. Thank you, sir.

16 When we take a mid-morning break, sir, would you
17 have an opportunity to call your wife to see what her schedule
18 is for this week?

19 PROSPECTIVE JUROR NO. 087: Yeah. I'll go check
20 with her.

21 THE COURT: All right. Thanks. Great. Thank you.

22 PROSPECTIVE JUROR NO. 087: Thank you.

23 THE COURT: We will take this into consideration,
24 sir.

25 PROSPECTIVE JUROR NO. 092: Amy Shulman, 092.

1 I have just moved my 87-year-old father into
2 assisted living about a week-and-a-half ago. I'm the only
3 family member here in Vegas. And it's a lot going on with
4 medications and when the VA Hospitals call there's just no way
5 to call them back. So there's just a lot going on with that
6 right now.

7 THE COURT: All right. Thank you, ma'am.

8 Any other hands, extreme hardship?

9 PROSPECTIVE JUROR NO. 099: Candace Krubsack, and
10 099. My hardship -- I'm not really sure if it's a hardship,
11 but my 16-year-old daughter and myself are scheduled for our
12 second COVID vaccine tomorrow at 2:15.

13 THE COURT: I'm sorry. I couldn't hear you. You're
14 scheduled for a vaccine tomorrow?

15 PROSPECTIVE JUROR NO. 099: Right. Me and --

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 099: -- my 16-year-old
18 daughter for our second one.

19 THE COURT: All right. Is there -- I know a lot of
20 times, because I've had my shots already. Is there a way to
21 get a schedule -- to get an appointment like early in the
22 morning or maybe later in the afternoon, if you were selected?

23 PROSPECTIVE JUROR NO. 099: I can call and check and
24 see if they can change it. They scheduled this one when they
25 gave us our first one, so I'm not sure if they did that with

1 everybody, what the availability will be. And I'm not really
2 sure what the timeline is to having to get the second one
3 after the first one.

4 THE COURT: Right. And I'm not sure either. I'm
5 not going to give you any medical advice. But I know -- I
6 know that you don't have to have the exact day, but I know
7 there's a time frame and we want to make sure you are healthy.
8 So, but thank you, ma'am.

9 PROSPECTIVE JUROR NO. 099: Okay.

10 PROSPECTIVE JUROR NO. 126: Ruth Phillips, 126. I
11 have the same vaccine problem, except mine is on next Monday.
12 So I'll call and see. But I just wanted to make that noted.
13 It's my second one that I have scheduled at UNLV.

14 THE COURT: All right. Thank you, ma'am.

15 PROSPECTIVE JUROR NO. 139: Hi. My name is Ahmedin.

16 THE MARSHAL: You've got to step forward. Just
17 speak into the microphone. Name and badge number, last three
18 digits.

19 PROSPECTIVE JUROR NO. 139: My name is Ahmedin. My
20 Badge No. 0139.

21 I have a problem with language. Even I don't
22 understand some --

23 THE COURT: I'm sorry. I can't -- you've to speak
24 up louder. I can't hear you, sir.

25 PROSPECTIVE JUROR NO. 139: My name is Ahmedin. My

1 Badge No. 0139. I -- I have a little bit problem with
2 language. Even I don't understand what you say early.

3 THE COURT: So you're saying you have a problem with
4 language?

5 PROSPECTIVE JUROR NO. 139: Yeah.

6 THE COURT: Actually -- actually, that's going to be
7 my next question, but we'll make -- mark it down for you, sir.

8 What is your native language, sir?

9 PROSPECTIVE JUROR NO. 139: Huh?

10 THE COURT: What is your native language? What
11 language do you normally --

12 PROSPECTIVE JUROR NO. 139: Oh.

13 THE COURT: -- speak?

14 PROSPECTIVE JUROR NO. 139: I'm (indiscernible).

15 THE COURT: Okay. All right. Thank you, sir.

16 PROSPECTIVE JUROR NO. 139: Welcome.

17 PROSPECTIVE JUROR NO. 180: Hello. Carla Lozano,
18 180. I'm not sure, again, about extreme hardship, but have
19 had flight plans for Thursday to fly to Washington to work on
20 a property with a couple of other people. So I don't know if
21 that could get changed or -- or how easy that would be to do,
22 but --

23 THE COURT: Okay. Is this -- this appointment that
24 you have out of state, is this something that can be easily
25 changed or is it --

1 PROSPECTIVE JUROR NO. 180: Well, I've coordinated
2 with two others. So there's three of us going. I kind of --
3 I have the property, so I have the keys and everything to kind
4 of coordinate everybody getting in and getting settled and
5 started.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR NO. 180: Thank you.

8 THE COURT: Thank you, ma'am.

9 (Court/IT confer.)

10 THE COURT: Yes, ma'am?

11 PROSPECTIVE JUROR NO. 198: Good morning. My name
12 is Kelly Schlegel, Badge No. 198. I have a vacation planned
13 to fly out next Thursday and I'm also the sole daycare for my
14 one-year old grandson.

15 THE COURT: So vacation-wise, we should -- the trial
16 will be completed by next Thursday. So let's deal with the
17 daycare for -- you said it's your grandson; correct?

18 PROSPECTIVE JUROR NO. 198: Right.

19 THE COURT: Is the assignment to pick up your
20 grandson from daycare, is that an ongoing situation or is it
21 just for this week that --

22 PROSPECTIVE JUROR NO. 198: I go to his -- their
23 home and watch him every day.

24 THE COURT: Okay. So you're the caregiver?

25 PROSPECTIVE JUROR NO. 198: Yes.

1 THE COURT: Okay. Do they have any other family or
2 friends that -- involved in care-giving for the child?

3 PROSPECTIVE JUROR NO. 198: Not that he will stay
4 with.

5 THE COURT: Okay. And it's a one-year old child; is
6 that --

7 PROSPECTIVE JUROR NO. 198: Yes.

8 THE COURT: -- correct? All right. Thank you,
9 ma'am.

10 PROSPECTIVE JUROR NO. 198: Thank you.

11 THE COURT: I know we have a couple more hands.
12 We'll get to you.

13 PROSPECTIVE JUROR NO. 202: Brittany Kruger, Badge
14 202. I'm a college instructor and with just a few weeks left
15 in the semester it would be almost impossible to make up the
16 facetime with my students if I were to miss six or seven days
17 of class.

18 THE COURT: And do you have classes each day?
19 Because I remember in the old --

20 PROSPECTIVE JUROR NO. 202: Tuesday, Wednesday,
21 Thursday.

22 THE COURT: Okay. All right. And what time of day
23 are the classes?

24 PROSPECTIVE JUROR NO. 202: Tuesday, Wednesday, it's
25 9:30 to 11:30 a.m., and Wednesday and it's 2:00 to 5:00 p.m.

1 THE COURT: Is there anyone else that could cover
2 your class for you?

3 PROSPECTIVE JUROR NO. 202: There's not.

4 THE COURT: Okay. And in the event, you know, if
5 you became ill, not because of COVID, I mean, like let's say,
6 pre-COVID, if you had the flu or you know, you got sick or
7 something, who would cover your classes at that time?

8 PROSPECTIVE JUROR NO. 202: It would be a
9 combination of cancelling class or trying to find other
10 instructors to cover parts of them. But with everyone so
11 spread thin with COVID teaching, that would be almost
12 impossible, I think.

13 THE COURT: All right. Understood. All right.
14 Thank you.

15 PROSPECTIVE JUROR NO. 202: Thanks.

16 We'll get to you, ma'am, in just a minute.

17 PROSPECTIVE JUROR NO. 243: Good morning. My name is
18 Rebecca Reyes. My Badge No. is 243. Hi. This might not be
19 an issue, but I am actually supposed to be in a wedding that
20 I'm supposed to leave for next Friday.

21 So if we keep to the timeline that you'd mentioned,
22 it won't be an issue. But I am supposed to be in a wedding.

23 THE COURT: All right. We'll -- I think we will
24 keep that timeline.

25 PROSPECTIVE JUROR NO. 243: Okay. Perfect.

1 THE COURT: Thank you, ma'am.

2 PROSPECTIVE JUROR NO. 243: Thank you.

3 PROSPECTIVE JUROR NO. 297: E. Ring, Badge 297.

4 I just have tomorrow at 8:45 my second COVID test.

5 Oh, not yet? I'm sorry.

6 THE MARSHAL: (Inaudible) first.

7 PROSPECTIVE JUROR NO. 297: I apologize. Sorry,
8 sir.

9 THE COURT: Okay. You have your second COVID test?

10 PROSPECTIVE JUROR NO. 297: Yes, sir.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 297: 8:45 tomorrow morning at
13 the Convention Center.

14 THE COURT: All right. And like I think we had one
15 or two other potential jurors had the same situation. So we
16 will be taking a mid-morning break, sir. See if you can make
17 a phone call, see if you can get an appointment next week
18 without violating any of the --

19 PROSPECTIVE JUROR NO. 297: Yeah. There's
20 (indiscernible) --

21 THE COURT: -- COVID protocols.

22 PROSPECTIVE JUROR NO. 297: -- yeah, 28 days [sic],
23 this is my -- so like -- like 28 days is tomorrow -- by
24 tomorrow's date, so.

25 THE COURT: I'm sorry. You said 20 days is

1 tomorrow?

2 PROSPECTIVE JUROR NO. 297: 28 days, I think.

3 THE COURT: Okay. But I --

4 PROSPECTIVE JUROR NO. 297: (Inaudible).

5 THE COURT: -- like I said, I'm not going to give
6 any medical advice, but I understand it's -- that there's a
7 leeway on that. I'm -- like I said, if you can call and find
8 out what that time frame is.

9 PROSPECTIVE JUROR NO. 297: All right. Thank you,
10 sir.

11 THE COURT: Thank you.

12 And Marshal, we had number -- yeah.

13 (Court/Marshal confer.)

14 PROSPECTIVE JUROR NO. 286: Hi. My name is Joseph
15 Mercado, number 0286. My hardship is I was diagnosed with
16 prostate cancer. High blood, kidney -- kidney problem. And
17 low potassium. And I've been taking about 10 medication. So
18 next -- next week, I'm scheduled to -- my doctor will schedule
19 me for what kind of treatment I'll be getting.

20 THE COURT: And when's your next appointment, sir?

21 PROSPECTIVE JUROR NO. 286: It's going to be -- my
22 doctor -- my doctor told me that he's going to call me,
23 because I just talked to him last week. So he's going to call
24 me and refer me to a specialist where I will have to talk to
25 them. He's -- either I will have a -- a laser treatment or

1 removal.

2 THE COURT: Okay. So what your scheduled for now is
3 another doctor's appointment with a specialist; is that
4 correct, sir?

5 PROSPECTIVE JUROR NO. 286: Yes. A specialist. The
6 one special -- specialist is the one who is saying to me what
7 procedure I should take.

8 THE COURT: Right. So you're not having a procedure
9 next week, you're going to be meeting with a physician next
10 week who will then tell you what type of procedure you need
11 and perhaps you might --

12 PROSPECTIVE JUROR NO. 286: Yeah.

13 THE COURT: -- need some surgery?

14 PROSPECTIVE JUROR NO. 286: Yes. Exactly.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 286: He will explain to me
17 two types of procedure, either removal or a --

18 THE COURT: Right.

19 PROSPECTIVE JUROR NO. 286: -- laser. So and then I
20 will decide which one I will take.

21 THE COURT: Okay. So at this point, you're just
22 going to -- you're waiting for a phone call this week from
23 your -- your family physician who then will refer you to a
24 specialist; is that correct?

25 PROSPECTIVE JUROR NO. 286: Exactly, sir.

1 THE COURT: Okay. So you don't have the -- the
2 appointment with the specialist set up yet; correct?

3 PROSPECTIVE JUROR NO. 286: Not yet. But like I
4 said, again, I just spoke to him last -- last Wednesday.

5 THE COURT: All right. Okay. Thank you, sir.

6 PROSPECTIVE JUROR NO. 286: Yes, sir.

7 PROSPECTIVE JUROR NO. 270: Hi. This Ricardo
8 Rodriguez, Badge No. 270. One of my two hardships is at work,
9 we have -- we are very short staffed due to many, many people
10 leaving. And I have put in my applications to move up in the
11 workplace and that could happen at any moment during the time
12 of this jury.

13 And I'm working 40 hours a week from Monday through
14 Friday and the hours range from either -- usually from 6:00 to
15 10:00 in the morning, or they start at 3:00 to 11:00 at night.
16 And my manager told me that because there's going to be a big
17 change in where we are, like the workers that I'm in, that I
18 will -- she asked me if I could like train those people.
19 She's hiring at least like 10 more people, so she's asked one
20 of me -- or me to help her like train those people.

21 And another one is I am look -- I look over my
22 little brother while my mom is away and she usually goes out
23 like about two times a week. And she doesn't trust her -- she
24 doesn't trust him being along, and I'm supposed to like be
25 there and take care of him. Those are my two hardships.

1 THE COURT: Okay. Did you advise your employer that
2 you do have a Jury Summons?

3 PROSPECTIVE JUROR NO. 270: Yes. That's why I
4 scheduled for today. And due to the -- the short staff of
5 people, I will -- I -- I won't be able to like have someone
6 cover my shift if -- what's it called -- I can request more
7 days off, but they -- see, it's not really a -- I don't know
8 how to explain it. They're not really like lenient with it.

9 But I'm pretty sure they will due to this jury duty.
10 But I'll see about it.

11 THE COURT: All right. Thank you.

12 And ladies and gentlemen, just so you know, it is
13 against the law for anyone to be terminated from their
14 employment if they are selected as a juror in a case. So I
15 can assure you -- well, I would be very surprised that any
16 employer would even try to do that. We're not saying that
17 gentleman's employer would, I'm just saying it's against the
18 law. And I don't think any employer would attempt to have any
19 retribution against someone who's -- was selected as a juror.

20 Ma'am, we'll -- ma'am, in Seat 9, we'll get to you
21 in just a moment; okay? We -- I won't forget you.

22 Yes, sir?

23 PROSPECTIVE JUROR NO. 278: Yeah. My name is Juan
24 Pineda. Badge No. is 278. I have a problem with the high
25 pressure and I have to come back to the doctor on Thursday.

1 And the other problem, the language. So I don't understand
2 sometimes some words.

3 THE COURT: All right. And like I said, that was
4 going to be one of our questions coming up.

5 But thank you, sir, and we'll get back to you in
6 just one moment.

7 And now we'll go to the lady here.

8 Is there another one over here? There's -- oh, we
9 have a gentleman.

10 PROSPECTIVE JUROR NO. 090: Hi. My name is Bertoldo
11 Escamilla. My Badge No. is 090. I have issue with my
12 daughter. She's taking a class online right now and I have to
13 watch her. She's like six years old. So I have to tell her
14 when it's going to be the next class, like right now, I left
15 with my neighbor. She finish taking the class at 1:45.

16 THE COURT: All right.

17 PROSPECTIVE JUROR NO. 090: And also I have issues
18 with the language.

19 THE COURT: All right. Thank you, sir.

20 PROSPECTIVE JUROR NO. 038: Hi. I'm Kyong Fregeau,
21 No. is 038. And I had my eye surgery. It's (inaudible)
22 really bad. I (inaudible) see anything. So I didn't been
23 drive like almost a year. And -- and I had writing, reading,
24 speaking problem.

25 THE COURT: All right. Thank you, ma'am.

1 PROSPECTIVE JUROR NO. 038: Thank you.

2 THE COURT: Thank you.

3 Anyone else have an extreme hardship, if they were
4 selected as a juror in this case, besides the individuals we
5 have spoken to? I don't see any other hands.

6 Anyone besides -- oh, we have one more person.

7 PROSPECTIVE JUROR NO. 094: The name's Alfredo
8 Villegas, my Badge No. is 094. Don't know if it's an extreme
9 hardship, but I do have a Zoom interview at 2:00 p.m.

10 THE COURT: Is that today; sir?

11 PROSPECTIVE JUROR NO. 094: Today, yep.

12 THE COURT: Did you advise your -- I'm assuming a
13 future employer, let's hope, of your jury service today; sir?

14 PROSPECTIVE JUROR NO. 094: To be honest with you, I
15 forgot that I had jury duty today until like I just yesterday
16 when I'm like, you know, like I realized like, don't I have
17 jury duty? And then I just happened to see that it was today.
18 So, you know, this was just -- I didn't -- I didn't know that
19 I was supposed to come in today, but I guess --

20 THE COURT: All right.

21 PROSPECTIVE JUROR NO. 094: -- yesterday I looked
22 into it.

23 THE COURT: Okay. Sir, we will be taking a mid-
24 morning break. If you could call them during the break and
25 see if you could do the Zoom at the -- during the noon hour,

1 or perhaps mid-afternoon.

2 PROSPECTIVE JUROR NO. 094: All right.

3 THE COURT: We will accommodate their schedule with
4 yours; okay?

5 PROSPECTIVE JUROR NO. 094: All right.

6 THE COURT: Thank you, sir.

7 Anyone else?

8 All right. Anyone else that we have not spoken to,
9 has a language problem, language issue?

10 Marshal, I think there's -- by number 30 there.

11 PROSPECTIVE JUROR NO. 185: My name -- my name is
12 Joseph Lumuntad. Badge No. is 0185. And --

13 THE MARSHAL: (Inaudible).

14 PROSPECTIVE JUROR NO. 185: Oh. My name is Joseph
15 Lumuntad, Badge No. is 0185. And I don't (indiscernible)
16 English.

17 THE COURT: All right. What is your native
18 language, sir?

19 PROSPECTIVE JUROR NO. 185: Filipino.

20 THE COURT: Okay. How long have you lived in the
21 United States?

22 PROSPECTIVE JUROR NO. 185: About 14 years.

23 THE COURT: Four -- did you say 14?

24 PROSPECTIVE JUROR NO. 185: Yes.

25 THE COURT: And have you been able to understand

1 everything that's been stated so far?

2 PROSPECTIVE JUROR NO. 185: Not -- not, no.

3 THE COURT: Are you working now, sir?

4 PROSPECTIVE JUROR NO. 185: Yes, sir.

5 THE COURT: What type of work do you do?

6 PROSPECTIVE JUROR NO. 185: Coordinating in airport
7 wheelchair.

8 THE COURT: Okay. All right. Thank you, sir.

9 Ladies and gentlemen, I'm going to meet with counsel
10 just in the back hallway here, so if you can just stay in your
11 seats, please.

12 Counsel?

13 (Begin bench conference.)

14 THE COURT: All right. This is Judge Villani.

15 Each and every time someone speaks, we need to identify who's
16 speaking.

17 Let me just address some language issues real quick
18 here to see if there's an agreement by the parties.

19 We have Juror 038, Fregeau. I can't -- she has eye
20 surgery and also she had the language issue.

21 MR. ARNOLD: No objection.

22 MR. HART: No objection from Martin Hart.

23 THE COURT: Okay. I'm just handling language issues
24 right now. We had Bertoldo Escamilla, 090. He has a language
25 issue, but also has a six-year old child that she has to take

1 care of -- he has to take care of.

2 MR. ARNOLD: No objection.

3 MR. HART: No objection from Martin Hart.

4 THE COURT: Okay.

5 Language, 139, Ahmedin Mohamed, had a language
6 issue.

7 MR. HART: I believe him. No objection.

8 THE COURT: Mr. Arnold?

9 MR. ARNOLD: No objection.

10 MR. LEXIS: No objection.

11 THE COURT: Okay. Then we had Joseph Lumuntad,
12 0185, language issue.

13 MR. ARNOLD: No objection.

14 MR. HART: No objection.

15 THE COURT: Okay.

16 Then we had Juan Antonio Pineda, 278.

17 MR. LEXIS: No objection.

18 MR. HART: No objection.

19 THE COURT: Mr. Arnold?

20 MR. ARNOLD: 278?

21 THE COURT: 278.

22 MR. HART: He's the one who didn't understand what
23 we were saying (inaudible).

24 MR. ARNOLD: No objection.

25 THE COURT: Okay. So all the individuals that

1 identified a language issue, Mr. Arnold, you agree to excuse
2 them?

3 MR. ARNOLD: Yes, Your Honor.

4 THE COURT: Okay. And that's Mr. Hart, you agree to
5 excuse them?

6 MR. HART: Yes, Your Honor.

7 THE COURT: Mr. Lexis, you agree to excuse them?

8 MR. LEXIS: Yes, Judge.

9 THE COURT: The reason why I said it that way, just
10 so everyone's identified.

11 Is there anyone as far as the other hardships?

12 MR. LEXIS: Excuse me. She can't hear (inaudible).

13 THE COURT: Oh, okay.

14 MR. LEXIS: Judge, may I -- Chad Lexis for the
15 State. The only people I have objections to are the vaccine
16 people, I believe that they could reschedule those. I don't
17 think it has to be a specific date. And the individual that
18 had a Zoom meeting today, if it was that important to him, I
19 believe he would have addressed that prior than two hours
20 before his Zoom meeting.

21 So everybody else I have no objection to. Those
22 were the only individuals.

23 THE COURT: As far as the hardship?

24 MR. LEXIS: Yes. For the State.

25 THE COURT: Mr. Hart, how about you? (Inaudible).

1 MR. HART: Let's see. Who was Priest? I have him
2 down for, oh, moving? Is he moving now or is he --

3 THE COURT: What's the number?

4 MR. HART: Sorry. 006.

5 MR. ARNOLD: He's not moving until the 30th
6 (inaudible). He has to be done by the 23rd, though.

7 MR. LEXIS: The reason I had for -- this is Lexis
8 for the State. The reason I didn't have a problem with Priest
9 is because he also mentioned his daughter having surgery as
10 well.

11 MR. ARNOLD: I have no objection to excusing him.

12 MR. HART: I have no (inaudible) neither the
13 defendant (inaudible).

14 THE COURT: (Inaudible).

15 MR. HART: (Inaudible) intern.

16 THE COURT: (Inaudible).

17 MR. HART: (Inaudible).

18 THE COURT: The next one is --

19 MR. HART: Ciesiel --

20 THE COURT: -- Ciesiel, which is 087.

21 MR. HART: No objection.

22 THE COURT: Mr. Hart, please identify yourselves.

23 MR. HART: Mr. Hart, no objection.

24 MR. ARNOLD: Mr. Arnold, no objection.

25 MR. HART: Shulman, father, 092, no objection.

1 Hart.

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

3 THE COURT: Okay. The next one is 094, it's
4 Villegas-Ortiz (inaudible); is that correct?

5 MR. HART: I have no objection for --

6 THE COURT: We'll -- we'll hold off. We can
7 question her further; okay?

8 Now my (inaudible)?

9 THE COURT: We have COVID shots with (inaudible).
10 Lozano, 180.

11 MR. ARNOLD: Flight plans this Thursday. No
12 objection --

13 MR. HART: Yeah.

14 MR. ARNOLD: -- Mr. Arnold.

15 MR. HART: No objection, Mr. Hart.

16 THE COURT: Then we had Schlegel, 198.

17 MR. HART: With her grandkid. No objection, Hart.

18 MR. ARNOLD: No objection, Mr. Arnold.

19 MR. HART: Kruger, 202, no objection, Hart.

20 MR. ARNOLD: No objection, Mr. Arnold.

21 THE COURT: All right. Thank you.

22 Then we had 270, Mr. Rodriguez.

23 MR. HART: Did I miss that one?

24 MR. LEXIS: Yeah, work issues.

25 MR. ARNOLD: No objection, Mr. Arnold.

1 MR. HART: No objection, Hart.

2 THE COURT: Then we had Mr. Mercado, 286.

3 MR. HART: No objection, Hart.

4 MR. LEXIS: It's the cancer (inaudible).

5 MR. ARNOLD: Oh, cancer.

6 MR. HART: Yeah, the cancer guy.

7 MR. ARNOLD: No -- no objection, Mr. Arnold.

8 THE COURT: Then we have 297, Ring. Also a COVID
9 shot. We'll wait for them to make their phone calls.

10 MR. HART: Yeah.

11 THE COURT: Okay.

12 MR. ARNOLD: All right.

13 MR. HART: My client is about to wet herself.

14 THE COURT: Okay. All right.

15 MR. LEXIS: And, Judge, I don't know, did you
16 address the only one I -- maybe I missed it, 090, 17, the
17 child care and the class?

18 MR. HART: Yeah, we covered it.

19 MR. LEXIS: You got it?

20 THE COURT: Right.

21 MR. HART: Yeah.

22 MR. LEXIS: Yeah, okay. Okay, that (inaudible).

23 MR. HART: Six year old, I think.

24 THE COURT: We'll take a break.

25 I'll call out the people excused, then we'll take a

1 break.

2 (End of bench conference.)

3 THE COURT: Ladies and gentlemen, pre-COVID, if we
4 had issues to resolve I would just call the -- the attorneys
5 up to the bench in the regular courtroom, we could just hash
6 it out. But because of the social distancing, we have to
7 record everything. That's why we had to go in the hallway and
8 -- and resolve certain issues.

9 We're going to take a -- our mid-morning break here
10 in just one moment.

11 I'm going to advise the following individuals that
12 they have been excused from this -- from further questioning
13 for picking a jury.

14 So these individuals do not need to return after the
15 break. You do have my thanks for coming down and honoring
16 your jury summons.

17 008, Eugenea Horner is excused.

18 038, Kyong Fregeau is excused.

19 Steven Ciesiel, 087, is excused.

20 And counsel, please chime in if I've -- if I'm
21 making an error here. I'm trying to following through.

22 Escamilla, 090, is excused.

23 Shulman, 092, is excused.

24 Mohamed, 139, is excused.

25 Lozano, 180, is excused.

1 Lumuntad, 185, is excused.

2 Schlegel, 198, is excused.

3 Kruger, 202, is excused.

4 Ricardo Rodriguez, 270, is excused.

5 Antonio Pineda, 278, is excused.

6 Mercado, 286, is excused.

7 Now, ladies and gentlemen, there was other people
8 who raised their hand for hardship, and some of these people
9 are going to make some phone calls during the break. Also,
10 the attorneys may want to question you further on the
11 hardships. So we're not saying no or yes at this point, but
12 you're not excused until I officially identify you; okay?

13 So, ladies and gentlemen, we are going to take a
14 break in just one minute. When you -- first off, come back;
15 okay? Unless you've been excused, okay, you are under court
16 order to come back.

17 I think all the attorneys know this, and in my
18 courtroom I've had about 205 trials since taking the bench.
19 And on one occasion we had an individual who was not excused,
20 and after a break did not come back. We had to have a hearing
21 and we held him in contempt of court. And they did some jail
22 time.

23 Okay. I didn't like do it -- I didn't like doing it
24 in that case, and I never want to do that again. So please,
25 come back. We're going to get through this process. We're

1 going to select our jury. It's going to take place today and
2 we can move forward.

3 So please, you know, bear with us. So please come
4 back; okay?

5 So we're going to take a ten minute break. We'll
6 need you when you -- yes, Mr. Lexis?

7 (Court/Mr. Lexis confer at the bench.)

8 THE COURT: Yes, there's one other one, Mr. Priest,
9 006, you are excused.

10 All right. Ladies and gentlemen, when you come
11 back, you take the exact same seat you're in right now, so
12 look at your seat number and where you're at.

13 So ladies and gentlemen, it is now -- what time is
14 it?

15 THE CLERK: (Inaudible).

16 THE COURT: We'll come back at 10:20.

17 So ladies and gentlemen, during this recess, and
18 you're going to hear me give you this admonishment each and
19 every time we take a break, and also when you -- after we
20 select a jury, and during the trial, I will read this to you
21 every time we take a break, so I am required to do this.

22 During this recess, you must not discuss or
23 communicate with anyone, including your fellow jurors, in any
24 way regarding the case or its merits, either by voice, phone,
25 e-mail, text, Internet, or other means of communication or

1 social media. You're not to read, watch, or listen to any
2 news or media accounts or commentary about the case. You're
3 not to do any research such as consulting dictionaries, using
4 the Internet or using reference materials. You're not to make
5 any investigation, test the theory of the case, recreate any
6 aspect of the case, or in any other way to investigate or
7 learn about the case on your own. And you're not to form or
8 express an opinion regarding this case until it is submitted
9 to you.

10 So, ladies and gentlemen, we're going to take a ten
11 minute break. Take your personal items with you and we'll see
12 you back in ten minutes.

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

14 (Outside the presence of the prospective jurors.)

15 THE COURT: Officers, I think Ms. Clark -- or excuse
16 me, Ms. Oliver, Mr. Clark may need a break. Quick, fast and
17 in a hurry.

18 Counsel, after we come back from the break, I'm
19 going to have the District Attorneys or one of them explain
20 the nature of the case to the jurors, list the potential
21 witnesses, any relevant dates and locations, and I'll ask the
22 same from Mr. Arnold and Mr. Hart.

23 MR. ARNOLD: Okay.

24 MR. HART: Okay. And I noticed like the first one
25 up says he has a religious reason he can't serve (inaudible).

1 THE COURT: Mr. Wiggs?

2 THE COURT RECORDER: Are we off the record now,
3 Judge?

4 THE COURT: Off the record.

5 (Court recessed at 10:10 a.m., until 10:24 a.m.)

6 (Outside the presence of the prospective jurors.)

7 THE COURT: All right. Are we ready to go?

8 Bring the jury in.

9 (Inside the presence of the prospective jurors.)

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

11 THE COURT: All right. Welcome back, ladies and
12 gentlemen. Everyone have a seat. Thank you.

13 Ladies and gentlemen, before we go any further, I'm
14 going to have one of the representatives of the District
15 Attorney's Office who is in front of me to my left introduce
16 themselves, their co-counsel, and they're going to identify
17 you the nature of the charges that have been filed in this
18 case. This will not be an opening statement. It's -- they're
19 strictly going to state these are the types of charges we have
20 filed. Okay, that's all they're going to say.

21 They're going to advise you of any relevant dates
22 and locations, and then they will give you a list of potential
23 witnesses that may be called in this case. They may not call
24 all these witnesses, but these are potential witnesses.

25 We need to know if you are familiar with either the

1 attorneys, the -- the allegations contained in this case, or
2 any of the potential witnesses. Some of these witnesses may
3 be friends, neighbors, or co-workers, and we need to know if
4 any of you are, you know, familiar with them.

5 Next, I will turn to the attorneys in front of me
6 and to my right. They will identify themselves, the client
7 that they represent, and then if they have any relevant dates
8 or locations different than what the State has, they will
9 advise you of those dates and locations. They will also
10 advise you of any potential witnesses that they may call.

11 So again, please listen carefully to what they have
12 to say.

13 So, State, please go ahead.

14 MS. COLE: Good morning, everyone. My name is
15 Madilyn Cole and this is my co-counsel, Chad Lexis. We are
16 Deputy District Attorneys and we represent the State of
17 Nevada.

18 We are prosecuting this case, the State of Nevada
19 versus Veneshia Oliver and Darrell Clark. And in this case,
20 the defendants are charged with conspiracy to commit larceny,
21 conspiracy to commit burglary, residential burglary, invasion
22 of the home, burglary of a business, theft, fraudulent use of
23 credit or debit card, and attempt fraudulent use of credit or
24 debit card, robbery, coercion, possession of document or
25 personal identifying information, possession of credit or

1 debit card without cardholder's consent, possession of
2 burglary tools and carrying concealed firearm or other deadly
3 weapon.

4 Ladies and gentlemen, all of these events took place
5 from July through August 2020 of this past summer, and they
6 stem from a series of hotel room break-ins that happened on
7 the -- on the Strip, specifically, the properties in reference
8 are the Bally's, the Paris, and the Harrah's.

9 Other businesses and establishments that are
10 involved is the 7-Eleven, the Sbarros Pizza at Bally's, ARCO
11 and Target, all down there by the Strip.

12 And also, I have a list of names. Not all of these
13 people are going to testify. These are the names that are
14 associated with the case. But please listen carefully to see
15 if you recognize any of these names: Cisco Alemar. Desiree
16 Anathihan. Janeid Anif. Trey Arfuso. Emely Armenta.
17 Officer Arteaga. Dianne Bach. Brooke Bargholtz. Kate Berry.
18 Officer Brackin. Officer Brant-Garcia. Officer Butler.
19 Detective Byrd. Marchmont Cannon. David Carlson. Esther
20 Chae. Officer Clark. Officer Connors. Officer Cruz-Camacho.

21 A custodian of records from 7-Eleven on 4158 Koval
22 Lane by the name of Bobby Patel (phonetic). A custodian of
23 records at American Express. A custodian of records at ARCO
24 located at 209 E. Flamingo, Las Vegas, Nevada. A custodian of
25 records for Capital One. A custodian of records for Desert

1 Cab, specifically, James Methe, and Trey Arfuso.

2 A custodian of records for Sbarro at 3655 South Las
3 Vegas Blvd. A custodian of records for Walgreens located at
4 1180 East Flamingo, Las Vegas, Nevada. A custodian of records
5 for Letgo. A custodian of records for Caesar's Entertainment,
6 specifically, Tony Lemons.

7 A custodian of records for Facebook. A custodian of
8 records for Kabit. A custodian of records for Metro PCS and
9 T-Mobile. A custodian of records for Target located at 4001
10 South Maryland Parkway. A custodian of records for Visa.

11 William Dalia. Officer De Souza. Officer Diaz.
12 Officer Elizalde. Officer Ellis. Rebecca Finger. Officer
13 Frumkin. Officer Funes. Bertha Gerdeau. Heather
14 Gouldthorpe. Latoya Gustus. Officer Halm.

15 Officer Hanshew. Criselda Heather. Jason
16 Henkelmann. Officer Hoag. Raven Hough. Officer Jacobitz.
17 Bobby Johnson. Officer Johnson. Devonica (phonetic) Jones.
18 Elaine Knepp. Gary Krusinski. Michael Lee. Officer Lee.
19 Tony Lemons. Officer Leung. Officer Lewsader. Armando
20 Lopez.

21 Jewell Love. Officer Magana. Officer Manigault.
22 Detective Mann. Officer Mazzone. Bertha McLane. Marissa
23 Metro. Duwayne Mills. Officer Montablano. Officer O'Keefe.
24 Officer Paine. Johnathon Payne. Officer Perez. Officer
25 Pierce. Officer Reeder. Dorothy Stewart. William Strench.

1 Richard Tenhet. Officer Thi. David Travis. Richard
2 Vonfeldt. Inga Williams. Patricia Williams.

3 As well as Kathryn Aoyama. Gino Basilotta. James
4 Beattie (phonetic). Logan Bodily. Janel Brackin. Donna
5 Brant-Garcia. Trent Byrd. Kimberly Dannenberger. Mallory
6 Diehl. James Downing. Shawn Fletcher. Kostaki Fradageikus
7 (phonetic).

8 Chris Gandy (phonetic). Kellie Gauthier. Heather
9 Gouldthorpe. Samantha Halm. David Johnson. Craig King.
10 Anya Lester. Christian Lopez. Linda Manigault. David Mann.
11 Jamie Nordstrom (phonetic). Tabatha Paine. Allison Rubino.
12 And Kevin Skeeahan.

13 All right. Thank you, counsel.

14 Is anyone familiar with our two District Attorneys
15 here, please raise your hand.

16 No hands being raised.

17 Anyone familiar with the -- the alleged incidents
18 that are involved in this case, please raise your hand.

19 No hands being raised.

20 Anyone -- oh, we do have a hand here.

21 PROSPECTIVE JUROR NO. 004: I heard about it in the
22 news.

23 THE COURT: Hang on, sir. We're going to --

24 PROSPECTIVE JUROR NO. 004: Sorry.

25 THE COURT: We need you to come up to the

1 microphone.

2 Same thing. Your name and the last three numbers on
3 your badge.
4 Wiggs, 004.

5 PROSPECTIVE JUROR NO. 004: Wiggs, 004.

6 THE COURT: Yes, sir.

7 PROSPECTIVE JUROR NO. 004: I remember hearing about
8 this in the news.

9 THE COURT: Do you recall anything specific about
10 the case?

11 PROSPECTIVE JUROR NO. 004: Nothing specific.
12 Probably their pictures on the Internet.

13 THE COURT: And when was the last time you may have
14 seen something -- you may have seen something on the Internet?

15 PROSPECTIVE JUROR NO. 004: Probably when it
16 happened.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 004: Or after they were --

19 THE COURT: Well, these are allegations. I want to
20 -- and I'm going to mention that in just a few moments here.
21 These are strictly allegations. The charges that are filed
22 are strictly allegations by the State and the State has the
23 burden of proving the case beyond a reasonable doubt.

24 Okay, sir? But since last year, sir, have you seen
25 any -- any reports or heard anything about these?

1 PROSPECTIVE JUROR NO. 004: No.

2 THE COURT: Okay. The attorneys may have some
3 follow up questions for you.

4 PROSPECTIVE JUROR NO. 004: Okay.

5 THE COURT: But thank you, sir.

6 Anyone else? Again, anyone else familiar with any
7 of the witnesses, the State identified?

8 It looks like no hands being raised.

9 All right. Next up, Mr. Arnold, please introduce
10 yourself, your -- your client, any relevant dates, locations,
11 and any potential witnesses that you may call.

12 MR. ARNOLD: Good afternoon -- well, good morning,
13 everyone. My name is Carl Arnold. This is my client Darrell
14 Clark who I have the pleasure of representing.

15 All the relevant witnesses will be called by the
16 State. Thank you very much.

17 THE COURT: All right. Thank you.

18 Anyone familiar with Mr. Arnold or with Mr. Clark?

19 It appears that no hands are being raised.

20 Mr. Hart, same for you.

21 MR. HART: Good morning. My name is Martin Mart.
22 And I represent Ms. Oliver here, Veneshia Oliver. The only
23 other potential witness would be Toby Caperon (phonetic).

24 THE COURT: All right. Thank you, Mr. Hart.

25 Anyone familiar with Mr. Hart or Ms. Oliver, or the

1 potential witness that Mr. Hart identified? Please raise your
2 hand.

3 All right. No hands being raised. Thank you,
4 ladies and gentlemen.

5 Ladies and gentlemen, through this process, either
6 my questions or some of the questions that the attorneys may
7 ask you are going to look to see if you have any bias or
8 prejudice in this case.

9 The reality is, we all have bias and prejudices. We
10 all have different backgrounds, different family values,
11 obviously, different parents, so we all have those types of
12 bias and prejudices.

13 An example I always give in a criminal case is
14 regarding a civil case, because I don't want to talk about
15 other criminal cases.

16 In civil cases, sometimes people think that there's
17 too many lawsuits being filed. I'm not saying that's right or
18 wrong or whatever, but some people have that opinion. So that
19 might be a bias and prejudice that that person would have.
20 And we had someone in a civil case that I conducted and they
21 had that bias and prejudice.

22 And after going through the questioning process,
23 they understood and they agreed that although they have that
24 belief, that perhaps too many lawsuits are being filed, they
25 did admit, after thinking about it, that that doesn't mean

1 that some cases are not justified. That some cases should not
2 be brought to the court system.

3 And after going through the process, they understood
4 and they were -- they said that they would be able to put
5 aside that bias and prejudice and base whatever decision they
6 may make on the specific facts of our case. And they did,
7 they said that, and lo and behold they were selected and they
8 did serve.

9 And so when you talk about bias and prejudice, it
10 can be all areas, you know, of you know, the case or -- or of
11 our, you know, community at this point; okay? The bottom line
12 is, can you put those aside and be fair to both sides. That's
13 what we're looking at.

14 Since this is a criminal case, the -- our two
15 prosecutors here have the burden of proving the charges. What
16 counsel just stated as far as locations and witnesses and the
17 type of charges, those are allegations. Allegations are not
18 evidence. Allegations do not prove anything.

19 Evidence in any case comes from the witness stand.
20 They will call witnesses. They will be sworn under oath.
21 They will testify. The defense attorneys may cross-examine
22 them. And it's up for the jury to decide whether or not the
23 State has proved the case beyond a reasonable doubt.

24 The defense has absolutely no burden to call any
25 witnesses, or to present any evidence. The reason for that

1 rule is, the first rule, the State, the prosecutors, bear the
2 burden of proving the case beyond a reasonable doubt. If they
3 fail to do that, then if you are selected as a juror, it'd be
4 your duty to vote not guilty if they fail to prove the case
5 beyond a reasonable doubt. If they do prove the case beyond a
6 reasonable doubt, then you would vote accordingly; okay?

7 Does anybody have any trouble, any problem with that
8 concept of our judicial system, that the State must prove the
9 case beyond a reasonable doubt? Any hands?

10 All right. It appears that no hands are being
11 raised.

12 Also ladies and gentlemen, at the end of the trial,
13 whether it's a civil or criminal case, the Judge will read to
14 you the jury instructions. Jury instructions are the laws
15 that apply to a particular case. And I assure you that the
16 jury instructions that I read to you are, in fact, the laws
17 that will apply to this case. The laws of the State of
18 Nevada, the United States of America, our statutory laws, if
19 any, relevant -- if any, if they are relevant to this case, I
20 will give those to you.

21 And if you are selected as a juror, it will be your
22 duty to apply the facts as you find them to the laws that I
23 give you of the case and then make your decision; okay?

24 Anyone have any problem with that concept, of
25 following the law and applying the law to the facts of the

1 case? Please raise your hand.

2 All right. No hands are being raised.

3 Now, similar to what I just mentioned, like I said,
4 I will give you the law that applies to this particular case,
5 and it is your duty to follow the law. Now, you may disagree
6 with a particular law. But if you are a juror, you still have
7 to follow the law in this case.

8 For example, we may say, well, you know, this
9 particular road should have a speed limit of 45 miles an hour
10 even though it says 35, and you might think, well, I don't
11 have to drive 35 because it's an industrial area, and why
12 can't I drive 45. And maybe you drive down that street and
13 you're driving 45 miles an hour. You're not following the
14 law.

15 But in this case, if you are a juror, you do follow
16 -- you need to follow the law that I give you. We don't give
17 you the law in advance of the case because we haven't heard
18 any evidence. Remember, the allegation -- all we have is
19 allegations. Evidence comes from the witness stand,
20 individuals called to testify, and any exhibits admitted into
21 evidence. That's the evidence in the case that you consider.

22 And so unfortunately, like I said, I can't tell you
23 all the facts of the case. I don't know them either. I
24 haven't heard a single witness in this case. You haven't
25 either. But even with that understanding, is there anyone

1 here who feels that they could not follow the law that I give
2 you in this case? Any hands being raised?

3 There are no hands being raised in this matter.

4 All right. Thank you.

5 Now, ladies and gentlemen, there are some
6 individuals that talked about some potential hardships. We
7 had some about the vaccine and some other issues, and I asked
8 those individuals to, you know, see if they could speak with
9 the appropriate people during the break, and we'll get to
10 those individuals in due course.

11 Everyone should have on your -- on your chair when
12 you came in a sheet of questions here. All right? And what
13 we're going to do is, we're just going to go down the list.

14 Number one is Mr. Anthony Wiggs, 004. And, sir, if
15 you can approach the microphone and just go down the list.
16 You can either call it off by number, or like for example,
17 number one says, how long have you lived in Clark County. So
18 you can just say, you know, you've lived here "x" number of
19 years. Then just go down to number two, number three,
20 etcetera.

21 Now, at certain times during times during your
22 answers, sir, I may ask some follow-up question for you; okay?
23 And so, please -- please bear that in mind for all of you
24 others. Please look at your questions there and study those
25 and we can get through this process a lot quicker.

1 Now, after we go through this sheet of paper, we're
2 going to ask each and every one of you to answer these
3 questions. I'm going to open up the questioning to the
4 attorneys. They may ask you some general questions about
5 serving as a jury, and then they may follow up with perhaps
6 some specific questions in relationship to the answers you've
7 given; okay?

8 So please listen carefully.

9 And so, Mr. Wiggs, at 004, if you can go down that
10 list please, sir.

11 PROSPECTIVE JUROR NO. 004: I've lived in Clark
12 County for two-and-a-half years. I have an Associates Degree
13 in Nursing. I'm a Registered Nurse. I'm about to get married
14 in four months.

15 THE COURT: What does your fiancé do for a living,
16 sir?

17 PROSPECTIVE JUROR NO. 004: She's an administrator
18 at an elementary school.

19 THE COURT: All right. Thank you.

20 PROSPECTIVE JUROR NO. 004: I have two children, 18
21 and 21. And they are both cocktail waitresses.

22 Number 6 is yes. A, yes. B, sometimes. C, depends
23 on the issue.

24 THE COURT: Okay. And what type of crime were you a
25 victim of, sir?

1 PROSPECTIVE JUROR NO. 004: It says, me or anyone
2 close to me.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 004: So --

5 THE COURT: What type of crime?

6 PROSPECTIVE JUROR NO. 004: It was an attack, like
7 an assault.

8 THE COURT: Okay. Was that a friend or a family
9 member?

10 PROSPECTIVE JUROR NO. 004: In my lifetime, both.

11 THE COURT: Okay. Here in Clark County, Nevada?

12 PROSPECTIVE JUROR NO. 004: Never.

13 THE COURT: Okay. And how long ago were those
14 situations, sir?

15 PROSPECTIVE JUROR NO. 004: 15, 20 years ago.

16 THE COURT: All right. Thank you. Go ahead, sir.

17 PROSPECTIVE JUROR NO. 004: Number 7, yes.

18 THE COURT: What type of crime, sir?

19 PROSPECTIVE JUROR NO. 004: Credit card fraud.

20 THE COURT: And who was accused of that crime, sir?

21 PROSPECTIVE JUROR NO. 004: A family member of mine.

22 THE COURT: Okay. Go ahead, sir.

23 PROSPECTIVE JUROR NO. 004: How I feel it was
24 handled, I guess the laws are the laws. But I don't feel
25 they're all handled fairly.

1 I've never served as a juror before.

2 Number 9 is have a I heard about the trial? I guess
3 I don't understand the question. Have I heard about the
4 people being charged? Is that the question?

5 THE COURT: Yes, sir.

6 PROSPECTIVE JUROR NO. 004: Yes, I have.

7 THE COURT: And now that you've mentioned, perhaps
8 on the Internet a year ago --

9 PROSPECTIVE JUROR NO. 004: Um-h'm.

10 THE COURT: -- is that correct?

11 PROSPECTIVE JUROR NO. 004: Um-h'm.

12 THE COURT: And you don't recall anything specific,
13 sir?

14 PROSPECTIVE JUROR NO. 004: No. I just remember the
15 pictures.

16 THE COURT: Okay. All right.

17 PROSPECTIVE JUROR NO. 004: And it being in the
18 news.

19 THE COURT: All right. Thank you, sir.

20 PROSPECTIVE JUROR NO. 004: Yeah, I don't feel like
21 I -- I feel like it would be difficult for me to sit as a
22 juror.

23 THE COURT: And why is that, sir?

24 PROSPECTIVE JUROR NO. 004: I don't want to put
25 anybody in prison because I don't know their -- their

1 background or their social history.

2 THE COURT: Okay. First off, and that's a -- I
3 appreciate that comment, sir.

4 Ladies and gentlemen, I will advise you, and this
5 will also be a jury instruction in this case, that during your
6 determination is strictly for whether or not the State has
7 proved the case beyond a reasonable doubt. That is your job.

8 Only, and only if the defendants are found guilty of
9 any other charges, is there a sentencing, and that is strictly
10 up to the Court, myself. Your sole job is to make a
11 determination as to whether or not the State has proved this
12 case beyond a reasonable doubt.

13 Do you understand that, sir?

14 PROSPECTIVE JUROR NO. 004: Yeah. And I think that
15 would still make it difficult for me.

16 THE COURT: Okay. Would it be -- would it make it
17 impossible for you to be fair in this case?

18 PROSPECTIVE JUROR NO. 004: It would make it
19 impossible.

20 THE COURT: All right. Continue on, sir.

21 PROSPECTIVE JUROR NO. 004: Number 10, I can't be
22 fair and impartial to both sides because of life experiences
23 I've had.

24 THE COURT: Have you had any situation with the lady
25 and gentleman --

1 PROSPECTIVE JUROR NO. 004: Okay.

2 THE COURT: -- accused of the crime here?

3 So I'm just trying to understand, how would the
4 allegations against them, that have nothing to do with you,
5 impact your ability to be fair?

6 PROSPECTIVE JUROR NO. 004: I think it's the system
7 overall in general.

8 THE COURT: Okay. Every single case, sir?

9 PROSPECTIVE JUROR NO. 004: Yes.

10 THE COURT: Is that right? Okay.

11 Continue on, sir.

12 So I think that's all of it. Is that correct?

13 PROSPECTIVE JUROR NO. 004: I think that's all of
14 them.

15 THE COURT: Thank you, sir.

16 All right. Next up is Edith Fernandez, 029.

17 PROSPECTIVE JUROR NO. 029: Okay. Edith Fernandez,
18 029. I've lived in Clark County off and on for about 40
19 years. I have a Ph.D. in higher education student
20 development. I am employed. I'm a vice president at Nevada
21 State College. I have a significant other who is an English
22 professor at the College of Southern Nevada.

23 I have two children, age 16 and 14. I have -- I
24 have been a victim of crime, but in Mexico, not in the United
25 States. And I have a close co-worker, my assistant, who was a

1 victim of a crime, sexual assault. The crime in Mexico was
2 reported. The sexual assault of my co-worker was reported.
3 That went to trial. My feelings about the criminal justice
4 system and that trial was mixed.

5 And I've been accused of stealing when I was a
6 teenager, about five times throughout my life. Nothing that
7 was reported to police. I never have served as a juror. I
8 have not heard anything about this trial. And in my opinion,
9 yes, I can base my verdict solely on the evidence presented.
10 And I do believe I can be fair and impartial to both sides.

11 THE COURT: All right. Thank you very much, Ms.
12 Fernandez.

13 Ms. Charlene Benon, 030.

14 PROSPECTIVE JUROR NO. 030: I've lived in Clark
15 County since 1998. I went to UNLV and got my degree in
16 criminal justice. I currently conduct background checks for
17 employment. My significant other is the assistant director of
18 a medical dispensary, medical marijuana dispensary.

19 I have two children. My son is 21. He is a driver.
20 My daughter is 18 and she's a college student.

21 I don't have anyone close to me that's been the
22 victim of a crime. My brother has been accused of multiple
23 crimes. He's been in and out of prison since he was about 18.

24 THE COURT: Is that -- is he --

25 PROSPECTIVE JUROR NO. 030: Property crimes.

1 THE COURT: Were those situations here in Clark
2 County, Nevada?

3 PROSPECTIVE JUROR NO. 030: They were not. No.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 030: California.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR NO. 030: I've never served as a
8 juror. I don't know anything about this trial. I do feel I
9 could base my verdict solely on the evidence presented. And I
10 could be fair and impartial to both sides.

11 THE COURT: All right. Thank you very much.

12 John, was it Meisler, 031.

13 PROSPECTIVE JUROR NO. 031: I have lived in Clark
14 County for six-and-a-half years. I got my bachelor's in
15 Sports Marketing and Management. And I am employed in hotel
16 sales. I am married. And my partner works in youth sports
17 technology application for Game Changer.

18 I have a five-and-a-half month old. I have never
19 been a victim or known anybody a victim of a crime, but I have
20 known someone accused of a crime.

21 THE COURT: And what type of crime, sir?

22 PROSPECTIVE JUROR NO. 031: Possession of marijuana
23 and firearms.

24 THE COURT: Is that here in Clark County, Nevada?

25 PROSPECTIVE JUROR NO. 031: California.

1 THE COURT: Okay. Thank you.

2 PROSPECTIVE JUROR NO. 031: The situation was
3 handled justly. I've never served on a jury before. Nothing
4 I've heard about the trial. And yes, I can definitely come up
5 with a verdict based on the evidence. And I can be fair and
6 impartial.

7 THE COURT: All right. Thank you, sir.

8 PROSPECTIVE JUROR NO. 031: Thank you.

9 THE COURT: Jose Esparza, 033.

10 PROSPECTIVE JUROR NO. 033: Good morning. My name
11 is Jose Esparza. 033 is my badge number. Been in Clark
12 County for 29 years. I graduated from MLX (phonetic) as an
13 aviation mechanic. Currently employed as a server in a
14 restaurant. No significant other. No children. Never been a
15 victim of a crime, known anyone been accused of a crime.

16 Have not served as a juror. Have not heard anything
17 about the trial as well. And I can base my verdict solely on
18 the evidence presented during the trial. And I can be fair
19 and impartial to both sides.

20 THE COURT: All right. Thank you, sir.

21 PROSPECTIVE JUROR NO. 033: Thank you.

22 THE COURT: David Acevez, 035.

23 PROSPECTIVE JUROR NO. 035: Hello. My name is David
24 Acevez. My badge number is 0035. I graduated from high
25 school. I lived in Clark County for 16, about 16 years. I'm

1 currently employed. I am the supervisor for a management
2 company, property management company. I am married. My wife
3 is stay at home wife.

4 I don't have childrens. My sister-in-law was -- she
5 was attacked and somebody broke into -- I'm sorry -- into her
6 home and she was attacked in our home -- my home.

7 THE COURT: Sir, was that here in Clark County,
8 Nevada?

9 PROSPECTIVE JUROR NO. 035: Yes.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 035: The crime was reported.
12 The person was caught. And I feel the situation was handled
13 properly.

14 Seven, is no. Eight, is no. Nine, is no. Ten, is
15 yes. And 11, is yes.

16 THE COURT: All right. Thank you, sir.

17 PROSPECTIVE JUROR NO. 035: Thank you.

18 THE COURT: Amy Scholes, 048.

19 PROSPECTIVE JUROR NO. 048: My name is Amy Scholes,
20 048. I've lived in Clark County for 30 years. I have a high
21 school graduate with some college classes in accounting. I am
22 employed as a project coordinator. I am married. And my
23 husband is in construction. I have two children, 31 and 34.
24 One is a stay-at-home mom and the other is in IT.

25 I have had somebody close to me the victim of a

1 crime. It was reported. The person was caught. I do feel
2 that it was handled satisfactorily.

3 THE COURT: And ma'am, what type of crime was that?

4 PROSPECTIVE JUROR NO. 048: My first husband was a
5 police officer killed in the line of duty by a drunk driver.

6 THE COURT: Okay. Was that here in Nevada?

7 PROSPECTIVE JUROR NO. 048: No, California.

8 THE COURT: Okay. Thank you.

9 PROSPECTIVE JUROR NO. 048: No, have not been
10 accused or anybody accused of a crime that I know.

11 I have never served as a juror. And I have not
12 heard about the trial. And I believe I could make a fair
13 opinion and a verdict. I can be impartial to both sides.

14 THE COURT: All right. Thank you very much.

15 Patricia Andrade, 051.

16 PROSPECTIVE JUROR NO. 051: Good morning. I'm
17 Patricia Andrade, 051.

18 I've lived here for 40 years. I am a licensed nail
19 technician. Also, I have two jobs. I recently got a second
20 job, because I'm the sole provider now for my family since I'm
21 recently divorced. I do have two children and one adopted,
22 25, 30 and 21. I have been a victim of a crime.

23 THE COURT: Oh, ma'am, the -- your adult children,
24 are they employed?

25 PROSPECTIVE JUROR NO. 051: Yes.

1 THE COURT: And what type of work do they do?

2 PROSPECTIVE JUROR NO. 051: Two of them right now
3 are off due to COVID. So they're on unemployment. And my
4 other one, he works with his father.

5 THE COURT: And what's that?

6 PROSPECTIVE JUROR NO. 051: Construction.

7 THE COURT: Okay. Thank you.

8 PROSPECTIVE JUROR NO. 051: Yes. Handyman.

9 I have been a victim of identity theft. Also, purse
10 snatching and car theft.

11 THE COURT: And how long ago were those situations?

12 PROSPECTIVE JUROR NO. 051: Like five years ago.

13 THE COURT: And was that here in Nevada?

14 PROSPECTIVE JUROR NO. 051: Yes.

15 THE COURT: Okay. Thank you.

16 PROSPECTIVE JUROR NO. 051: I am going through a
17 case with my mom right now for -- she was also a victim of
18 theft from -- it was a big case. We did win. So but it's
19 still going through the process right now.

20 THE COURT: Was that a civil case you're talking
21 about?

22 PROSPECTIVE JUROR NO. 051: Yeah.

23 THE COURT: Is that a yes?

24 PROSPECTIVE JUROR NO. 051: Yes.

25 THE COURT: Okay. Thank you.

1 PROSPECTIVE JUROR NO. 051: Um --

2 THE COURT: And, ma'am, on your situations, I don't
3 know if I missed this, it says, was the individual caught who
4 committed those crimes; do you know?

5 PROSPECTIVE JUROR NO. 051: No, they weren't caught.

6 THE COURT: Okay. Thank you.

7 PROSPECTIVE JUROR NO. 051: No. Sorry.

8 I've never been a juror. Number 9, no. Ten, yes.
9 Eleven, yes.

10 THE COURT: All right. Thank you.

11 Marisol Martin, 054.

12 PROSPECTIVE JUROR NO. 054: Good morning.

13 THE COURT: Good morning.

14 PROSPECTIVE JUROR NO. 054: Marisol Martin, 054.

15 I've lived in Clark County for four years. I have a bachelors
16 in electrical engineering and physics. I am a senior analyst
17 for a mid-size engineering firm here in Vegas. I am married
18 to a flight test engineer who also works at the same
19 engineering firm.

20 I do not have any children. I've had my truck
21 vandalized in Baltimore, and a couple of property stolen here
22 in Vegas. That's last year. And my husband has had his car
23 vandalized and broken into here in Vegas about three years
24 ago. I don't know if the people were ever caught. I was not
25 informed. But we always reported it. And so I don't have any

1 opinion on how the situation was handled.

2 I and nobody I know has been accused of a crime. I
3 have never served on jury duty. There's nothing for 9. And
4 yes on 10 and 11.

5 THE COURT: All right. Thank you.

6 Jose Castaneda, 057.

7 PROSPECTIVE JUROR NO. 057: Hi. My name is Jose
8 Castaneda. I've been in Vegas for 22 years. High school
9 diploma. I'm a supervisor for a construction company. I'm
10 married, home wife. Three kids. Two of them are police
11 officers, one of them is in high school.

12 THE COURT: And sir, you said you had some children
13 that are police officers?

14 PROSPECTIVE JUROR NO. 057: Yes.

15 THE COURT: Are they officers here in Clark County,
16 Nevada?

17 PROSPECTIVE JUROR NO. 057: Yes.

18 THE COURT: Okay. Do you know, are they with Metro,
19 or North Las Vegas?

20 PROSPECTIVE JUROR NO. 057: Yeah, they're with
21 Metro.

22 THE COURT: Okay. Do you know what Department they
23 work in?

24 PROSPECTIVE JUROR NO. 057: I know they're in
25 Summerlin.

1 THE COURT: Okay. Are they patrol officers or are
2 they Detectives --

3 PROSPECTIVE JUROR NO. 057: Yes.

4 THE COURT: Patrol officers? Okay. Thank you, sir.

5 PROSPECTIVE JUROR NO. 057: Six, is no. Seven, is
6 no. I have never served as a juror. I haven't heard anything
7 about the trial. And yes, and yes, on the last questions.

8 THE COURT: All right. Thank you, sir.

9 Debrorah Smith, 058.

10 PROSPECTIVE JUROR NO. 058: My name is Deborah
11 Smith. I've lived in Clark County for 22-and-a-half years. I
12 have some college, no degree. I am an -- I am employed at a
13 bank. And I am an executive administrator there. I'm not
14 married. I have one daughter who's 41. She is a UX
15 (phonetic) Designer in technology for an advertising agency.

16 I have been victim of a crime, and close to someone
17 who has been. I -- our houses were -- both my brother and I,
18 our houses have been burglarized in Oregon and here.

19 THE COURT: Okay. How long ago were those
20 situations?

21 PROSPECTIVE JUROR NO. 058: The one here, for
22 myself, our home was about 12 years ago. There was no one
23 caught. And the situation was just dropped, I guess. No one
24 I know has been accused of a crime. I've gotten to this level
25 as a juror, but that was dismissed, here in Clark County.

1 And I have not heard anything about this trial. I
2 do believe, yes, for 10. And yes, for 11.

3 THE COURT: All right. Thank you, ma'am.

4 Richard White?

5 PROSPECTIVE JUROR NO. 085: My name is Richard
6 White. My number is 085. I've been in Clark County for three
7 years. I'm a high school graduate. I am retired. My wife is
8 retired. No children. I have a family member who was a
9 victim of a crime. And I have a family member who was accused
10 of a crime.

11 THE COURT: And sir, the victim of the crime, what
12 type of crime was that?

13 PROSPECTIVE JUROR NO. 085: It was assault.

14 THE COURT: And how long ago?

15 PROSPECTIVE JUROR NO. 085: Oh, that was 30 years
16 ago.

17 THE COURT: Was that here in Nevada?

18 PROSPECTIVE JUROR NO. 085: No.

19 THE COURT: Okay. Thank you, sir.

20 Was the person ever caught or --

21 PROSPECTIVE JUROR NO. 085: I don't know the
22 particulars --

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 085: of either -- of either
25 one of those. I've never been a juror before. And 9, 10 and

1 11, yes.

2 THE COURT: All right. Thank you, sir.

3 Next up is Alfredo Villegas-Ortiz, 094.

4 And sir, before the break, you told us that you had
5 a Zoom, I guess, interview or meeting this afternoon. And I
6 don't know if you were able to speak with the -- the potential
7 employer as far as rescheduling or having it at noon, or
8 perhaps mid-afternoon?

9 PROSPECTIVE JUROR NO. 094: Correct.

10 So Alfredo Villegas, 094. So I was able to
11 reschedule for a later time.

12 THE COURT: All right.

13 PROSPECTIVE JUROR NO. 094: So, yeah.

14 THE COURT: All right. Thank you, sir.

15 PROSPECTIVE JUROR NO. 094: Well, thank you.

16 All right. So I've lived in Las Vegas for all my
17 life, 27 years. I graduated Desert Pines High School.
18 Currently, I am not employed. Let's see, I'm married. My
19 wife does -- I don't -- I don't know her position in the
20 company, but she works for Optim (phonetic).

21 THE COURT: Is that a medical --

22 PROSPECTIVE JUROR NO. 094: Yeah.

23 THE COURT: -- company? Okay.

24 PROSPECTIVE JUROR NO. 094: Yeah.

25 THE COURT: Medical Services? Thank you.

1 PROSPECTIVE JUROR NO. 094: Let's see, I have a nine
2 year old daughter.

3 I've been, let's see, a victim of a car break-in.

4 THE COURT: And how long ago was that, sir?

5 PROSPECTIVE JUROR NO. 094: I think it was -- it was
6 last year.

7 THE COURT: Was that here in Nevada?

8 PROSPECTIVE JUROR NO. 094: Yeah. Right here in
9 Nevada.

10 THE COURT: Okay. Thank you.

11 PROSPECTIVE JUROR NO. 094: And they were never
12 caught and it was dropped. And then I had a family member who
13 -- my father, whose car was -- truck stolen. And they never
14 were caught, the people that, I guess, stole his truck.

15 THE COURT: Was that also here in Nevada?

16 PROSPECTIVE JUROR NO. 094: Also here in Nevada.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 094: Yep.

19 THE COURT: Thank you, sir.

20 PROSPECTIVE JUROR NO. 094: Let's see, on 6, on C, I
21 felt like the situation, I mean, how could they, you know,
22 catch them. You know, it's -- I guess the people were, you
23 know, pretty smart about, you know, that.

24 Seven, all right. I'll -- I guess I'm on 8 then.

25 THE COURT: So no on 7, sir?

1 PROSPECTIVE JUROR NO. 094: Oh, accused of a crime.

2 Oh, no. On 8, I've never served as a juror. Never
3 heard about this trial before. Ten, yes. And 11, yes.

4 THE COURT: All right. Thank you very much, sir.

5 Candace, was it Krubsack? Or Krubsack? I'm sorry.

6 PROSPECTIVE JUROR NO. 099: It's okay.

7 Candace Krubsack, 099.

8 THE COURT: And ma'am, I think we had spoke to you
9 about perhaps your second -- I think it was your second shot
10 that you need. And like I said, I'm not going to get involved
11 in any medical decisions, and that's why I think you and a
12 couple other people had that issue.

13 And that's why I asked if the -- you and the other
14 individuals would contact the facility and see what the time
15 frame was and see if you could reschedule. But like I said, I
16 am -- don't want to do anything that would impact your health.

17 PROSPECTIVE JUROR NO. 099: So they recommend that I
18 still get it tomorrow, but they said I could come in as early
19 as 8:30 or as late at 6:00.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 099: So they said as long as
22 I'm on the schedule tomorrow, that I could come before or
23 after --

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 099: -- jury duty and it

1 should be fine.

2 THE COURT: All right. And like I said, if you are
3 selected as a juror, we will, I guarantee you, we will stop
4 either right at 5:00 or before 5:00.

5 PROSPECTIVE JUROR NO. 099: Okay.

6 THE COURT: Okay? Well, thank you, ma'am. And I
7 appreciate you calling.

8 PROSPECTIVE JUROR NO. 099: Perfect.

9 So I've lived in Clark County for six-and-a-half
10 years. I'm currently in school getting my Bachelors in
11 Business Administration in HR Management. I'm employed part-
12 time at a cheer gym. I'm married. My husband works. He's a
13 government contractor at Nevada Test Site.

14 I have two children, 16 and 21. My 21-year-old
15 works for T-Mobile. I do have people close to me that have
16 been a victim of a crime. The only one in Nevada was an
17 assault, and it's actually in court now.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 099: So the person was
20 caught. But they haven't resolved anything yet.

21 THE COURT: Okay. When you -- is it set for trial
22 or do you know?

23 PROSPECTIVE JUROR NO. 099: It's the pretrial is
24 actually today.

25 THE COURT: Okay. Were you a witness to that

1 situation?

2 PROSPECTIVE JUROR NO. 099: No.

3 THE COURT: Okay. And do you think that that
4 situation would have any impact on your ability to be fair in
5 this case if you were selected?

6 PROSPECTIVE JUROR NO. 099: I don't.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 099: They knew the person
9 that assaulted them, so it's a little different.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 099: No, nobody close to me
12 has been accused of a crime. I've never served as a juror
13 before. There's nothing I've heard about the trial that makes
14 me feel I wouldn't be able to sit as a juror. I do feel yes
15 to 10 and 11.

16 THE COURT: All right. Thank you very much.

17 Is it Jeannette, is it Maass?

18 PROSPECTIVE JUROR NO. 101: Yes.

19 THE COURT: And that's 101.

20 PROSPECTIVE JUROR NO. 101: Jeannette Maass, 0101.

21 I've lived in Clark County for 20 years. I have a
22 bachelors degree in electronic engineering. I am employed. I
23 work for Morgan & Morgan Law Firm as an intake specialist. I
24 do have a significant other that is retired. I do not have
25 any children. You know, I had my car broken in years ago here

1 but, you know, I didn't report it or anything.

2 THE COURT: Was that here in Nevada?

3 PROSPECTIVE JUROR NO. 101: Yeah.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 101: Number 7 is yes. My
6 brother. And, you know, I just look at it like you do the --
7 you know, he got what was coming to him.

8 THE COURT: Okay. And what type of crime was he
9 accused of?

10 PROSPECTIVE JUROR NO. 101: He was in possession of
11 stolen merchandise.

12 THE COURT: And was that here in Nevada?

13 PROSPECTIVE JUROR NO. 101: No, that was in
14 California.

15 THE COURT: All right. Thank you.

16 PROSPECTIVE JUROR NO. 101: I've never been a juror.
17 I have not heard about anything about this case. And then
18 number 10 is yes, 11 is yes.

19 THE COURT: All right. Thank you very much.

20 PROSPECTIVE JUROR NO. 101: Um-h'm.

21 THE COURT: Ann McCormack, 118.

22 PROSPECTIVE JUROR NO. 118: Thank you.

23 Ann McCormack, Juror No. 0118. Clark County, come
24 June, 33 years. I have a diploma in the accounting as well as
25 a minor in data processing. I am fully employed as accounting

1 auditor, as well as secretary to the owner of the company. I
2 also am a senior tax advisor.

3 I am not married. I have no children. I have been
4 a victim of a crime and counting five times.

5 THE COURT: Okay. What type of crimes, ma'am?

6 PROSPECTIVE JUROR NO. 118: My -- the first one, it
7 -- I don't know what you would label it. The guy called me on
8 the phone saying he was going to come over and shoot me if I
9 hung up the phone. The second one, I had a burglary in my
10 home. I had -- I've had two cars stolen, and I've had one car
11 broken into where my radio was taken, but I didn't bother
12 reporting that because --

13 THE COURT: Ma'am, were all those situations here in
14 Nevada?

15 PROSPECTIVE JUROR NO. 118: All of them were here in
16 Nevada. Yes, sir.

17 THE COURT: Okay. All right. And about how long
18 can you tell us how long -- how long ago those situations
19 occurred?

20 PROSPECTIVE JUROR NO. 118: One was, I believe, the
21 first one was before 1996. They did catch the gentleman. I
22 did testify in court twice. I was asked to testify a third
23 time but I guess they made a deal because they never called me
24 back for that.

25 The house burglary, I reported it. They were never