

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN WILLIAMS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal from a Judgment of Conviction in Case Number CR20-0630B
The Second Judicial District Court of the State of Nevada
The Honorable Kathleen M. Drakulich, District Judge

JOINT APPENDIX VOLUME FOUR

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24

1 RENO, NEVADA -- 4/19/21 -- 8:06 A.M.

2 -o0o-

3 THE COURT: Thanks, everyone. Please be
4 seated. You may re-call your witness.

5 MR. PRENGAMAN: Sergeant McNeely.

6 CROSS-EXAMINATION

7 BY MS. HICKMAN:

8 Q. Good morning, Sergeant McNeely.

9 A. Good morning.

10 Q. On Friday right before we broke for the
11 weekend, the state asked you about the laws of the
12 state of Nevada. Do you remember that?

13 A. Yes.

14 Q. And the question was, Do the laws of the
15 state of Nevada constrain Sparks Police Department
16 in a pursuit. Do you remember that?

17 A. Yes.

18 Q. And what was your answer?

19 A. That there's no constraint on when an
20 officer can pursue, or something to that effect.

21 Q. Okay. And when you were talking about the
22 laws of the state of Nevada, obviously, you're
23 talking about the Nevada Revised Statutes, correct?

24 A. Correct.

1 Q. And you do have some training in those
2 statutes, correct?

3 A. Yes.

4 Q. And as an officer you go through the POST
5 training, right?

6 A. Correct.

7 Q. And that's where you learned about the
8 statutes, correct?

9 A. That's correct.

10 Q. And so when you referred to statutes or the
11 law of Nevada, you also said something about lights
12 and sirens.

13 A. Yes.

14 Q. What was that?

15 A. In order to charge the crime of eluding --
16 or I believe it's failure to yield to a police
17 officer or emergency vehicle -- lights and sirens
18 have to be on to charge that crime.

19 Q. So, in order for someone to actually elude
20 the police, the police have to have their lights and
21 sirens on, correct?

22 A. Yes.

23 Q. You're also familiar with the statute of
24 Nevada that gives certain privileges to the driver

1 of an authorized emergency vehicle, correct?

2 A. Yes.

3 Q. And that statute gives us privileges to an
4 authorized emergency vehicle when no lights and
5 sirens are on, correct?

6 A. Yes.

7 Q. In the pursuit of an actual or suspected
8 violator of law, correct?

9 A. Correct.

10 Q. And one of the privileges that that statute
11 gives is that an authorized emergency vehicle --
12 which would be a police department car, correct --

13 A. Yes, generally.

14 Q. -- with their lights and sirens --

15 A. Correct.

16 Q. -- may proceed past a red or a stop signal
17 or a stop sign, but only after slowing down as may
18 be necessary for safe operation, correct?

19 A. Yes.

20 Q. And that same statute allows a driver of an
21 authorized emergency vehicle to exceed any speed
22 limits so long as the driver does not endanger life
23 or property, correct?

24 A. Yes.

1 Q. And those privileges given by that statute
2 do not relieve the driver of an authorized emergency
3 vehicle from the duty to drive with due regard for
4 the safety of all persons, correct?

5 A. Yes.

6 Q. And they do not protect the driver from the
7 consequences of the driver's reckless disregard for
8 the safety of others, correct?

9 A. Yes.

10 Q. So, that statute does constrain the police
11 in certain actions during pursuit of a suspected
12 vehicle, right?

13 A. In regards to their own driving, correct.

14 Q. Right. They have to slow down as necessary
15 for safe action before they can go through a red
16 light or a stop sign.

17 MR. PRENGAMAN: Objection, asked and
18 answered.

19 THE WITNESS: That's correct.

20 THE COURT: Mr. Prengaman?

21 MR. PRENGAMAN: Asked and answered.

22 THE COURT: I'll allow. Ms. Hickman, avoid
23 repeating the questions.

24 MS. HICKMAN: Okay. Thank you.

1 BY MS. HICKMAN:

2 Q. You would agree with me that two cars
3 running into each other would endanger property,
4 right --

5 A. Sure.

6 Q. -- or the life of other people, correct?

7 A. Yes.

8 Q. Even if those two cars happened to be
9 Sparks Police Department cars, right?

10 A. Sure.

11 Q. You would also agree with me that an
12 authorized emergency vehicle driving the wrong way
13 up the freeway onramp would endanger property?

14 A. Yes.

15 MS. HICKMAN: No further questions.

16 MR. PICKER: No further questions.

17 THE COURT: Thank you. Officer McNeely,
18 you are excused, sir.

19 THE WITNESS: Excused from -- I'm
20 subpoenaed under both.

21 THE COURT: You are excused. Let's do
22 this. We'll take a brief recess and return as soon
23 as I indicate.

24 (Recess taken.)

1 THE COURT: Counsel, on Friday after I
2 dismissed the jury for the weekend, we spent some
3 time talking about the jail calls that the state
4 proposed to introduce. The Court made a ruling with
5 regard to what I'm going to call Jail Call No. 2.
6 And that's where that Defendant Williams -- by the
7 way, the date was April 16th -- that's where
8 Defendant Williams recaps the ongoings with -- it's
9 Mr. Kelly --

10 MR. PRENGAMAN: Yes, your Honor.

11 THE COURT: -- while they were driving away
12 from Bob & Lucy's. One thing I want to say with
13 regard to that call and with regard to Call No. 1,
14 which is the other call where Mr. Williams is on the
15 phone with his mom, the state must remove the audio
16 that says "Ryan Williams" at the beginning of both
17 of those calls. That needs to come out, okay? The
18 representation can be made, but I think the fact
19 that it's on the call may indicate some
20 institutional context.

21 MR. PRENGAMAN: Your Honor, if I may. So,
22 I would say that that's parts of the foundation for
23 the call, so there's a number parts to foundation.
24 But part of it is that there's a system at the jail

1 where each defendant has to, essentially, sign in
2 and they have a unique identifier for each inmate.
3 That's part of the foundation for identifying that
4 call as being -- in addition to the content, for
5 instance and the voice.

6 THE COURT: Mr. Prengaman, if you want to
7 use that on the call when you lay the foundation,
8 we'll go outside the presence. If you want to use
9 that version of it so it can be identified and
10 thereafter, provided the calls are actually admitted
11 because the foundation has been laid, if that
12 occurs, the version that goes to the jury cannot
13 have that reference in it.

14 As for the second call, Counsel, it's this
15 Court's review of the law that the fundamental
16 evidentiary bars, such as relevance, the danger of
17 unfair prejudice substantially outweighs the
18 evidence's probative value.

19 With regard to the second call, there was a
20 lot of debate principally around the issue of
21 whether or not the phrase was "on accident" or "no
22 accident," and what that actually says. I'm going
23 to admit the call, and in a minute the law clerk
24 will hand out to you a highlighted version of the

1 call. But I want you to know something. What is
2 actually said on the call. If that call is
3 admitted -- because it's my understanding no party
4 wants to introduce a transcript -- is up to what the
5 jury themselves hear. The Court will not rule on
6 what is said there. The jury is the finder of fact
7 in this case. How would you like the Court opining
8 and telling the jury what I think? That's not going
9 to happen here.

10 With regard to that call, if you would
11 provide -- she's handing out a highlighted version.
12 This is something to be clear about. This version
13 of the transcript of the call comes from
14 Mr. Williams' response to the state's trial
15 statement. It starts at page seven of that trial
16 statement, line 13, and goes to page eight, line two
17 at the top of that page. That transcript is -- it's
18 very important that the record reflect -- because
19 I'm going to put this into the record -- it's very
20 important that the record reflect that's
21 Mr. Williams' counsel's review and representation of
22 what that call says.

23 That is not for the record what the call
24 says. What the call says is what's on the

1 recording. But the point of producing this
2 highlighted version is so that the parties know and
3 to instruct the state with regard to what will be
4 admitted with regards to this call. Everything
5 that's highlighted that is just handed out is what
6 the Court is going to admit, provided proper
7 foundation is laid and all of the other evidentiary
8 issues that I have addressed -- more probative than
9 prejudicial and relevance -- are all addressed prior
10 to this call prior to its admission. Importantly,
11 any reference to years related to the offense are
12 not coming in. All right.

13 So, again, what's highlighted is actually
14 what's coming in. What's left un-highlighted is not
15 coming in but, again, only as represented by
16 Mr. Williams, because the actual recording of the
17 call speaks for itself. I'm not purporting to say
18 this is the actual transcript but I know enough
19 about what I heard to know what's not coming in.
20 That's the Court's ruling. We will go back to
21 recess until such time as you indicate your witness
22 is ready.

23 MR. PRENGAMAN: Thank you, your Honor.

24 (Recess taken at 8:30 a.m.)

1 THE COURT: Thanks, everyone.

2 Mr. Prengaman.

3 MR. PRENGAMAN: Thank you, your Honor. The
4 state will call David Cole.

5 (Witness sworn.)

6 DIRECT EXAMINATION

7 BY MR. PRENGAMAN:

8 Q. Good morning.

9 A. Good morning.

10 Q. Could you please tell us your name.

11 A. David Cole.

12 Q. Mr. Cole, could you please spell your last
13 name?

14 A. C-o-l-e.

15 Q. And, Mr. Cole, what do you do for a living?

16 A. I'm a tavern attendant at Bob & Lucy's.

17 Q. Is that the Bob & Lucy's on Oddie believed?

18 A. Yes, sir. 1515 Oddie Boulevard.

19 Q. Mr. Cole, how long have you held that
20 position?

21 A. About 14 months.

22 Q. So, taking you back to February 22nd of
23 2020, you were a tavern attendant back on that day?

24 A. Yes.

1 Q. Do you recall that Saturday?

2 A. Yes.

3 Q. And were you working that morning between
4 5:00 and 7:00 a.m.?

5 A. Yes, I was.

6 Q. Do you recall what your shift -- generally
7 back at that time what was your shift in February of
8 last year?

9 A. 11:00 p.m. to 7:00 a.m.

10 Q. And at that time -- so, again, focusing on
11 Saturday, February 22nd of last year, was there a
12 security guard working during your shift?

13 A. Yeah. A security guard from midnight to
14 6:00 a.m.

15 Q. So the security would leave at 6:00. That
16 would be the end of his or her shift?

17 A. Yes, that is correct.

18 Q. Back around that same time,
19 February 22nd, did you know a man named Steve
20 Sims?

21 A. Yes, I do.

22 Q. Was he staying with you at that time?

23 A. He initially came to my apartment, you
24 know, doing what he needed to do.

1 Q. Okay. And that Saturday morning do you
2 recall Mr. Sims being at Bob & Lucy's?

3 A. Yeah, he was there.

4 Q. And do you recall about -- if you can,
5 roughly when he got there?

6 A. Right about 6:00. I believe my security
7 guard was just leaving when he showed up.

8 Q. And at some point that morning did you see
9 anyone standing near him or talking to him in the
10 course of the morning?

11 A. Shortly there after 6:00 I saw a woman's
12 face as they were talking.

13 Q. And do you recall what Mr. Sims was doing
14 around that time that the woman came in?

15 A. He was gambling. And somebody came in and
16 sat next to him and started talking to him.

17 Q. And at some point -- backing up, when you
18 are working, is there a way for you to see what's
19 happening outside?

20 A. We have a small monitor but I'm usually so
21 busy at that point in the morning that I'm not
22 staring at the monitor. I'm trying to get my duties
23 done for the day.

24 Q. Were you able to see how the woman had

1 arrived at Bob & Lucy's?

2 A. I did not see how she got there but there
3 was only one car in my parking lot.

4 Q. Would you say that around that same time
5 that the woman came in?

6 A. Yes.

7 Q. And what type of vehicle was that?

8 A. It was a white pickup truck.

9 Q. I'm showing you what we've admitted as
10 Exhibit 2. Can you see on the monitor in front of
11 you -- there should be on the monitor --

12 A. I'm sorry.

13 Q. Can you see that okay?

14 A. Relatively, yes.

15 Q. Do you recognize what we're looking at
16 here?

17 A. Yeah. It's the back corner of the office
18 and looks like Mr. Sims.

19 Q. So we're seeing the inside of Bob & Lucy's?

20 A. Yes.

21 Q. You mentioned you're able to see Mr. Sims
22 in this frame?

23 A. Yes, I do.

24 Q. Now, if you touch that monitor, you can

1 draw -- press firmly, but draw a circle of Mr. Sims.

2 A. (Indicating).

3 Q. Can you show us the general area where you
4 would be working?

5 A. (Indicating).

6 Q. Mr. Cole, I've moved forward to ten minutes
7 in Exhibit No. 2.

8 Can you tell us what we see in this part of
9 the footage, this frame?

10 A. There's a woman that I don't know and she's
11 by the machines.

12 Q. Do you see Mr. Sims in this frame?

13 A. Yes.

14 Q. Could you circle him?

15 A. (Indicating).

16 Q. The woman is not somebody you recognize?

17 A. No. She was not a regular.

18 Q. When you talked about seeing the woman talk
19 to Mr. Sims, is this the woman you're referring to?

20 A. Yes.

21 THE COURT: Mr. Prengaman, did you make a
22 record of which exhibit this is?

23 MR. PRENGAMAN: I did, your Honor. Exhibit
24 2.

1 BY MR. PRENGAMAN:

2 Q. Now, playing forward from ten minutes,
3 somebody else just entered the frame.

4 A. Yes.

5 Q. Who is that?

6 A. Me.

7 Q. Could you again just show us where you are,
8 circle it.

9 A. (Indicating).

10 Q. Playing forward to 10 minutes, 12 seconds,
11 pausing at 10:18, what just happened?

12 A. I believe I just delivered somebody a drink
13 and asked if they needed anything.

14 Q. And when you were delivering that drink,
15 did you overhear any conversation?

16 A. Yeah. She was starting to yell at him,
17 expletives, and asking him why he stole something
18 from somebody, I think her children.

19 Q. Okay. Now, if you can -- you mentioned
20 expletives -- do you recall specifics? I'd like to
21 ask you about that, even if it involves some --

22 A. Okay.

23 Q. -- insensitive or harsh language.

24 A. Yes.

1 Q. And if you don't, that's fine. Do you
2 recall any specifics about what was said?

3 A. "Why are you such a nigger? Why did you
4 steal this from me, from my kids?"

5 Q. And that being from the woman to Mr. Sims?

6 A. That is correct. She was loud enough where
7 you could hear back in the bar area.

8 Q. Now, at some point did you -- at some point
9 that morning in terms of that monitor that you were
10 talking about that allows you to see the parking lot
11 and the white truck that you saw, did you ever see
12 anyone getting in or out of that truck and coming
13 in?

14 A. There were a couple of guys. They came out
15 and they walked in, walked around, then walked out,
16 walked in again. I ID'd them, didn't have ID.

17 Q. Do you recall them coming in before, after
18 or both --

19 A. Both.

20 Q. -- the woman?

21 A. Both.

22 Q. Now, Mr. Cole, I've gone back to one minute
23 and one second into Exhibit 2 and I'll play forward
24 from there.

1 And now we just see one of the men you're
2 referring to.

3 A. Yes.

4 Q. And are you able to see him in this frame
5 when I pause it at one minute and 14 seconds? I'll
6 play it forward, pausing at two minutes and 43
7 seconds in, do we see in this frame the other man
8 you saw that morning?

9 A. Yes.

10 Q. Could you circle him?

11 A. (Indicating).

12 Q. Now, Mr. Cole, with regard to those doors
13 that we just saw the two men go in and out of, how
14 do those operate?

15 A. Well, from dark to light we keep them on
16 magnetic lock.

17 Q. And so, for instance, when somebody either
18 comes from the outside, the exterior doors, the ones
19 closest to the outside, are those open?

20 A. The ones outside are open. They walk into
21 that little area, and then the next door is locked.
22 So, I have to unlock that door to let them in.

23 Q. Is there another way -- is there a type of
24 button or another way to open the door?

1 A. If somebody's in close proximity to the
2 door, it will stay unlocked or on the wall there's a
3 little button you can push to unlock the door from
4 the inside to let yourself out.

5 Q. I'm going to play it forward from 2:43.
6 I'm pausing at three minutes.

7 Mr. Cole, I'm going to circle this area
8 back here where the man walked. What is back there?

9 A. That is the men's restroom.

10 Q. Now, Mr. Cole, as we're playing at roughly
11 4:12 and continuing to play, is this the truck you
12 saw on the monitor?

13 A. Yes.

14 Q. Pausing at six minutes and six seconds into
15 Exhibit 2, is this the same woman that you pointed
16 out earlier that had come in to talk to Mr. Sims?

17 A. Yes.

18 Q. Stopping at seven minutes and 11 seconds,
19 so at 10 minutes and 12 seconds, again, is this when
20 you return when you were delivering a drink?

21 A. Correct.

22 Q. I pause at 10:13 and move it forward.

23 Mr. Sims, as this continues to play and
24 we're at about 13:41, this is what you'd you

1 mentioned earlier, correct?

2 A. Yes.

3 Q. Mr. Cole, I paused at 16 minutes and 46
4 seconds to Exhibit 2. Now we see you again in this
5 part of the footage?

6 A. Yes.

7 Q. And could you circle yourself.

8 A. (Indicating).

9 Q. Then again we see one of the men that you
10 referenced earlier coming back in.

11 A. Yes.

12 Q. So, can you tell us what's happening here?

13 A. Well, I'm just not sure. I don't know why
14 they're going over there and they're kinda harassing
15 Steve at this point, Mr. Sims.

16 Q. Did you ask for some ID?

17 A. Yeah, I did. I asked for ID. I thought
18 the two gentlemen were together, but I know I asked
19 them for ID so I could try and control the situation
20 a little bit if I could get one of them out. But at
21 this point they're just walking in and out.

22 Q. And we see you push the door open. What
23 were you doing there?

24 A. Just letting them out. Didn't have ID. He

1 had told me he didn't have ID.

2 Q. Going to move forward slightly from about
3 18 minutes and pausing at 22 minutes 41 seconds.

4 Mr. Cole, the man in this vestibule or that
5 breezeway, is that the other man you had referenced
6 earlier?

7 A. Yes.

8 Q. How was he just able to get in through that
9 interior door?

10 A. I let him in at this point.

11 Q. We see I've paused the footage at 23
12 minutes, 15 seconds in.

13 Were you aware -- well, let me back up. So
14 where has the man -- the second man gone to at this
15 point?

16 A. Steve and the woman talking.

17 Q. While you were there that morning -- so not
18 just looking at the footage here, but while you were
19 there that morning, were you aware of the man
20 standing there where she was?

21 A. At some point, I mean, I saw him, yeah.
22 They were -- when he came in, I might have been
23 working in the back, you know, cleaning up still.
24 But I know I saw him standing over there with the

1 two of them at one point, and that's when I realized
2 they were together. I didn't realize she was with
3 them until this point.

4 Q. As we play forward, are you able to see
5 yourself?

6 A. Yes.

7 Q. Okay. I'll pause it at 22:23. Can you
8 show us where you were?

9 A. (Indicating).

10 Q. Is that the bar area?

11 A. Yes, sir.

12 Q. I've paused it at 23:30. Now, that morning
13 when you were aware of the man standing there, did
14 you notice anything about the demeanor of the man
15 and/or the woman?

16 A. He looked like he was trying to intimidate
17 Steve at this point.

18 Q. What was he doing or what could you see or
19 hear that makes you think that?

20 A. Just the way he -- I don't remember his
21 exact words, but he was just standing over him and
22 leaning into him talking to him. He started getting
23 a little loud and I couldn't understand what he was
24 saying. That's why I stopped to look at him at that

1 point. I wanted to see what was going on.

2 Q. And at some point shortly after that does
3 -- well, let me play it forward slightly. I'm going
4 to pause at 25:21. At some point did Steve Sims
5 approach you where you were at the bar?

6 A. Yeah. A little bit after this point Mr.
7 Sims came to talk to me, I believe.

8 Q. And when he approached you, did he make a
9 request?

10 A. He asked me to call 9-1-1, said they had a
11 gun --

12 MS. HICKMAN: Objection --

13 BY MR. PRENGAMAN:

14 Q. Let me ask you this. Stop you there.
15 Describe his demeanor.

16 A. He was scared, terrified.

17 Q. And did he ask you -- in making that
18 request to call 9-1-1, did he then tell you some
19 things about what had just happened and what was
20 happening?

21 A. All he told me --

22 MS. HICKMAN: Objection, calls for hearsay.

23 MR. PRENGAMAN: Your Honor --

24 THE COURT: Mr. Cole is not asking you to

1 tell him what someone else said. He's asking you
2 what you observed. Go ahead, Mr. Prengaman.

3 MR. PRENGAMAN: Thank you, your Honor.

4 BY MR. PRENGAMAN:

5 Q. Mr. Sims was he -- I'm not going to ask you
6 right now the words he said.

7 A. Okay.

8 Q. But was he describing to you events that
9 were happening inside -- just happened or were
10 happening inside the bar?

11 MR. PICKER: Objection, hearsay. He's
12 still asking for a description of what it was Mr.
13 Sims said. He's asking for the general information,
14 not the exact words, which is the same exact
15 objection you upheld last week.

16 THE COURT: Thank you. The question is, as
17 I understand it, did Mr. Sims relay information to
18 Mr. Cole about what had happened, not what that
19 information was, but did he relay.

20 MR. PRENGAMAN: Yes, your Honor.

21 THE WITNESS: Yes.

22 MR. PRENGAMAN: Your Honor, I would offer
23 as a present sense impression.

24 THE COURT: I'll allow it.

1 THE WITNESS: Thank you.

2 BY MR. PRENGAMAN:

3 Q. What did Mr. Sims tell you when he asked
4 you to call 9-1-1?

5 A. That there was a gun in the casino and that
6 they were gonna kill him, is what he said. So I
7 called 9-1-1.

8 Q. And you did call 9-1-1, correct?

9 A. Yes, sir.

10 Q. And then did you relay to 9-1-1 what Mr.
11 Sims had told you?

12 A. Yes.

13 Q. Immediately or very shortly after he told
14 it to you?

15 A. Yes.

16 Q. I want to go now to Exhibit 1. So,
17 Mr. Cole, I'm going to offer Exhibit 1. I'm going
18 to the fourth file on the Camera 7 folder. I'll
19 play forward from 12 minutes and 48 seconds into
20 this file.

21 Now, in this clip does this show a little
22 bit forward in time from where we left Exhibit 2?

23 A. Yes.

24 Q. The point where Mr. Sims is at the door?

1 A. Yes.

2 Q. Now, have you been able to see Mr. Sims
3 walk somewhere in this clip?

4 A. That door's around the bar.

5 Q. Were you able to see where he's located at
6 right now?

7 A. Barely. Just right there (indicating).

8 Q. Okay. Playing forward to 13 minutes and
9 two seconds, what have we just seen at this point?

10 A. Where Mr. Sims came up to me and asked me
11 to call 9-1-1.

12 Q. Playing forward, the two of you are no
13 longer on the camera view, correct?

14 A. Correct.

15 Q. Do you recall where you went or where you
16 were standing?

17 A. My back room and to the right a little bit.
18 I have a little beer storage, alcohol storage.

19 Q. Now, did Mr. Sims return to the door area?

20 A. Yes.

21 Q. I'm going to pause it at 13 minutes 59
22 seconds. So you called 9-1-1.

23 Do you remain in that bar area?

24 A. Yes. I'm there or in the back finishing up

1 duties still.

2 Q. And while you're -- after you made that
3 call to 9-1-1, can you hear anything that's being
4 said between Mr. Sims and the woman that we see in
5 the footage here?

6 A. No.

7 Q. At some point did you -- after this did the
8 woman ask a question -- ask you or Mr. Sims a
9 question?

10 A. She asked me or Mr. Sims how long it was
11 gonna be.

12 Q. And was that a question that either you or
13 Mr. Sims responded to?

14 A. I responded, "About 15 minutes."

15 Q. And did you understand what she was talking
16 about?

17 A. Honestly, no.

18 Q. Now, at some point after that call, did you
19 receive a call back?

20 A. Yes. A few minutes later 9-1-1 called me
21 back and told me they were on their way.

22 Q. Now, did they ask you for some kind of
23 update? Again, at this moment I'm not asking you
24 what was said. I'm just asking you, Did they ask

1 you for additional information or to update them
2 about what was going on at the time of that
3 callback?

4 A. I don't recall.

5 Q. Mr. Cole, I'm going to show you what we
6 have marked for identification as Exhibit 81. I'm
7 just going to reach around the shield and hand you
8 this exhibit and ask you to look at it and let me
9 know when you've had a chance to do that.

10 A. Yeah.

11 Q. Have you had a chance to listen to the
12 contents of that flash drive before?

13 A. I have.

14 Q. And does that contain a copy of the 9-1-1
15 call that you testified about earlier?

16 A. Yes.

17 Q. It's an accurate copy of that call?

18 A. Yes.

19 MR. PRENGAMAN: Your Honor, I move for the
20 admission of Exhibit 81.

21 MS. HICKMAN: No objection.

22 MR. PICKER: No objection.

23 THE COURT: Eighty-one is in.

24 (Exhibit 81 admitted.)

1 (Audio played.)

2 BY MR. PRENGAMAN:

3 Q. Mr. Cole, who is the male voice? Is that
4 your voice?

5 A. Yes, it is.

6 (Audio played.)

7 BY MR. PRENGAMAN:

8 Q. So, turning to Exhibit 2, I'll pause at 15
9 minutes and 51 seconds in. At some point after you
10 made the call, does Mr. Sims come -- after we've
11 seen him go back and talk to you, does he ever go
12 back in that back area again?

13 A. I don't remember if he goes back to the
14 back area again. I thought maybe one more time.

15 Q. Is there a point in time when Mr. Sims
16 leaves the building?

17 A. Not that I recall until the police arrived.

18 Q. So, moving forward to that point, what
19 happens while you're waiting for the police to
20 arrive as far as you can see and hear?

21 A. I can't see or hear anything at this point.
22 I'm in the back, and I believe I was scooping ice at
23 that time to fill up my ice. I went back to work
24 like everything was normal.

1 Q. I'm going to show you now what we've marked
2 for identification as Exhibit 82.

3 Have you seen that before?

4 A. Yes, I have.

5 Q. Have you had an opportunity to review or
6 listen to the contents of that?

7 A. Yes, I have.

8 Q. Does that flash drive contain a copy of the
9 9-1-1 call?

10 A. Yes, that's correct.

11 Q. When they called you back, did you talk to
12 the operator about what was happening at the time
13 that she was calling you back in the tavern?

14 A. Yes.

15 Q. Did you give her some information about
16 events that were happening? Again, I'm not asking
17 about what you said, but were you talking to her
18 about events that were happening that you were
19 observing at the time?

20 A. Yes.

21 Q. Did you talk about, for instance -- again,
22 not specifics -- but talk about where you were
23 located and what was happening?

24 A. Yes.

1 MR. PRENGAMAN: Your Honor, I move for the
2 admission of Exhibit 82.

3 MS. HICKMAN: No objection.

4 MR. PICKER: No objection.

5 THE COURT: Eighty-two is in.

6 (Exhibit 82 admitted.)

7 BY MR. PRENGAMAN:

8 Q. At some point shortly after that, did the
9 police arrive --

10 A. Yes.

11 Q. -- or begin arriving?

12 A. They arrived while I was on the phone.

13 Q. And how were you -- how could you tell they
14 had started arriving?

15 A. Sirens.

16 Q. Do you recall generally, if you do -- where
17 Steve Sims was located around the time you made that
18 second call -- or that called made back when you
19 were on the phone with them?

20 A. No, no. But I know he left out the back
21 door right after that. He ran to the back door. I
22 didn't see him do it but that's what happened.

23 Q. And then he was no longer inside the
24 tavern?

1 A. No. He left.

2 Q. Then after that at some point were you
3 aware of whether the woman -- the woman you were
4 just talking about that was still inside -- whether
5 she was still there or not?

6 A. Yeah. I came out of the back room and went
7 by the bar area and she caught herself in the
8 breezeway and she asked me why I called the police.

9 Q. When you say "caught in the breezeway,"
10 when you come out from the back room, where do you
11 see her?

12 A. Between the two entrance doors. So, the
13 one -- my interior door was locked and she was just
14 outside of that. First time she'd stepped outside
15 of that and tried to keep her out.

16 Q. Did she ever come back inside the tavern?

17 A. No.

18 Q. So you did not open the door?

19 A. No, did not let her back in.

20 Q. Did you see her leave the breezeway or --

21 A. I did not see her.

22 MR. PRENGAMAN: Thank you, Mr. Cole. I
23 have no further questions.

24 THE COURT: Thank you. Ms. Hickman?

CROSS-EXAMINATION

BY MS. HICKMAN:

Q. So, Mr. Cole, on February 22nd, 2020, Mr. Sims was living with you, correct?

A. Yes.

Q. And he'd been living with you for about a month, right?

A. Yes.

Q. Was he paying you rent?

A. No.

MR. PRENGAMAN: Objection, relevance.

THE COURT: Go ahead, Ms. Hickman.

MS. HICKMAN: I'm just going to how he knows him.

THE COURT: I heard a word. I didn't hear an objection. Go ahead.

BY MS. HICKMAN:

Q. Was he paying rent?

A. No.

Q. And at that time do you know whether or not he was working?

MR. PRENGAMAN: Objection, relevance.

MS. HICKMAN: It goes to how he knows Mr. Sims.

1 THE COURT: That's fine. I'll allow it.

2 THE WITNESS: I don't know if he was
3 working.

4 BY MS. HICKMAN:

5 Q. Okay. And as you watched the surveillance
6 videos that morning, you see that you, Mr. Sims, and
7 the people in the white truck are not the only
8 people at Bob & Lucy's, correct?

9 A. There were a couple other people.

10 Q. And those couple other people are regulars,
11 right?

12 A. Yes.

13 Q. Meaning they're there fairly regularly.

14 A. Yes.

15 Q. And Mr. Sims is also a regular, correct?

16 A. Yes.

17 Q. And to the best of your knowledge, he had
18 been going to Bob & Lucy's even before you knew him,
19 correct?

20 A. Correct.

21 Q. And at Bob & Lucy's there are different
22 slot machines, correct?

23 A. Yes.

24 Q. Do you know the values of those slot

1 machines, like how much money you can play on them?

2 A. From a penny to a quarter on the ones that
3 he plays. Up to -- I think \$3.75 is the most
4 expensive game a hand.

5 Q. Okay. So, looking at Exhibit 1, Channel 7,
6 this is the last file on it. The machine Mr. Sims
7 is playing is a penny slot?

8 A. Penny to a quarter.

9 Q. Penny to a quarter?

10 A. Yes. That game only goes to a nickel.

11 Q. That one only goes to a nickel?

12 A. That game, yes.

13 Q. Okay. And how about the ones in the middle
14 that I circled?

15 A. Yeah. I think the highest is \$2. The
16 maximum bet is \$2.

17 Q. Maximum bet is \$2.

18 A. Yes.

19 Q. Is the max bet on this for that game is a
20 quarter?

21 A. The max bet on that game is 20 cents.

22 Q. Okay. I want to talk to you about Exhibit
23 2. I'll actually go back to two minutes and 35
24 seconds and let it play.

1 When this person walks in in the middle,
2 you see you and him have a little interaction with
3 each other?

4 A. I see.

5 Q. Okay. And he walked directly to the
6 restroom, correct?

7 A. Yeah.

8 THE COURT: Ms. Hickman, this is Exhibit
9 1 -- can you make a record? Is this Channel 4?

10 MS. HICKMAN: No. I believe it's actually
11 Exhibit 2.

12 THE COURT: Thank you. And File 4?

13 MS. HICKMAN: It's only one file.

14 THE COURT: Thank you.

15 BY MS. HICKMAN:

16 Q. And then you were testifying about the time
17 that you walked over and you gave Mr. Sims a drink.

18 Do you remember that?

19 A. Yes.

20 Q. And you said that you heard somebody
21 talking loudly and talking to him about stealing
22 something from her kids, correct?

23 A. Yes, that's correct.

24 Q. But you didn't hear any threats, right?

1 A. No, I did not.

2 Q. And you didn't hear anything about any
3 guns, right?

4 A. No, I did not.

5 Q. And you didn't see a gun, right?

6 A. No, I did not.

7 Q. And you testified this conversation between
8 the two of them was loud enough for you to hear all
9 the way back in the bar.

10 A. I could hear certain words. I did not hear
11 the whole conversation.

12 Q. And you could also hear Mr. Sims at the
13 bar, correct?

14 A. No.

15 Q. You could only hear her?

16 A. I could only hear her talking?

17 Q. And she was in there talking to Mr. Sims
18 for a long period of time, correct?

19 A. For, yeah, a little while. I guess, yeah.

20 Q. Over 10 minutes?

21 A. Yes.

22 Q. Over 15 minutes?

23 A. I can't recall exactly how long they were
24 talking.

1 Q. And you testified that this white truck
2 that showed up was the only vehicle in your parking
3 lot, correct?

4 A. On that side of the parking lot, yeah. I
5 can't see the cars on the other side. On camera I
6 can't see the ones on the other side or what's
7 across.

8 Q. Okay. So, when you said it was the only
9 car in the parking lot, that was the only car on
10 that side.

11 A. Yes.

12 Q. Because there were other cars in the
13 parking lot, correct?

14 A. I don't remember.

15 Q. Let me go back to Exhibit 1. I'll show you
16 Channel 3, Camera 3. I'll pause it. It's at 6:06
17 in the morning on February 22nd, right?

18 A. Yes.

19 Q. You can see there's other cars in your
20 parking lot.

21 A. Yes.

22 Q. There's this car, right?

23 A. Yes.

24 Q. And then this car, right?

1 A. Yes.

2 Q. And then there's what looks to be like a
3 truck.

4 A. That's a truck that's always in our parking
5 lot.

6 Q. But these trucks in the front are on the
7 same side as the white truck, correct?

8 A. No -- I'm sorry. They're not on the same
9 side as the white truck. They're on the other side.

10 Q. They're on the other side of the building?

11 A. The other side of the doors.

12 Q. Right. Because your doors are about right
13 here where this handicapped --

14 A. Correct.

15 Q. And so the white truck is over to the left
16 of the screen, right?

17 A. Yes.

18 Q. And then these other two cars are to the
19 right.

20 A. Yes.

21 Q. So, there's three cars in the front of the
22 building, correct?

23 A. Looks that way, yes.

24 Q. And based on what you can hear coming from

1 the conversation Mr. Sims was having, you personally
2 did not think to call the police, correct?

3 A. No, I did not.

4 Q. And none of the other regulars who were in
5 the bar alerted you there were any issues, correct?

6 A. That's right.

7 Q. No one came up to you other than Mr. Sims
8 and asked you to call the police, correct?

9 A. Correct.

10 Q. And you didn't notice that other people in
11 that area were watching this conversation, correct?

12 A. Correct.

13 Q. And you testified that you actually started
14 to pay closer attention to it when you saw people
15 coming in and out, right?

16 A. The gentlemen walking in and out, they were
17 walking in and out my door.

18 Q. But even when you were paying more
19 attention to that conversation, you didn't hear
20 anything that made you personally think you needed
21 to call the police, right?

22 A. That is correct, yeah.

23 Q. Going back to Exhibit 2, going to 6:10 and
24 57 seconds, and that's when you see the female come

1 in, correct?

2 A. Yes.

3 Q. Thirteen minutes and 33 seconds on Exhibit
4 2, and you can see it's 6:17 and 35 seconds,
5 correct?

6 A. Yes.

7 Q. And that's when that smaller male comes in,
8 right?

9 A. Yes, the second time, I believe.

10 Q. And it's fair to say that -- and you
11 testified when this man comes in, you start to
12 notice -- and I think you said the word -- this man
13 comes back in and at this point you thought they
14 were harassing Steve, right?

15 A. Yes, because they were walking around.

16 Q. Okay. But when this man comes in, he
17 doesn't talk to Mr. Sims at all, right?

18 A. No.

19 Q. He doesn't stop.

20 A. Not that I can remember.

21 Q. And from where you are, and given the fact
22 that you're paying attention, you again don't see
23 anything that makes you think you need to call the
24 police, correct?

1 A. That is correct.

2 Q. When you tell this man -- when you ask him
3 for his ID and he doesn't have it and you tell him
4 to leave, what does he do?

5 A. He comes around and leaves.

6 Q. He does what you say, right?

7 A. Yes, absolutely.

8 Q. Again, we go forward to 23 minutes and 15
9 seconds on Exhibit 2. This is actually 23 minutes
10 and 11 seconds. That's when you see the second
11 person go stand over by where Mr. Sims is, correct?

12 A. Yes.

13 Q. And I believe you testified today you could
14 hear him talking to Mr. Sims at this point, right?

15 A. I heard a couple of words.

16 Q. Okay. And you believe those are his voice?

17 A. Yes.

18 Q. And we can see you in the background here,
19 correct?

20 A. Yes.

21 Q. And it looks like you have ice in your
22 hand?

23 A. Yes. Filling the ice up.

24 Q. Okay. So, it's fair to say filling the ice

1 you take that container and you have to dump it in,
2 right?

3 A. Yes.

4 Q. Pretty loud?

5 A. Yes.

6 Q. Could you hear this person over that?

7 A. No.

8 Q. Okay. And you testified that you thought
9 that this person was trying to intimidate Mr. Sims,
10 correct?

11 A. Yes.

12 Q. Moving forward to 23 -- this is 6:24. I'm
13 pausing it at 23 minutes and 41 seconds.

14 This is that man, right?

15 A. Yes.

16 Q. And this is Mr. Sims, correct?

17 A. Yes.

18 Q. I'll play at 23:41. Did you see --

19 A. Shake hands.

20 Q. Shake hands, right?

21 A. (Witness nods.)

22 Q. But that's the man you said was trying to
23 intimidate him, right?

24 A. After she got up and he went and cashed his

1 machine out is when it starts.

2 Q. And at the time that machine is cashed out,
3 what do you personally hear him say?

4 A. Nothing.

5 Q. So, anything you heard him say was before
6 or after that?

7 A. Yes.

8 Q. No. That's my question.

9 A. Oh. I believe it was right before that.

10 Q. Right before --

11 A. Seconds.

12 Q. Okay.

13 A. I don't know. Maybe even -- I don't know.
14 It's hard to remember exactly.

15 Q. Sure. So, let me see. He walks in, right,
16 correct?

17 A. Yes.

18 Q. They clap hands, right?

19 A. Yes.

20 Q. And then they talk for a little bit,
21 correct?

22 A. Yes.

23 Q. And then that's when you hear him saying
24 something about, What do you got?

1 A. Yes.

2 Q. And then that's when he cashes out his
3 ticket, correct?

4 A. Yes.

5 Q. And to cash out that ticket, you have to do
6 two things, right? You have to push a button and
7 then you have take it.

8 A. Yes.

9 Q. Okay. You testified when Mr. Sims came to
10 talk to you, he was terrified, correct?

11 A. That's how he looked, his voice sounded.

12 Q. I'm going to open Exhibit 1, Channel 7.
13 I'll open the last file on this.

14 You could see this is a view that shows
15 this bar back here, correct?

16 A. Yes.

17 Q. And it's fair to say that surveillance
18 actually shows that area much better than what we're
19 looking at, right?

20 A. Yes.

21 Q. Because there's four cameras over that bar.

22 A. Yes, absolutely.

23 Q. So this is not our best way to see what
24 happened between you and Mr. Sims, right?

1 A. No. And there's no cameras in the back.

2 Q. I'm talking about out front by the bar.

3 A. Yes. There's probably better cameras.

4 I've never seen them. We're not privy to that

5 display on my screen.

6 Q. 12:23, Exhibit 1, Channel 7, and it's the
7 last file. I'll hit play.

8 Right there you see Mr. Sims?

9 A. Yes.

10 Q. And he's walking behind that man who took
11 his ticket, correct?

12 A. Yes.

13 Q. And that man's right here, right?

14 A. Yes.

15 Q. I'll play it at 12 minutes and 24 seconds.
16 I'll pause it at 12 minutes 56 seconds.

17 You just saw Mr. Sims walk away, correct?

18 A. Yes.

19 Q. Play at 12:56 and it's kind -- right here
20 you can see there's somebody sitting at the bar,
21 right?

22 A. Yes.

23 Q. And then there's somebody sitting right
24 here gambling?

1 A. Yes.

2 Q. And we have Mr. Sims walking back to where
3 you are, right?

4 A. Yes.

5 Q. I'm going to play at 13 minutes. We can
6 see Mr. Sims back here, correct?

7 A. Yes.

8 Q. Let me play at 13:05. I'm pausing at
9 13:18. That's when you and Mr. Sims went to the
10 back.

11 A. That is correct.

12 Q. And that's the point where you testified he
13 was terrified, correct?

14 A. Yes.

15 Q. And he told you he's terrified with what's
16 happening with that woman who is standing at the
17 door, correct?

18 A. Yes.

19 Q. 13:18. I'll pause it at 13:43. This is
20 Mr. Sims, right?

21 A. Yes.

22 Q. And he just came out of the back with you?

23 A. Yes.

24 Q. This is a person who is terrified, right?

1 A. Yes.

2 Q. Play 13:43. Pause it at -- he just walked
3 by that man sitting at the bar, correct?

4 A. Yes.

5 Q. 13:50. And he goes back to that woman
6 standing there, correct?

7 A. It appears so, yes. I'm in back at this
8 point.

9 Q. But you can see it on the video, right?

10 A. Yes.

11 Q. This is six minutes and 26 seconds,
12 correct?

13 A. Yes.

14 Q. This woman is not standing in this doorway
15 holding that door open for someone else to come in?

16 A. Not at that point, no.

17 Q. Okay. At some point was she?

18 A. At some point I recall that she was
19 standing close to that door where -- I couldn't get
20 it locked. I couldn't get her locked out.

21 Q. Well, she's not outside, correct?

22 A. No.

23 Q. So you wouldn't be able to lock her out.

24 A. No.

1 Q. But she's not holding it open.

2 A. No.

3 Q. Okay. If we switch to Exhibit 1, Channel 4
4 inside, this is the last file. Where we left
5 Channel 7 was at 6:26 about, correct?

6 A. Yes.

7 Q. On Camera 4, this is a different angle --

8 A. Yes.

9 Q. -- at 6:28:50 seconds, correct?

10 A. Yes.

11 Q. And this is the man at the bar?

12 A. Yes.

13 Q. And this is Mr. Sims, right?

14 A. Yeah.

15 Q. And he's leaning up against this wall,
16 correct?

17 A. Yes.

18 Q. So, this is the man who you said was
19 terrified, right?

20 A. Yeah.

21 Q. And you testified that Mr. Sims when he
22 walked back there to talk to you told you somebody
23 was going to kill him, correct?

24 A. Yes.

1 Q. And you relayed that information to the
2 9-1-1 operator, correct?

3 A. Yes.

4 Q. Do you remember telling that 9-1-1
5 operator?

6 A. I'm sorry?

7 Q. Hold on. What you told that 9-1-1 operator
8 was actually "There's people with guns outside,"
9 correct?

10 A. Yes.

11 Q. And then she asked you, "Are they
12 threatening people or what's going on," correct?

13 A. Yes.

14 Q. And you responded, "Yes. They're
15 threatening one person."

16 A. Yes.

17 Q. You did not tell that 9-1-1 operator that
18 they were going to kill him, right?

19 A. I did not.

20 Q. And so everything that you told the 9-1-1
21 operator about threats or guns came from Mr. Sims.

22 A. That is correct.

23 Q. Because you personally never heard a
24 threat.

1 A. No.

2 Q. Never saw one gun?

3 A. No.

4 Q. Let alone two.

5 A. Right.

6 Q. But the way that Mr. Sims relayed that
7 information to you made you think there were two
8 guns.

9 A. Yes.

10 Q. And you told that 9-1-1 operator that there
11 were two people outside, correct?

12 A. Yes.

13 Q. And that the female was still inside,
14 right?

15 A. Yes.

16 Q. And then when they called back, you told
17 that 9-1-1 operator that the female was still
18 inside, right?

19 A. Yes.

20 Q. Mr. Cole, you actually -- you make the
21 9-1-1 call and actually you had an interview with a
22 detective from the Sparks Police Department,
23 correct?

24 A. Yes.

1 Q. And that's after this has happened, right?

2 A. Yes.

3 Q. And, in fact, that detective picks you up
4 from your apartment or house and brings you to the
5 Sparks Police Department.

6 A. Yes.

7 Q. And that was on February 22nd, correct?

8 A. Yes.

9 Q. And you never tell that officer or that
10 detective that Mr. Sims said the people were going
11 to kill him, correct?

12 A. I guess not, no.

13 Q. And you testified on direct today that you
14 heard that woman ask how long would it be, correct?

15 A. Yeah. At one point when I was towards the
16 back she said, How long is it going to be? She said
17 it loud.

18 Q. Okay. So, that's what you're testifying to
19 today, right?

20 A. Yes.

21 Q. Do you remember telling that detective when
22 you talked to him that Mr. Sims came back and asked
23 you how long it would take and you told Mr. Sims 15
24 minutes?

1 A. I do not recall.

2 Q. You don't --

3 A. I don't remember how that went exactly. I
4 thought she asked me or asked him and I heard.

5 Q. Okay.

6 A. But he might have come around and asked me,
7 could have been also.

8 Q. Okay. So, it could have been Mr. Sims
9 asked you that.

10 A. Yes. I can't tell you when I heard it --
11 exactly when I heard it.

12 Q. And Mr. Sims doesn't leave Bob & Lucy's
13 until the police arrive. Is that true?

14 A. As far as I know, yeah.

15 Q. That's what you remember happening?

16 A. Yeah. I didn't see him leave. I was told
17 by somebody else that he ran out of the back door.
18 My back door was unlocked and I was still at the
19 cooler at that point in time.

20 Q. Do you remember telling that detective when
21 you interviewed with him that Mr. Sims said, They
22 carry guns. Do you remember that?

23 A. Yes.

24 Q. So, it's fair to say all the information

1 that you relayed to 9-1-1 or to that detective came
2 from Mr. Sims directly.

3 A. That's correct.

4 Q. There was nothing that you personally
5 observed that made you think you needed to report
6 him.

7 A. No.

8 MS. HICKMAN: No further questions.

9 THE COURT: Why don't we take about a
10 15-minute recess, ladies and gentlemen of the jury.

11 (Jury admonished and excused.)

12 THE COURT: Thanks, everyone. Please be
13 seated. Mr. Picker and Ms. Rosenthal.

14 CROSS-EXAMINATION

15 BY MR. PICKER:

16 Q. Good morning, Mr. Cole.

17 A. Good morning.

18 Q. Again, Exhibit 1 showing the time 6:10:57,
19 you see the person in the doorway?

20 A. Yes.

21 Q. Is that the female that you've been
22 discussing this morning?

23 A. I believe so, yes.

24 Q. Okay. I'm going to play this forward and

1 then play the next clip from the same camera. And
2 one of the things you said during your testimony
3 this morning was that you remembered her holding the
4 door open at one point. Do you recall saying that?

5 A. Yes, sir. She stood in front of the door.

6 Q. So, when you say she stood near the door,
7 how close do you have to stand near that door to
8 keep the mag lock from activating?

9 A. 3 feet.

10 Q. So, you see this area right here on your
11 screen, is that close enough to deactivate the lock?

12 A. I don't believe so.

13 Q. Okay. I'm going to play this forward and
14 then we'll play the next one. Every time you see
15 this female standing close enough to keep the door
16 from locking, tell me so I can stop it.

17 A. Okay.

18 Q. Thank you.

19 (Video played.)

20
21 BY MR. PICKER:

22 Q. One question, there seems to be no
23 hesitation from this person as they walk into the --
24 the outside door and inside door.

1 A. When they walk in the first door, it rings
2 a bell. So, when the bell rings on the first door,
3 I just usually let people in. I'm not that
4 concerned about and at that time in the morning.

5 Q. Okay. So, as soon as you hear the bell,
6 you're hitting --

7 A. The --

8 Q. We can only speak one at a time so the
9 court reporter can take this down.

10 Does that sound fair?

11 A. Fair.

12 Q. Okay. Restarting at 6:11, that's you on
13 the screen now, right?

14 A. Yes.

15 Q. What time did you come on shift that day?

16 A. 11:00 p.m. Friday night.

17 Q. And your shift ends at what time?

18 A. 7:00 a.m. in the morning.

19 Q. Safe to say at 6:00 you start cleaning up
20 so that you can close down your shift?

21 A. I'd been cleaning for at least an hour by
22 that point. Yes.

23 Q. That's what you're doing here in the video?

24 A. That is correct.

1 Q. Okay. So, at this point the woman is not
2 anywhere near the doors. Is that correct?

3 A. That is correct.

4 Q. I'm going to fast-forward a little bit.
5 The woman still does not reappear. Is that correct?

6 A. That is correct.

7 Q. Do you see the time on this? This picks up
8 roughly about the same time as the other clip ended.

9 Is that fair?

10 A. Okay. Yeah.

11 Q. Let's go forward a little bit. This is
12 when that video just ends. Sorry.

13 A. Yeah.

14 Q. What are you doing at this point?

15 A. Just regular duties, taking somebody else a
16 drink at that point probably.

17 Q. We're still not seeing her reappear to the
18 door, correct?

19 A. That is correct.

20 Q. This is one of the gentlemen that you saw?

21 A. Yes.

22 Q. And, again, he came right in. You heard
23 the bell and you let him in.

24 A. Yeah.

1 Q. Neither one of those people are the people
2 that you identified this morning --

3 A. No.

4 Q. -- on the screen as being connected to this
5 event?

6 A. No. They're just customers.

7 Q. Okay. And that's where the first gentleman
8 had left?

9 A. Yes.

10 Q. This is where the first gentleman returns
11 for the third time. Is that right?

12 A. Yes. I asked him for ID.

13 Q. You told him to leave and you opened the
14 door.

15 A. Yes.

16 Q. And he followed your instructions and left.

17 A. Yes.

18 Q. All right. And you had gone over at that
19 point to make sure he left, right?

20 A. Looks that way, yes.

21 Q. At this point you can see the second
22 gentleman walking up to the doors.

23 A. That is correct.

24 Q. And you saw him from a distance.

1 A. Yes.

2 Q. You're standing there and watching the
3 front door. Do you know who that person was, you
4 just let that gentleman in? Could you tell?

5 A. No.

6 Q. Was it a regular?

7 A. I don't -- I can't tell.

8 Q. So are these regulars that came in or --

9 A. Not sure. He's a regular -- the bottom of
10 the screen is a regular.

11 Q. This is Mr. Sims. Is that right?

12 A. Yes.

13 Q. Now, I want you to tell me at what point
14 anybody keeps that door open from this point
15 forward?

16 A. Mr. Sims at that point is close enough to
17 keep that door open and she is too at that point.

18 Q. Okay. And there's some kind of
19 conversation going on, and you don't remember
20 hearing anything about that.

21 A. No. I had no idea what they were talking
22 about at that point.

23 Q. Okay. She talked to the gentlemen and then
24 comes back, correct?

1 A. Yes. All activity here would hold the door
2 open.

3 Q. So, she's against the door and it opens,
4 right?

5 A. Yes. As long as you're that proximity it
6 will allow that door to open.

7 Q. Did you have any conversation with this
8 person saying, You need to get away from the door so
9 it will lock?

10 A. No.

11 Q. Then you see Mr. Sims walk back.

12 Is that correct?

13 A. Yes.

14 Q. And she's having a conversation with that
15 person. Is she now far enough away to keep that
16 door from being unlocked?

17 A. Really close right there. I'm not sure
18 exactly.

19 Q. Okay. Now, this is after Mr. Sims has
20 talked to you and you described him as being
21 terrified. Is that correct?

22 A. Yes.

23 Q. Okay. He's pretty close to that woman,
24 isn't he?

1 A. Yes.

2 Q. They're having a conversation.

3 A. Yes.

4 Q. Were you listening to that conversation?

5 A. Couldn't hear it at all.

6 Q. Would you say at this point she's close
7 enough to keep that door from locking?

8 A. Not right there, I don't think so. Mr.
9 Sims is again close --

10 Q. Okay.

11 A. -- but I don't know.

12 Q. Now, are you hearing any part of this
13 conversation at this point when they're a little
14 further away?

15 A. I'm not.

16 Q. And now you see Mr. Sims leaning against
17 the wall.

18 A. Yes.

19 Q. All right. And this was after you had
20 described him coming up to you saying he was
21 terrified?

22 MR. PRENGAMAN: Asked and answered.

23 MR. PICKER: I'm sorry. It was a different
24 part of the tape. This was after.

1 THE COURT: I'm sorry. I didn't hear your
2 objection.

3 MR. PRENGAMAN: I'm sorry, your Honor.
4 Asked and answered.

5 THE COURT: Thank you. Go ahead, Mr.
6 Picker.

7 BY MR. PICKER:

8 Q. Again, this was after he came up to you and
9 he said he was terrified.

10 A. Yes.

11 Q. Okay. Showing you Exhibit 2, can you see
12 -- it's a little dark but can you see the people in
13 this view that you have been describing as Mr. Sims
14 and the female he is talking to?

15 A. Yes.

16 Q. They're roughly in the center of the
17 screen, aren't they?

18 A. Yes.

19 Q. And this part, is this you back here?

20 A. Yes.

21 Q. 6:12:28, I'll stop it. Earlier you had
22 described the second gentleman that came in as
23 standing over Mr. Sims. Do you recall that?

24 A. Yes.

1 Q. And it was your feeling he was trying to
2 intimidate him?

3 A. Yes.

4 Q. Do you see this view on the screen here?

5 A. Yes.

6 Q. What is Mr. Sims doing?

7 A. Standing up talking to the female.

8 Q. And now when he leans in, is that similar
9 to what you saw that second man do to Mr. Sims?

10 A. Yes, it is.

11 Q. Now, did you hear anything at this point
12 between this female and Mr. Sims?

13 A. No. I only heard her one outburst when she
14 got really loud.

15 Q. Now, this continues. He steps back and
16 steps forward again. Do you see that?

17 A. Yes.

18 Q. Okay. Now, moving forward to 6:14:08 and
19 playing forward from there. See Mr. Sims is
20 reseated and they're still talking.

21 Is that correct?

22 A. Yes.

23 Q. That's you again. Is that correct?

24 A. Yes.

1 Q. You're bringing Mr. Sims a drink?

2 A. I believe so, yes.

3 Q. Did he at some point signal you or ask you
4 to bring him a drink?

5 A. No. I usually bring him. His standard is
6 a Doctor Pepper.

7 Q. And did he pay for that drink?

8 MR. PRENGAMAN: Objection, relevance.

9 THE COURT: The objection is relevance,
10 Mr. Picker.

11 MR. PICKER: I'll just withdraw, your
12 Honor.

13 BY MR. PICKER:

14 Q. Now, at this point you said that you asked
15 him if they --

16 A. I'm sure I probably did, yes. Can I help
17 you? That's all.

18 Q. Okay. And did the female respond to you,
19 ask you for a drink or anything like that?

20 A. She did not.

21 Q. Now, you said earlier that one of the
22 reasons you asked the first man who came back the
23 third time and then you told him he had to leave
24 because he didn't have an ID, that you didn't know

1 why they were going over to harass Steve.

2 A. I didn't know why they were walking around
3 the casino. It just seemed uncomfortable for me.

4 Q. Okay. So, when you said this morning they
5 were going over harassing Steve, that's not what you
6 meant.

7 A. I guess not, no.

8 Q. Okay. Because you didn't realize that
9 either of these men had anything to do with this
10 female or with Steve Sims until the second man
11 walked over to her.

12 A. That is correct, yes.

13 Q. Okay. And when you -- we saw that you
14 basically told that first man to leave at about
15 6:21, and the second man didn't come in until three
16 minutes later. Does that sound right?

17 A. I can't remember the time.

18 Q. Okay.

19 A. That's when he came in the first time.

20 Q. No. The second time.

21 A. Then yes.

22 Q. Does that sound about right?

23 A. Yeah.

24 Q. You filled out a written incident report

1 for your job. Is that correct?

2 A. Correct. Yes.

3 Q. And the information that was in it that you
4 wrote down, do you recall where you got that
5 information?

6 A. No. I can barely remember what I wrote
7 down. It was over a year ago.

8 Q. Would it refresh your recollection to see
9 it?

10 A. Sure.

11 Q. Okay.

12 THE COURT: Does that have an exhibit
13 number?

14 MR. PICKER: Number 131.

15 BY MR. PICKER:

16 Q. Tell me when you're done if that refreshes
17 your recollection and I'll take it back.

18 Thank you. In your statement -- well, let
19 me ask you this. At the top it says it's 2/22/20,
20 time, 6:45. Did you write this statement at 6:45 or
21 did you write it sometime later?

22 A. I wrote it a few minutes there after 6:45,
23 yeah. That's when I wrote the statement.

24 Q. You wrote it that morning.

1 A. Yeah, yeah, right after they had -- after
2 they were out of the casino.

3 Q. Okay. And you said "Female got loud and
4 brandished a firearm."

5 A. Yes.

6 Q. Now, I believe you told us earlier in your
7 earlier testimony you never saw a gun.

8 A. No.

9 Q. So, that information came from Steve Sims?

10 A. That is correct.

11 Q. She held the door open so her partners
12 could come and go?

13 A. She was standing -- I thought she was
14 standing close enough to the door to open it at this
15 point in time, yes, between the first time of the
16 9-1-1 call and when 9-1-1 called me back. I could
17 be mistaken because I was in the back.

18 Q. So, you don't know if she was holding it
19 open because you were in the back.

20 A. That is correct.

21 Q. Again, you told us this morning that he was
22 terrified that they were going to kill him. Is that
23 correct? But that's not what you wrote on here.

24 A. No.

1 Q. Now, at one point you did do an interview
2 with the police.

3 A. Yes.

4 Q. And you told them that you saw both the
5 male and the female standing over Mr. Sims.

6 A. At one point I believe they were together,
7 yes.

8 Q. Did you see them both standing over him?

9 A. I can't remember exactly right now. I know
10 he was standing and she got up at one point and I
11 thought they were standing together.

12 Q. Okay.

13 A. I was still working. My glimpses were
14 glimpses.

15 Q. Okay. So, we're at 6:24:05.

16 Do you see that?

17 A. Yes.

18 Q. And you agree that there's a gentleman
19 standing there, but the female is still seated.

20 A. Yeah.

21 Q. Now she gets up.

22 At this point is she standing over Mr.
23 Sims?

24 A. No, she's not. She's got her back to him.

1 Q. Tell me when she starts standing over him.

2 A. She does not.

3 Q. In fact, she walked away.

4 A. She did.

5 Q. And Mr. Sims is still seated.

6 A. Correct.

7 Q. Okay. And then at one point you told the
8 police that both men came in together and they stood
9 over Mr. Sims.

10 A. I thought that's what I saw. I made a
11 misstatement.

12 Q. Now, from the time you heard -- well, you
13 did hear, apparently, this female say something
14 along the lines of stealing something from her kids.

15 A. Correct.

16 Q. Now, when you called 9-1-1, they asked you
17 what this confrontation was about, that this patron
18 said he was being threatened, correct?

19 A. Yes.

20 Q. And you said -- do you recall what your
21 answer was?

22 A. No.

23 Q. You told them "I have no idea."

24 A. I really had no idea, because it could have

1 been about anything. She said, You stole a Play
2 Station from my kids.

3 Q. So, at that point, the fact that she had
4 said, You stole from my kids, that didn't seem to
5 you to be part of this whole story.

6 A. I believe I was panicking when I called
7 9-1-1.

8 Q. Okay. And, in fact, you made some comment
9 that you thought you would be harmed for calling
10 9-1-1.

11 A. Yes.

12 Q. Okay. During the course of this entire set
13 of events, tell me who threatened you.

14 A. Nobody.

15 Q. Tell me who showed you a firearm.

16 A. Nobody.

17 Q. Tell me who had any kind of conversation
18 with you.

19 A. Me? Just Mr. Sims.

20 Q. Now, when you walked over and gave Mr. Sims
21 his Dr. Pepper, his regular drink, at that point you
22 were not alarmed about the conversation going on,
23 were you?

24 A. No, not at that point.

1 Q. Okay. In fact, you didn't become alarmed
2 about anything until Mr. Sims told you something was
3 going on.

4 A. That is correct.

5 Q. Other than that morning when Mr. Sims came
6 to you and said to call 9-1-1, how many times have
7 you talked to Mr. Sims about this situation?

8 A. I don't recall if I have. Maybe once.

9 Q. Okay. He was still living with you after
10 this, wasn't he?

11 A. But he didn't show up to my house for a
12 couple days and then got arrested shortly
13 thereafter. His stuff was in my office. It doesn't
14 mean he was always there.

15 Q. All right. You told the police that,
16 specifically, Mr. McNeely, who is a sergeant, you
17 told him that you had seen her pull -- this female
18 pull a firearm out and you weren't comfortable with
19 that. Do you recall that?

20 A. No.

21 Q. Okay.

22 A. I believe I might have said that at the
23 time.

24 Q. Okay.

1 A. And I was a little panicked afterwards.

2 Q. But, again, you never saw --

3 A. I never saw the firearm, no.

4 Q. Okay. In fact, the reason you were
5 concerned about the two men was you thought they
6 were -- I think your words were "casing the joint."

7 A. Yeah. They walked around a couple times.

8 Q. You also said that people were leaving Bob
9 & Lucy's because this female was being so loud.

10 A. I believe a couple people did, yes.

11 Q. Okay. You watched the video?

12 A. Yeah.

13 Q. Do you know of any -- at the time, February
14 of 2020 -- do you know of any female regulars and
15 patrons at the bar by the name of Tanya?

16 A. I know Tanya, but I don't remember her
17 being in that morning at all.

18 Q. Do you know somebody by the name of
19 Jennifer Fulch?

20 A. Yes.

21 Q. How do you know her?

22 A. She was a -- she lived in my apartment
23 complex, next building over.

24 Q. At the same time Mr. Sims was staying with

1 you?

2 A. Yes.

3 Q. Did you ever see her and Mr. Sims interact?

4 A. I know they were friends, yeah.

5 MR. PICKER: Just a moment, your Honor.

6 THE COURT: Okay.

7 MR. PICKER: Pass the witness. Thank you,
8 your Honor.

9 THE COURT: Mr. Prengaman.

10 REDIRECT EXAMINATION

11 BY MR. PRENGAMAN:

12 Q. Mr. Cole, you were asked about your written
13 statement and about -- you were asked, Did you
14 reflect what Mr. Sims told you in terms of him
15 feeling like he would be killed?

16 Do you recall that question?

17 A. I remember them asking, yes.

18 Q. When you made your written statement, did
19 you write something about Mr. Sims, what he had
20 conveyed to you in terms of his feelings about his
21 own personal safety?

22 A. No, I did not.

23 Q. May I show you?

24 A. Yes. Sorry.

1 MR. PICKER: I think it's improper use to
2 refresh recollection when he said he did not.

3 THE WITNESS: Yes. I'm sorry.

4 THE COURT: First of all, it's Exhibit 134.
5 Mr. Prengaman, Mr. Picker is saying it's improper
6 use.

7 MR. PRENGAMAN: To show him his statement
8 to refresh his memory.

9 THE COURT: I'll allow it. Go ahead.
10 BY MR. PRENGAMAN:

11 Q. Mr. Cole, did you, in fact, characterize --
12 write something in your statement about what Mr.
13 Sims told you as far as his feeling for his own
14 safety?

15 A. Yes. I wrote, I was afraid for his well
16 being.

17 Q. Could you read that sentence verbatim of
18 what you wrote.

19 MR. PICKER: Your Honor, this exhibit is
20 not in evidence. Objection.

21 THE COURT: That objection is sustained.
22 Mr. Prengaman, are you introducing the
23 exhibit?

24 MR. PRENGAMAN: I'm introducing the

1 statement.

2 THE COURT: Do you want to introduce the
3 statement? You've gone beyond asking the witness to
4 refresh his recollection. You're asking him to read
5 from the exhibit, so are you offering it?

6 MR. PRENGAMAN: I'll offer it.

7 THE COURT: Any objection to 134, Ms.
8 Hickman?

9 MS. HICKMAN: Yes.

10 THE COURT: What is your objection?

11 MS. HICKMAN: Hearsay.

12 THE COURT: Mr. Prengaman.

13 MR. PRENGAMAN: The sentence I'm asking for
14 is a past recollection. Well, why don't I ask this:
15 Mr. Cole --

16 THE COURT: Why don't you take the exhibit
17 from him.

18 BY MR. PRENGAMAN:

19 Q. Mr. Cole, you've testified earlier that you
20 wrote this statement fairly soon after these events
21 transpired.

22 A. Yes, sir.

23 Q. Did you make it at a time when it was fresh
24 in your memory?

1 A. Yes, sir.

2 MR. PRENGAMAN: Then, your Honor, I would
3 offer that statement as a past recollection. It's
4 separate and apart from -- it's not a refreshing
5 recollection. It is a statement made at a time when
6 it was fresh in his memory, which is an exception to
7 the hearsay rule.

8 THE COURT: Ms. Hickman?

9 MS. HICKMAN: Judge, if he wants to use
10 this statement to refresh his recollection, that is
11 fine. I object to admitting it. If he wants to
12 impeach him, he can do that too, but I object to the
13 admission of the entire statement.

14 THE COURT: Let's ask the witness the
15 followup question as if you had refreshed his
16 recollection with the document, please.

17 BY MR. PRENGAMAN:

18 Q. Mr. Cole, as you sit here now, do you
19 remember what you wrote about what Mr. Sims
20 expressed to you about his concerns for his safety?

21 A. Not word for word.

22 Q. But you did write down what he expressed to
23 you and it was fresh in your memory.

24 A. Yes.

1 MR. PRENGAMAN: I'd ask him to read that
2 sentence only, your Honor, as a past recollection.
3 He's testified that he can't remember all the
4 information in it and, therefore, it's a past
5 recollection.

6 THE COURT: Mr. Cole, having refreshed your
7 recollection with your statement as you did with Mr.
8 Picker when he was asking you questions, do you have
9 a recollection now about what you said with regard
10 to Mr. Sims?

11 THE WITNESS: Yes.

12 THE COURT: And what was that?

13 THE WITNESS: That Mr. Sims was afraid for
14 his well being.

15 THE COURT: Thank you.

16 BY MR. PRENGAMAN:

17 Q. Do you remember him asking you to call the
18 police?

19 A. Yes.

20 MR. PICKER: Objection, leading.

21 BY MR. PRENGAMAN:

22 Q. Mr. Cole, you were asked some questions
23 about some of the other patrons -- a couple of the
24 other patrons that were in Bob & Lucy's that

1 morning. Do you recall that?

2 A. Yes.

3 Q. Do you know the individuals that were in
4 there that morning, do you know whether they were
5 homeless or not?

6 A. Yes.

7 Q. Okay. Were they homeless?

8 A. Yes. Homeless people come in very
9 regularly.

10 MS. HICKMAN: I'm sorry. I didn't hear
11 that.

12 THE WITNESS: The ones at the bar that was
13 at the bottom of one of the pictures, yeah, he's a
14 regular too.

15 BY MR. PRENGAMAN:

16 Q. Regulars, but you knew them to be homeless.

17 A. And I knew them to be homeless, that is
18 correct.

19 Q. And did you -- did you know at the time --
20 did you even know their last names?

21 A. No. No.

22 MR. PRENGAMAN: Thank you very much,
23 Mr. Cole.

24 THE COURT: Thank you. Ms. Hickman?

1 MS. HICKMAN: Thank you, your Honor.

2 RECROSS EXAMINATION

3 BY MS. HICKMAN:

4 Q. Mr. Cole, those two people that we're
5 talking about at the bar that were homeless, are you
6 with me?

7 A. Yes.

8 Q. One of their names is Faustino, correct?

9 A. That is correct.

10 Q. And is the other one John?

11 A. Yes.

12 Q. And they actually still come into Bob &
13 Lucy's, correct?

14 A. Correct.

15 Q. What is the last time you saw them?

16 A. Yesterday.

17 Q. Yesterday. And between February 22nd,
18 2020, and yesterday, is it fair to say that they are
19 at Bob & Lucy's fairly regularly?

20 A. Yes.

21 Q. So, if you wanted to find them, you could
22 go to Bob & Lucy's and there would be a good chance
23 they would be there?

24 A. Well, I mean, they pop in and out any time

1 of day. But they're usually in there at least once
2 a day, I would say.

3 Q. And one of them, actually, for a while
4 parked his truck in the parking lot and slept there,
5 right?

6 A. He parked his car down the road and slept
7 there.

8 Q. Okay. Who was that?

9 A. Faustino.

10 Q. Did the Sparks Police Department ever come
11 and ask you where that was to try to find those two
12 people?

13 A. No, they did not.

14 Q. And you were just testifying a little bit
15 about the incident report that you wrote, right?

16 A. Yes.

17 Q. And you wrote that at 6:45 in the morning
18 on February 22nd.

19 A. Correct.

20 Q. 10 minutes after, about, the police showed
21 up, right?

22 A. Yes.

23 Q. And it's fair to say that you did not write
24 that Mr. Sims feared for his life, correct?

1 A. Feared for his well being.

2 Q. You did not write that Mr. Sims thought he
3 would be killed.

4 A. I did not.

5 Q. You didn't write that Mr. Sims was being
6 robbed, correct?

7 A. Correct.

8 Q. You did not write that that female
9 threatened him with a firearm, correct?

10 A. Correct.

11 Q. You used the word "brandished."

12 A. Yes.

13 MS. HICKMAN: Thank you. I have no further
14 questions.

15 THE COURT: Mr. Picker?

16 MR. PICKER: Nothing based on that.

17 THE COURT: Thank you, Mr. Cole. You're
18 excused.

19 Mr. Prengaman.

20 MR. PRENGAMAN: State calls Officer
21 Nicholas Chambers.

22 (Witness sworn.)

23

24

DIRECT EXAMINATION

BY MR. PRENGAMAN:

Q. Good morning. Could you please state your name.

A. Nicholas Chambers.

Q. Officer, could you please spell your last name.

A. C-h-a-m-b-e-r-s.

Q. And what's your occupation?

A. Police officer.

Q. And by whom are you employed?

A. City of Sparks.

Q. How long have you been employed in any capacity as a peace officer with City of Sparks?

A. City of Sparks for approximately two years.

Q. Any law enforcement training or experience prior to that?

A. Yes, sir.

Q. What was that?

A. I was a police officer in Las Vegas for 13 years.

Q. Officer, taking you back to February 22nd, 2020, what was your assignment back then?

1 A. I was working patrol.

2 Q. And did you have a particular area of
3 Sparks that you patrolled?

4 A. Yes, sir.

5 Q. And what was that?

6 A. Assigned to the east side of Sparks.

7 Q. And what was your shift back on -- what
8 shift were you working on February 22nd?

9 A. Graveyard.

10 Q. Taking you to the early morning hours --
11 and that graveyard was what hours?

12 A. At that time I believe it was 10:00 p.m. to
13 8:00 a.m.

14 Q. So, around 6:20 in the morning you were on
15 duty?

16 A. Yes, sir.

17 Q. Were you assigned or driving a marked
18 Sparks patrol vehicle?

19 A. Yes, sir.

20 Q. What was that? Can you describe that
21 vehicle for us?

22 A. My patrol vehicle was a Chevy Tahoe that
23 had exterior markings and also was equipped with
24 lights on the top of it -- of the patrol vehicle.

1 Q. Was that police vehicle also equipped with
2 a dash cam?

3 A. Yes, sir.

4 Q. And that's video recording equipment.

5 A. Yes, sir.

6 Q. And generally what area -- or where was
7 that camera located? In what area? What was its
8 field of view?

9 A. The camera is mounted in the front
10 windshield and it faces towards the front of the
11 vehicle.

12 Q. About 6:26 a.m. on February 22nd of last
13 year, did you respond to a call for service?

14 A. Yes, sir.

15 Q. Was that call for service to Bob & Lucy's
16 at 5050 Oddie Boulevard?

17 A. Yes, sir.

18 Q. What was the nature of the call?

19 A. The nature of the call was subject with
20 guns in front of the business.

21 Q. And you begin responding, heading towards
22 Bob & Lucy's?

23 A. Yes, sir.

1 Q. And that morning did you have anyone with
2 you or was it just you on patrol?

3 A. I was by myself in my own car but I was
4 with my partners.

5 Q. In terms of in your vehicle, was it just
6 you in your vehicle or --

7 A. Just me in my vehicle.

8 Q. Describe your approach when you began to
9 get into the vicinity.

10 THE COURT: Mr. Prengaman, a little louder,
11 please.

12 BY MR. PRENGAMAN:

13 Q. Officer, could you please describe your
14 approach as you got close to the vicinity of Bob &
15 Lucy's?

16 A. Yes, sir. So, as we were responding, due
17 to the nature of the call, our sergeant requested us
18 to rally up, to meet up prior to arriving in the
19 area of Bob & Lucy's.

20 As I was kind of taking a shortcut through
21 the apartment complex, I had heard over the radio
22 that a black male was observed running from the
23 business. As I exited that parking lot, I observed
24 we had two marked patrol units already in the

1 parking lot of Bob & Lucy's. Therefore, I drove
2 around and pulled up next to those two officers that
3 were parked there.

4 Q. I'll show you what has been admitted as
5 Exhibit 73. Officer, do you recognize this?

6 A. Yes, sir.

7 Q. And is Bob & Lucy's accurately labeled?

8 A. Yes. Yes, sir.

9 Q. If you press on that monitor, you'll be
10 able to draw. Could you show us -- with Xs or
11 whatever is easier for you -- show us the two patrol
12 cars that you saw were located.

13 A. One was roughly here and roughly here and I
14 pulled in there (indicating).

15 Q. And what happened next?

16 A. So, as I pulled up next to my partners, due
17 to there being alleged guns involved, I went to the
18 back of my patrol car where I had my patrol rifle
19 staged. I deployed my patrol rifle and started to
20 walk around towards the passenger side of my car.

21 And that's when we observed the white
22 pickup truck, which is parked in front of the
23 business, observed the rear reverse lights turn on
24 and start backing up.

1 Q. Can you show us where that white truck was
2 located generally?

3 A. That would be right here (indicating).

4 Q. When you pulled up and saw those patrol
5 cars there, were you aware of what their focus was?
6 In other words -- I'll back up.

7 At some point did you find out that the
8 white truck was the suspect vehicle?

9 A. Yes.

10 Q. Is that before or after you arrived and
11 parked your car?

12 A. That was before my arrival. The
13 description of the truck was put out over the radio
14 that the white pickup truck was parked in front of
15 the business.

16 Q. So, when you got out of your car, were the
17 officers from the other two cars inside or outside
18 of their cars?

19 A. They were outside of their cars.

20 Q. Describe what was happening. What were
21 they doing?

22 A. I believe the partner recognized me, he was
23 also getting his rifle deployed. Before any
24 commands were really given -- you have to do a

1 felony car stop. Before any commands were able to
2 be given by any of the officers, the truck had
3 started backing up.

4 Q. Did any officers yell commands as the truck
5 began backing up?

6 A. Yes.

7 Q. Can you describe that?

8 A. As I observed the -- again, the reverse
9 lights coming on and the truck backing up. I
10 started yelling for the truck to stop.

11 Q. And at what volume?

12 A. Loud as I could, sir.

13 Q. Did the truck stop?

14 A. No, sir.

15 Q. What did you see?

16 A. The truck continued backing up and then
17 drove off eastbound through the parking lot and then
18 out onto Rock Boulevard.

19 Q. And then what did you do?

20 A. I got closer, jumped back into my patrol
21 car and then started chasing after the suspect with
22 lights and sirens activated.

23 Q. Now, before I move forward, is there a
24 reason that you and the other officers positioned

1 your vehicles the way you did for what you described
2 as the felony car stop?

3 A. Yes. So, we positioned our cars -- we want
4 the cars a distance back just for safety reasons.
5 And then with where the vehicle was, trying to have
6 the cars set up in a row. That's how we're trained.
7 Obviously, provides protection for them from
8 oncoming traffic.

9 Q. So, now the truck drives onto Rock.

10 A. Yes, sir.

11 Q. And is heading south?

12 A. Yes, sir.

13 Q. Describe what you do.

14 A. I get behind. There's probably about,
15 maybe three, four patrol vehicles with lights and
16 sirens ahead of me that are following behind the
17 white pickup truck, and I was following behind them
18 going southbound on Rock Boulevard.

19 Q. You told us you had your red lights and
20 sirens activated.

21 A. Yes, sir.

22 Q. As you were following in that position you
23 described, did you see the truck?

24 A. Not directly, no.

1 Q. Did you see the truck ever stop anywhere on
2 Rock Boulevard?

3 A. No, sir.

4 Q. Describe how the pursuit continued.

5 A. So, we continued southbound on Rock
6 Boulevard again. The reason why I couldn't see the
7 vehicle is the truck was driving at a high rate of
8 speed, so it was pretty far ahead of me. I'd have
9 to look at my report to give you an accurate speed.

10 I recall that he ran a couple red lights
11 while traveling southbound on Rock Boulevard where
12 he continued under the I-80 bridge. And then he
13 made a left-hand turn on a street called Hymer.

14 Q. Officer, referencing your report, back at
15 the time did you document the speeds that the truck
16 reached or that the pursuit reached while it was
17 fresh in your memory?

18 A. Yes, sir.

19 Q. And when you were recording those speeds
20 was it, for instance, the speed your car was
21 traveling as you pursued the truck or was it
22 something about the truck itself?

23 A. So, it was -- one is officers were giving
24 out the radio information about what our speeds are

1 but also our dash cameras document the speeds our
2 patrol vehicles were going.

3 Q. So, during the pursuit were other patrol
4 cars calling out the speeds they were driving at
5 while they were pursuing the truck?

6 A. Yes, sir.

7 Q. And you documented those speeds in your
8 report?

9 A. Yes, sir.

10 Q. I'll show you --

11 MS. GROSENICK: I'm going to object.
12 There's lack of personal knowledge and this is
13 hearsay.

14 THE COURT: Okay. Mr. Prengaman.

15 MR. PRENGAMAN: Your Honor, as he testified
16 to, it's either direct personal knowledge from his
17 vehicle or a present-sense impression reported by
18 the officers as they were pursuing and calling out
19 their speeds.

20 THE COURT: Mr. Prengaman, you haven't
21 asked him if he recalls what's in the report without
22 showing it to him.

23 MR. PRENGAMAN: I can, your Honor. I
24 believe he just said he couldn't tell us without

1 looking at his report.

2 THE COURT: All right.

3 BY MR. PRENGAMAN:

4 Q. Officer Chambers, I'll start by asking you
5 what speeds were reached during the pursuit going
6 southbound on South Rock? Can you tell us that from
7 memory?

8 A. I can't tell you an exact number, but I can
9 tell you in the area of probably 60, maybe 65 miles
10 per hour.

11 Q. Okay. What is the posted speed limit along
12 that stretch of Rock?

13 A. I believe it's roughly 30 miles an hour.

14 Q. I'll show you what we've admitted as
15 Exhibit 77. You told us that the truck turned off
16 of South Rock onto Hymer.

17 A. Yes, sir.

18 Q. Could you show us on this aerial photograph
19 the tail end of the path that the truck drove on
20 Rock.

21 A. So, we were coming southbound here and then
22 made his eastbound turn onto Hymer.

23 Q. Describe what happened next.

24 A. Hymer dead-ends roughly down here. I

1 believe it's this building here, which is the Washoe
2 Metal Fabricating Company. The truck drove around
3 the backside of that business. As it was doing so,
4 I drove onto this side of the business for potential
5 foot pursuit, if they were to bail out of the
6 vehicle.

7 As I drove up on this side here, the truck
8 continued from behind the business where it went in
9 front of me and then went southbound on 15th street.
10 That's where I took up the number one position in
11 the pursuit.

12 Q. When you say you were number one, you were
13 the car right behind them.

14 A. Yes, sir.

15 Q. Did you still have your lights and sirens
16 activated?

17 A. Yes, sir.

18 Q. Including your red and blue lights?

19 A. Yes, sir.

20 Q. Were other police in other police cars
21 following behind you in the pursuit?

22 A. Yes, sir.

23 Q. So, as you were pursuing the truck, you
24 were number one with other vehicles behind you?

1 A. Yes.

2 Q. Could you tell if they had also their
3 lights and sirens out?

4 A. Yes, sir.

5 Q. They did?

6 A. Yes, sir.

7 Q. Describe what happens next.

8 A. So, the vehicle continues south on 15th
9 Street where it comes out onto Glendale and makes an
10 eastbound turn onto Glendale.

11 Q. Are you able to describe for us the rate of
12 speed of the truck as it left the industrial area
13 and took the path you just described?

14 A. Yes, sir. So, going eastbound on Glendale,
15 I believe our speeds were up in the area of 90 miles
16 per hour.

17 Q. And at that speed were you gaining on the
18 truck?

19 A. No, sir.

20 Q. What happened next?

21 A. So, continued down on Glendale and came up
22 to a red light which was at McCarran. There was a
23 marked patrol unit that was already stopped at that
24 intersection with their red lights and blue lights

1 flashing. I started to slow down due to it being a
2 red light intersection.

3 The white pickup truck drove right through
4 the intersection and I followed behind him seeing
5 that a patrol car was there and there was no
6 oncoming traffic coming.

7 Q. Where did the truck go? Did the truck pull
8 over, appear to make any effort to pull over at any
9 point?

10 A. No, sir.

11 Q. If the truck had stopped, would the pursuit
12 have stopped?

13 A. Yes, sir.

14 Q. What did you see the truck do next?

15 A. So, the truck went through the McCarran and
16 Glendale intersection going eastbound. It drove
17 east all the way to where it dead-ends and made a
18 southbound turn.

19 Q. And to what area would that have been?

20 A. It's still the industrial area.

21 Q. I'll show you what we've admitted as
22 Exhibit 78.

23 Does this aerial photograph show the area
24 where the pursuit continued?

1 A. Yes, sir.

2 Q. Please describe for us -- show us the path
3 the truck took and what you observed.

4 A. Yes, sir.

5 So, we continued down Glendale. This is
6 McCarran that I was talking about. Continued going
7 eastbound, then came up to Deming Way here where he
8 made a southbound turn, and then again this right
9 here is a stop sign where he ran a stop sign and
10 made a westbound turn onto Kleppe. Then he
11 continued where he went through the parking lot, he
12 was right here in this business -- actually, it
13 might be this business here.

14 Went through the parking lot of the
15 business where he came back out on the road where we
16 had another marked police unit with red and blue
17 lights flashing stop in front of him, where he went
18 around the marked unit and continued up through the
19 industrial area here and back out on Glendale going
20 westbound (indicating).

21 Q. Describe the rate of speed that the vehicle
22 traveled up until it got back to Glendale.

23 A. I couldn't really give you an exact --
24 probably in the 40, 50 mile-an-hour range, somewhere

1 in there.

2 Q. Where did the truck go next?

3 A. Truck went out to Glendale and went
4 westbound where he went back out to McCarran and
5 made a northbound turn onto McCarran Boulevard.

6 Q. Showing you now Exhibit 79, do you
7 recognize the area of Sparks shown here?

8 A. Yes.

9 Q. Are you able to show us where the truck
10 continues to drive on this exhibit?

11 A. Yes, sir. So, again, here's McCarran and
12 continues north on McCarran. Right here at Nugget
13 Avenue you have a couple red lights for Nugget
14 Avenue and the on- and off-ramps to the freeway,
15 which, if I recall, I believe he ran the Nugget
16 Avenue light.

17 He went underneath the freeway here and
18 passed Victorian. And then right here at Nichols,
19 this is where he went into oncoming traffic going
20 northbound in the southbound lanes.

21 Q. At this point are you still the first car
22 behind him, behind the truck?

23 A. Yes, sir.

24

1 Q. Do you still have your lights and sirens
2 activated?

3 A. Yes.

4 Q. Are there still other police cars following
5 you pursuing the truck?

6 A. Yes, sir.

7 Q. Up to this point does the truck make any
8 attempt to pull over and stop?

9 A. No, sir.

10 Q. What happens next?

11 A. Again, the truck is going northbound in the
12 southbound lanes. I follow the truck in the
13 northbound lanes. He drove up to Lincoln, made a
14 left-hand turn onto Lincoln here and I fall behind
15 him. This is a residential area, 25-mile-an-hour
16 zone, where he continues going through up to
17 Stanford.

18 Here at Stanford he makes a hard left turn
19 and goes southbound. Back where we turned onto
20 McCarran going northbound, I had requested from the
21 supervisor a pursuit intervention technique that was
22 granted. As we were going southbound on Stanford,
23 he's attempting to make a right-hand turn onto
24 Victorian, where I felt the speeds were low enough

1 and I could safely conduct the pit maneuver.

2 Q. Can you describe that?

3 A. Basically what it is is where we line up
4 the front end of our car with the rear end of their
5 car and turn into them, causing the truck to spin
6 180 degrees, which is supposed to stop the vehicle
7 and proceed to safety.

8 Q. So, you said you requested permission and
9 it was granted.

10 A. Yes, sir.

11 Q. Now, before we get to Stanford and
12 Victorian, you indicated the truck went into the
13 oncoming travel lane. Are you saying that it went
14 all the way to Lincoln in the oncoming travel lane?

15 A. Yes. So, he entered oncoming travel lanes
16 at Nichols Boulevard and stayed in that lane until
17 he made the left-hand turn on Lincoln.

18 Q. And then are you able to tell us once the
19 truck turned on Lincoln what speed the pursuit
20 reached on Lincoln?

21 A. Say roughly right around the
22 50-mile-an-hour range.

23 Q. And do you recall what the posted speed
24 limit is along that stretch?

1 A. On that stretch, because it was
2 residential, it was 25.

3 Q. And then can you tell us the approximate
4 speed of the pursuit once the truck turned onto
5 Stanford?

6 A. Again, I would say we were roughly -- got
7 up to maybe the 40- to 50-mile-an-hour range.

8 Q. So, now as the truck goes to Stanford,
9 reaches Victorian coming off of Stanford, are there
10 still other police cars behind you?

11 A. Yes, sir.

12 Q. Do you recall seeing any other police cars
13 other than those behind you as you reached
14 Victorian?

15 A. As we approached Victorian, I recalled
16 there was a unit that was coming up westbound --
17 sorry -- from the east going west on Victorian
18 Avenue toward Stanford.

19 Q. Describe what happens as you try to execute
20 the pit maneuver.

21 A. So, as the truck slowed down to make the
22 right-hand turn, I pulled up behind him where I put
23 the front end of my car to the back rear passenger
24 of his vehicle and I drove forward causing the truck

1 to spin 180 degrees.

2 Q. And did the truck engine's stall out?

3 A. No, sir.

4 Q. Did the truck stop?

5 A. That, I don't know, because I had gone
6 ahead into a fence.

7 Q. What happened? Did the truck stop in the
8 area where you were?

9 A. I don't know if the truck ever came to a
10 complete stop or not. I do recall hearing over the
11 radio that it was successful. So, again, as I drove
12 through the pit, I ended up crashing head on into a
13 fence. I tried to exit my vehicle in case -- to get
14 out of any kind of line of fire or anything, and
15 then I just remember seeing the truck continue going
16 eastbound on Victorian.

17 Q. And did that end your involvement in the
18 pursuit?

19 A. Yes, sir.

20 Q. Officer, were you wearing any body camera
21 that day?

22 A. Yes, sir.

23 Q. And was it activated at the time that you
24 -- at some point after you arrived and started

1 getting out of the vehicle?

2 A. I believe -- I believe so, yes.

3 Q. I'll show you what we've marked for
4 identification as Exhibits 95 and 96.

5 Beginning with Exhibit 95, are you familiar
6 with that exhibit?

7 A. Yes, sir.

8 Q. And you've seen the contents of that flash
9 drive before?

10 A. Yes, sir.

11 Q. And does that flash drive contain a segment
12 of your body cam footage that shows some of the
13 events you described when you got to Bob & Lucy's
14 and saw the truck out front?

15 A. Yes, sir.

16 Q. It's an accurate copy of that segment of
17 the footage?

18 A. Yes, sir.

19 Q. With regard to Exhibit 96, do you recognize
20 that exhibit?

21 A. Yes, sir.

22 Q. Have you had an opportunity to review the
23 contents before?

24 A. Yes, sir.

1 Q. Does that contain a segment of your dash
2 cam footage from your patrol vehicle that you were
3 driving this morning?

4 A. Yes, sir.

5 Q. And does that segment of footage show your
6 pursuit of the truck up to the point where you --
7 after you -- up to the point where the pit maneuver
8 and you were no longer involved?

9 A. Yes, sir.

10 Q. Again, that's an accurate copy of your --
11 that segment of the footage?

12 A. Yes, sir.

13 MR. PRENGAMAN: I'd move for the admission
14 of Exhibits 95 and 96.

15 MS. GROSENICK: No objection.

16 THE COURT: Ms. Rosenthal?

17 MS. ROSENTHAL: Thank you, your Honor. I
18 just have a couple questions.

19 CROSS-EXAMINATION

20 BY MS. ROSENTHAL:

21 Q. Officer Chambers, that's just a portion of
22 your video from that day, correct?

23 A. Which one?
24

1 Q. I'll start with Exhibit 95, the body
2 camera. You reviewed it prior to today?

3 A. Yes.

4 Q. And is it a full video of your body cam?

5 A. I don't 100 percent recall. Because once
6 you get back in the vehicle, where it's mounted you
7 can't see over the dash. But I noticed the body
8 camera when I'm getting out of the vehicle and
9 getting my AR-15 shows the truck parked in front of
10 the business.

11 Q. Did you edit the body cam?

12 A. No.

13 Q. Do you know if it was edited?

14 A. No, ma'am.

15 Q. No, you don't know or, no, it was not
16 edited?

17 A. No, I don't know.

18 Q. And then in regards to Exhibit 96, dash
19 cam, is that a full upload of your dash cam from
20 that day?

21 A. Yes.

22 Q. The full video?

23 A. Yes, ma'am.

24

1 MS. ROSENTHAL: No objection, your Honor.

2 THE COURT: Ninety-five and 96 are in.

3 Thank you, Ms. Rosenthal.

4 (Exhibits 95 and 96 admitted.)

5 BY MR. PRENGAMAN:

6 Q. I'll show you what's marked as Exhibit 121.

7 I'll ask you to look at that.

8 Do you recognize that?

9 A. Yes, I do.

10 Q. Okay. And looking at Exhibit 121, is it
11 labeled as "Full dash cam"?

12 A. Yes, it is.

13 Q. And did you have a chance to watch that as
14 well?

15 A. Yes, I did.

16 Q. You just testified a few moments ago about
17 Exhibit 96. Can you tell us how that one was
18 labeled?

19 A. 96 is labeled "Dash cam edit."

20 Q. Now, was there a time when you looked --
21 were able to look at both of those?

22 A. Yes.

23 Q. Looking at those now, does that kinda
24 refresh your recollection about which has the full

1 and which has the edited version?

2 A. Yes.

3 Q. Is 96 an edited version that shows a
4 segment of the pursuit?

5 A. Yes.

6 Q. 121 is a copy of full footage that was
7 uploaded to the -- basically the software that keeps
8 your dash cam footage.

9 A. Correct.

10 MR. PRENGAMAN: With that, I'd move for the
11 admission of nine --

12 THE COURT: Ninety-five and 96 are
13 admitted. Are you offering 121 also?

14 MR. PRENGAMAN: I'm not at this time.

15 THE COURT: Thank you.

16 MS. ROSENTHAL: Based off that followup, I
17 had a couple questions for 96.

18 BY MS. ROSENTHAL:

19 Q. Is it accurate that Exhibit 96 is an edited
20 version?

21 A. Correct.

22 Q. And you did not do the editing of that.

23 A. No, ma'am.

24 MS. ROSENTHAL: Thank you.

1 THE COURT: Thank you, Ms. Rosenthal.

2 Mr. Prengaman.

3 MR. PRENGAMAN: Thank you, your Honor.

4 BY MR. PRENGAMAN:

5 Q. I'm showing you now the opening frames of
6 Exhibit 95. I stopped it at two seconds in the
7 footage. Can you tell us what we're looking at
8 here.

9 A. This is the one vehicle that I was talking
10 about that was parked around the other side and this
11 is where I had reached -- deployed my rifle from the
12 back of my SUV.

13 Q. What is the building you see here?

14 A. So, this building right here is the Bob &
15 Lucy's.

16 Q. And if you could go back to Exhibit 73,
17 show us where that patrol car is.

18 A. Say that one more time.

19 Q. Could you show us the patrol car we just
20 saw in the previous footage? Could you show us
21 where that was located. Orient us.

22 A. So, the patrol car that I had circled was
23 roughly right around here. Again, I had pulled in
24 roughly there (indicating).

(Video played.)

BY MR. PRENGAMAN:

Q. We're hearing no sound for the first 30 seconds of that.

A. The reason is I had activated my lights into the -- well, the Position 3 mode on our console, which automates the activation of our body cameras and dash cameras.

Q. And there's that 30-second gap with no sound, correct?

A. Correct.

Q. Now, Officer, what did we just see?

A. So, that's where we saw our vehicles setting up to do a felony car stop. The white pickup truck that was parked in front of the business was described as the suspect vehicle to us. As it was starting to reverse backwards, you saw me walk to the side, put my rifle in the truck and that's when I was yelling commands to the truck to stop.

Q. And because of the way the camera functions, we didn't hear anything because it didn't capture it.

A. Right.

1 Q. Moving on to Exhibit 96, the opening frame,
2 can you tell us what we see here?

3 A. This is from the dash cam mounted in my
4 patrol car. You obviously see the two cars parked
5 here and then this is the suspect vehicle here
6 (indicating).

7 (Video played.)

8 BY MR. PRENGAMAN:

9 Q. Officer Chambers, pausing at 1 minute and
10 26 seconds into the footage, is the truck and your
11 vehicles and the other vehicles still on South Rock?

12 A. Yes.

13 Q. What area has the truck gone to?

14 A. He has -- sorry. Can you say that again?

15 Q. What area are we looking at here?

16 A. So, this is now southbound Rock and the
17 that's the I-80 freeway underpass.

18 (Video played.)

19 BY MR. PRENGAMAN:

20 Q. Stopping at two minutes and two seconds in,
21 you've just veered off from following the patrol
22 cars.

23 A. Correct.

24 Q. What's happening?

1 A. So, as you heard on the radio, the officer
2 advised there was a dead end. The truck went back
3 behind this business. Not knowing if there was a
4 fence back there or not, a lot of times what will
5 happens is subjects will dump their car,
6 essentially, or exit the vehicle and then flee on
7 foot. And so I was coming over here to try and cut
8 off that direction or set up a perimeter.

9 (Video Played.)

10 BY MR. PRENGAMAN:

11 Q. Stopping at two minutes and six seconds,
12 what's happened?

13 A. As you saw, the truck came back from behind
14 the building and drove directly in front of me and
15 I'm now No. 1 in the pursuit.

16 (Video played.)

17 BY MR. PRENGAMAN:

18 Q. Now pausing at four minutes and 13 seconds
19 into the footage, Officer Chambers, where is the
20 truck going now?

21 A. Now, we're going southbound on -- I believe
22 it was Deming.

23 (Video played.)

1 BY MR. PRENGAMAN:

2 Q. Now, Officer, pausing at five minutes and
3 32 seconds in, where has the truck just turned?

4 A. We are now going back westbound on
5 Glendale.

6 (Video played.)

7 BY MR. PRENGAMAN:

8 Q. Stopping at six minutes and 12 seconds, has
9 the truck turned onto McCarran?

10 A. Yes. We're both on McCarran.

11 Q. Did we just hear you say something about
12 the pit maneuver?

13 A. Yes. I just requested through a supervisor
14 for a pit maneuver.

15 (Video played.)

16 BY MR. PRENGAMAN:

17 Q. Pausing at seven minutes and 22 seconds in,
18 where has the truck just turned?

19 A. We're now southbound on Stanford.

20 (Video played.)

21 BY MR. PRENGAMAN:

22 Q. So, Officer, what did you see?

23 A. So, that's where you saw me attempt to do
24 the pit maneuver and then I crashed into the fence.

1 Q. The truck was still proceeding as you
2 earlier described?

3 A. What's that?

4 Q. You heard radio traffic say the truck was
5 continuing on, as you earlier described?

6 A. Yes.

7 MR. PRENGAMAN: I have no further
8 questions. Thank you, Officer.

9 THE COURT: This might be a good time to
10 take our lunch break, a forty-five-minute lunch
11 break.

12 (Jury admonished and excused for
13 lunch recess.)

14 THE COURT: Thanks, everyone. Please be
15 seated.

16 (Proceeding out of the presence.)

17 Counsel, just a couple things before we
18 seat the jury.

19 Mr. Picker and Ms. Rosenthal, in your
20 supplemental trial statement there's an issue I want
21 to bring to your attention, because we had a body
22 cam video introduced through Loeschner and through
23 Chambers. On page four you have a heading title
24 entitled "Present-sense impression statements made

1 by the police officers on --"

2 MR. PICKER: I can't hear you.

3 THE COURT: On page four of your
4 supplemental trial statement you have a category
5 heading "Present-sense impression statements" and
6 you offer a limited instruction. So far, body cam
7 footage has come in through some of these officers
8 but you've not objected to it.

9 The issue is, as I stated, the
10 present-sense impression. And now that it's obvious
11 that Ms. Norman was not in the truck, this footage
12 and what the officers are saying appears to be
13 related to the pursuit of the vehicle. I'm
14 wondering are you -- because it's obvious now that
15 your client is not in a truck, is this not an issue
16 for you anymore?

17 MR. PICKER: Your Honor, it does remain an
18 issue. The concern we have was some of the specific
19 statements by some of the officers, those have not
20 come in.

21 THE COURT: Okay. And you'll alert me to
22 that later?

23 MR. PICKER: We will.

24 THE COURT: Thank you. I don't know how

1 much is left with the current witness on the stand,
2 Officer Chambers, but after that we'll call Mr.
3 Sims. And there are two issues but I want to give
4 you an opportunity to confirm first that there are
5 two issues related to Sims' testimony regarding
6 limiting instructions. And then I wanted to read to
7 you what I was going to read to jurors directly
8 before that testimony is elicited.

9 I was prepared to do it as the witness --
10 as the witness going to take the stand, but Ms.
11 Hickman has asked me if I would do it directly
12 before the questions asked. And so with regard to
13 this court's previous ruling that Mr. Sims can
14 testify as to the handgun, the instruction reads as
15 follows:

16 "You are about to hear testimony related to
17 Mr. Williams' possession of a weapon that occurred
18 prior to the events that occurred in this case,
19 which was February 22nd, 2020. This evidence
20 cannot be used to prove Mr. Williams' character --
21 and it's to show he acted in such a way in this
22 case. The information may, however, be used to
23 establish a motive, opportunity, intent,
24 preparation, plan, knowledge, identity, or as to

1 Sims" --

2 Then there's the instruction regarding the
3 text messages that will come in that Ms. Norman sent
4 to Mr. Sims. This is a limiting instruction to the
5 benefit of Mr. Williams.

6 "You are about to hear testimony related to
7 text messages Ms. Norman sent to Mr. Sims prior to
8 the events that occurred in this case on
9 February 22nd, 2020. These text messages may not
10 be considered against Mr. Williams."

11 So, Counsel, my first question for you is
12 with regard to Mr. Sims' testimony, not to prevent
13 you from raising anything as we move through his
14 testimony, but with regard to those things that were
15 pretrial. Mr. Picker, anything else?

16 MR. PICKER: Just a moment, your Honor.

17 THE COURT: Thank you. Ms. Hickman and Ms.
18 Grosenick, same question for you.

19 MS. HICKMAN: Your Honor, just one second
20 to talk.

21 THE COURT: Of course.

22 MS. HICKMAN: With regards to the
23 instruction proposed, I would ask that you say "Mr.
24 Williams' alleged possession of a firearm." And

1 then when you're saying the reasons that it may come
2 in, I would ask that that be limited to reasons
3 noticed by the state in that the Court granted
4 permission -- and I was trying to pull the order,
5 actually.

6 THE COURT: Hang on. This is what -- that
7 order was issued by this court February 18th, 2021.
8 The court's analysis begins at page four, line 15,
9 but the actual findings by the Court begin on line
10 page 7, line 12. Go ahead and look at that.

11 MS. HICKMAN: Your Honor, it only comes in
12 for the reason the Court ruled --

13 THE COURT: You need your mic on.

14 MS. HICKMAN: It is on. It should only
15 come in for the reason the Court ruled.

16 THE COURT: I see it says beginning at line
17 19, page seven, "Specifically, Mr. Williams' prior
18 handgun possession is relevant to the "by means of
19 force or violence or fear of injury, immediate or
20 future" element of the Robbery and Attempted Robbery
21 Counts."

22 MS. HICKMAN: I don't know how you want to
23 explain it. Just listing all of those in a big
24 prong is too broad.

1 THE COURT: I just took what I was going
2 for because the parties have characterized it in
3 terms of 48.045 was a statutory definition.

4 MS. HICKMAN: Right, but it doesn't come in
5 for all those definitions.

6 THE COURT: Second reason, page eight, line
7 ten. "The prior possession is relevant for the
8 additional purpose of explaining Sims' prior
9 statements to police, should Williams seek to
10 introduce the same."

11 It looks like, Counsel, pursuant to the
12 order, those were the two grounds, only one of which
13 is relevant during direct examination, which appears
14 to be "by means of force or violence or fear of
15 injury immediate or future." Mr. Prengaman?

16 MR. PRENGAMAN: I would suggest that the
17 limiting instruction be framed in terms -- in terms
18 of that the evidence of the prior handgun possession
19 may be considered by the jury in assessing the --
20 something along the lines of assessing the
21 circumstances of the offenses -- something --
22 because I think that gets at -- obviously, that
23 needs to be worked up a little bit.

24 But that, essentially, gets at the

1 appropriate use I believe the Court has authorized.
2 In other words, Mr. Sims' knowledge of that prior
3 possession is relevant not to prove that Williams is
4 a bad guy, but it's relevant because it's one of the
5 circumstances of the offense.

6 THE COURT: The order limits the
7 circumstances to this. "Specifically, Mr. Williams'
8 prior handgun possession is relevant to the, open
9 quote, by means of force or violence or fear of
10 injury immediate or future, closed quote, element of
11 the Robbery or Attempted Robbery counts because it
12 provides context to Williams's statement, You know
13 how I roll." That's what the order says.

14 Counsel for Ms. Norman and Mr. Williams,
15 have you had an opportunity to discuss this with Mr.
16 Prengaman? I feel like you're on the same page and
17 I'd be inclined to give you a few minutes to talk
18 about it to see if you can come up with some
19 language as opposed to going back and forth on the
20 record. Can we take a few minutes off the record?
21 I want to resolve this before I bring the jury back.
22 I don't know how much is left of Officer Chambers,
23 and I'd like to go right into Witness Sims.

24 MR. PRENGAMAN: Essentially, your Honor,

1 I'll request a recess after Chambers because Mr.
2 Sims is in custody and they'll have to move him --
3 my understanding is due to logistics they can't
4 stage him here. They have to bring him over from
5 holding.

6 THE COURT: We'll take a break. Let's do
7 that. We'll finish with Chambers and then take the
8 break before Witness Sims, during which time you can
9 all chat about the limiting instruction, please.

10 MS. HICKMAN: Before you bring them in, as
11 the case goes forward I would ask the Court to turn
12 on the Zoom link any time we are in court and the
13 courtroom is not closed. Because anything outside
14 the presence of the jury is not being broadcast and
15 because, whether people are across the hall or on
16 Zoom, the only way for it to be viewed is virtually.

17 So, anytime it's not on Zoom, it has the
18 same effect as closing the courtroom. We need to be
19 on Zoom any time we're on the record unless the
20 Court makes a finding that the courtroom should be
21 closed.

22 THE COURT: The only time I'd make a
23 finding is when counsel says to me we don't want
24 something that's outside the presence of the jury to

1 be broadcast because it's outside the presence of
2 the jury and it's going to be broadcast and you're
3 concerned about communication or feedback to the
4 jury related to that issue because it's online.
5 Okay. You let me know, then. Bear that in mind.

6 MS. HICKMAN: Unless we object, it'll all
7 be broadcast.

8 THE COURT: Unless you object, it will all
9 be broadcast.

10 MS. HICKMAN: Thank you.

11 THE COURT: Mr. Picker, do you agree to
12 that as well?

13 MR. PICKER: I do.

14 THE COURT: Mr. Prengaman?

15 MR. PRENGAMAN: Yes, your Honor.

16 THE COURT: Okay. We'll make sure that
17 happens. Anything else?

18 MS. HICKMAN: No.

19 (Jury seated.)

20 THE COURT: Thank you, everyone. Please be
21 seated. Ms. Grosenick.

22 CROSS-EXAMINATION

23 BY MS. GROSENICK:

24 Q. Officer Chambers, let's start with the

1 routes of this case.

2 MS. GROSENICK: Permission to approach,
3 your Honor, the witness?

4 THE COURT: Yes.

5 BY MS. GROSENICK:

6 Q. I'll show you what's been previously marked
7 as Exhibit 191. Sir, if you could please look at
8 that and let me know if you recognize that area.

9 A. Yes, ma'am.

10 Q. Do you see Bob & Lucy's in the top
11 left-hand corner?

12 A. Yes.

13 Q. Do you see Interstate 80?

14 A. Yes, ma'am.

15 Q. And do you see McCarran?

16 A. Yes, ma'am.

17 Q. And does that appear to be a fair and
18 accurate representation of the area of Sparks over
19 which this case ensued?

20 A. Yes, ma'am.

21 Q. Thank you.

22 MS. GROSENICK: Your Honor, I move to admit
23 Exhibit 191.

24 MR. PRENGAMAN: No objection.

1 MS. ROSENTHAL: No objection.

2 THE COURT: 191 is in.

3 (Exhibit 191 admitted.)

4 MS. GROSENICK: May I publish to the jury?

5 THE COURT: Of course.

6 BY MS. GROSENICK:

7 Q. All right. So, you've identified Bob &
8 Lucy's tavern, and that is up here in the left-hand
9 corner, correct?

10 A. Correct.

11 Q. And it's where that little red block is,
12 correct?

13 A. Correct.

14 Q. I'll put an X there.

15 Now, this road that runs north to south, it
16 goes right by there and that's Rock Boulevard,
17 correct?

18 A. Correct.

19 Q. And when the truck left the parking lot of
20 Bob & Lucy's, it went south on Rock, correct?

21 A. Correct.

22 Q. And it drove south down Rock under the
23 interstate to Hymer.

24 A. Correct.

1 Q. And it took a left on Hymer, correct?

2 A. Correct.

3 Q. Would it be accurate for me to draw from
4 the Bob & Lucy's down Rock Boulevard to Hymer?

5 A. Correct, yeah.

6 Q. Now, the vehicle turned left onto Hymer?

7 A. Yes.

8 Q. And it went over into this area, correct?

9 A. Correct.

10 Q. And you can see that's 15th Street there at
11 the bottom.

12 A. Correct.

13 Q. So, what happened right here at this corner
14 of 15th and Hymer?

15 A. Just east of 15th Street where it dead-ends
16 there this metal fabrication company, which is where
17 the suspect vehicle drove in.

18 Q. Would you say it turned in a circle and
19 then went down south on 15th?

20 A. Roughly.

21 Q. Well, how would you describe it?

22 A. More like a U shape.

23 Q. Okay. Like this (indicating)?

24 A. No. The other direction.

1 Q. Up?

2 A. East past 15th, went to the north around
3 the business, back westbound and back down
4 southbound.

5 Q. Okay. Did it get onto 15th Street at
6 Hymer?

7 A. Yes.

8 Q. So, like this (indicating)?

9 A. Can I draw on this and show you?

10 Q. Yeah.

11 A. So, he came here, went around the business
12 and then he came back down 15th Street (indicating).

13 Q. Okay. Went all the way up to the railroad
14 tracks?

15 A. Well, no.

16 Q. Okay. So, then he travels south onto 15th,
17 correct?

18 A. Yes, ma'am.

19 Q. Down to Glendale?

20 A. Yes, ma'am.

21 Q. And this 648 is Glendale, correct?

22 A. Yes, ma'am.

23 Q. Okay. Can you go ahead -- I think it will
24 be easier if you draw on there.

1 A. Okay. So, he went south on 15th and then
2 he went eastbound on Glendale.

3 Q. Okay. And it, in fact, continued eastbound
4 on Glendale all the way to where it makes this turn,
5 correct?

6 A. Yeah, I believe so. Yes.

7 Q. Okay. Do you need to consult your report
8 or anything to remember?

9 A. Just looking at the area.

10 Q. Okay. If you could please finish that
11 line.

12 A. So, it goes eastbound on Glendale. This is
13 McCarran right here. It goes over, all the way down
14 to the end where he hits (indicating).

15 Q. That's where the road kind of dead-ends,
16 right?

17 A. Yes.

18 Q. All right. And he makes that corner and
19 then turns right onto Kleppe, correct?

20 A. He comes down -- I believe that street --
21 wherever it dead-ends and then he makes that turn on
22 Kleppe.

23 Q. And then what?

24 A. Somewhere right in there on Kleppe is where

1 you have all the industrial areas, which is where he
2 went through the parking lot of the industrial area.

3 Q. Okay. So, can you draw that, please.

4 A. This is kind of a little more difficult.

5 Q. Okay.

6 A. Somewhere right -- this is just --
7 somewhere in this area is where he had turned.

8 Q. Okay. And then what?

9 A. Then he proceeded northbound through the
10 industrial area, come up this way and then back to
11 Glendale and then westbound turn.

12 Q. Okay. And was that on Deming that he
13 traveled north?

14 A. Again, without having a zoomed-in look of
15 the industrial area, it's kinda hard for me to tell.

16 Q. Okay. But he goes north onto Glendale,
17 correct?

18 A. North up to Glendale, yes, ma'am.

19 Q. And took a left on Glendale?

20 A. Yes, ma'am.

21 Q. And at that point the truck was traveling
22 westbound on Glendale?

23 A. Yes, ma'am.

24 Q. And then do you see where Glendale

1 intersects McCarran?

2 A. Yes, ma'am.

3 Q. The truck turned right onto McCarran there?

4 A. Yes, ma'am.

5 Q. At that point the truck was traveling

6 northbound on McCarran?

7 A. Correct.

8 Q. So, can you draw from Glendale north on

9 McCarran the truck's route?

10 A. Where the truck what?

11 Q. The truck's route.

12 A. Okay. So, north on McCarran, this is where

13 he goes under the I-80 freeway. I'm not sure what

14 exactly this road is. It might be Nichols right

15 here. In between Nichols and Lincoln is where he

16 goes into oncoming traffic going southbound down the

17 northbound lanes.

18 Q. Okay. And at Lincoln the truck goes left,

19 correct?

20 A. Correct.

21 Q. Do you see Lincoln on the map?

22 A. I -- without it being zoomed in on the

23 street names, I'm just going from working the

24 streets. I believe this right here is Nichols and I

1 think this might be Lincoln but, again, I'm not
2 100 percent accurate.

3 Q. Do you want to look a little bit to your
4 left where you drew that last dash and see if you
5 recognize the street name.

6 A. Okay. It says "Lincoln."

7 Q. It does say "Lincoln"?

8 A. Yes.

9 Q. Okay. So, the truck turns left onto
10 Lincoln and then left again onto Stanford, correct?

11 A. Yes.

12 Q. And do you see Stanford on the map?

13 A. Is this it right here? Again, the word's
14 are real blurry on my end. That might be it. It's
15 hard to tell.

16 Q. Let me see if I can zoom it in for you.

17 A. Yeah, this is Stanford right there. Here's
18 Lincoln here and here's Stanford here (indicating).

19 Q. Okay. So, the vehicle turns left onto
20 Stanford, correct?

21 A. Yes, ma'am.

22 Q. So, it's headed south, right?

23 A. That's correct.

24 Q. And right here at the intersection with

1 Victorian, that's where you used the pit maneuver.

2 A. Yes, ma'am.

3 Q. And you said that right before initiating
4 the pit maneuvers the vehicle was turning right onto
5 Victorian?

6 A. Yes, ma'am.

7 Q. Okay. Does what we have now on Exhibit 191
8 appear to be a fair and accurate representation of
9 the route that the chase took that morning?

10 A. Yes, ma'am.

11 Q. Up until your -- the end of your
12 involvement in it, anyway.

13 A. Yes, ma'am.

14 Q. Okay. I want to talk to you about your
15 involvement in this case. You were the third
16 officer to park outside of Bob & Lucy's, correct?

17 A. Yes.

18 Q. And two other officers were already there?

19 A. Yes, ma'am.

20 Q. And at the time that you arrived, the other
21 officers were already out of their vehicles.

22 A. Yes, ma'am.

23 Q. I'm going to show you what's been admitted
24 as Exhibit 96. You recognize this as your dash cam

1 that day, correct?

2 A. Yes, ma'am.

3 Q. All right. Let's talk about what you knew
4 at the time that you were outside of Bob & Lucy's.

5 This is at the beginning of your dash cam,
6 so it's zero zero.

7 A. Correct.

8 Q. At this point you knew that the call was
9 about threats with a gun in front of Bob & Lucy's?

10 A. Correct.

11 Q. You also knew that the white truck was the
12 one you were looking for?

13 A. Correct.

14 Q. And at this point you had a clear view of
15 the rear of that truck.

16 A. Correct.

17 Q. You could see that it was a truck.

18 A. Correct.

19 Q. It was white.

20 A. Yes, ma'am.

21 Q. You knew the license plate number, correct?

22 A. Well, we didn't -- I don't recall there
23 being a license plate number that was given to us by
24 dispatch.

1 Q. Would it refresh your recollection to see
2 the catalog?

3 A. Yes, it would.

4 MS. GROSENICK: Permission to approach,
5 your Honor?

6 THE COURT: Yes.

7 BY MS. GROSENICK:

8 Q. Showing you Exhibit 113, look at that but
9 don't read it out loud. And let me know if a plate
10 number was broadcast that morning.

11 (Witness reviewing document.)

12 THE COURT: Is there a page number?

13 BY MS. GROSENICK:

14 Q. You can look at 6:33:44 seconds. That
15 might refresh your recollection.

16 A. Yes.

17 Q. So, that means that a plate number was read
18 out over the radio, correct?

19 A. Correct.

20 Q. And that plate number also made it into
21 your report, correct?

22 A. Correct.

23 Q. And as you are responding to this, the
24 radio is available to you.

1 A. Yes and no. When you just arrive on scene,
2 they close the channels, which means you're on the
3 scene, and you're responding and you're supposed to
4 stay off the radio.

5 Q. Okay. But it's fair to say that the police
6 force that you work for had that information at 6:33
7 a.m. and 44 seconds.

8 A. Correct.

9 Q. If we turn back to Exhibit 96, which is up
10 on the screen, which is your dash cam, at 6:34 a.m.
11 and five seconds --

12 A. Correct.

13 Q. And so that information was available prior
14 to the beginning of your dash cam.

15 A. It would appear so.

16 Q. And at this time the truck that you're
17 looking for is still parked outside of Bob & Lucy's.

18 A. Correct.

19 Q. Does not have on headlights?

20 A. Correct.

21 Q. Does not have on brake lights?

22 A. Correct.

23 Q. Now, that truck is parked in a parking
24 space.

1 A. Correct.

2 Q. It had pulled forward into the spot.

3 A. Correct.

4 Q. It had not backed in.

5 A. Correct.

6 Q. Let's talk about what happened when you

7 arrived. So, none of the other police vehicles had

8 red and blue lights on at that time.

9 A. Correct.

10 Q. None of the other police vehicles had

11 sirens on at that time.

12 A. Correct.

13 Q. Your vehicle did not have lights or sirens

14 on at that time either.

15 A. No, ma'am.

16 Q. So you parked your vehicle?

17 A. Yes, ma'am.

18 Q. You got out?

19 A. Yes, ma'am.

20 Q. You grabbed your AR-15 from your trunk?

21 A. Yes, ma'am.

22 Q. You were getting in position?

23 A. Yes, ma'am.

24 Q. For a felony stop.

1 A. Yes, ma'am.

2 Q. And then that's the point at which the
3 truck began to reverse.

4 A. Correct.

5 Q. And you could see that the truck's windows
6 were up.

7 A. I only had a really good view of the back
8 window.

9 Q. So, we'll play Exhibit 96 starting at the
10 beginning. Pausing at 19 seconds, you can see the
11 windows are up?

12 A. Yes.

13 Q. When you see the vehicle begin to leave,
14 that's when you yell "Stop"?

15 A. Correct.

16 Q. And it's not through your vehicle's
17 announcement system.

18 A. Correct.

19 Q. That's just you yelling.

20 A. Correct.

21 Q. At that time you were 15 to 20 yards away
22 from that truck.

23 A. Correct.

24 Q. Now, when you and the other officers see

1 the truck start to leave, you got back in your
2 vehicle.

3 A. Correct.

4 Q. And you testified on direct that you were
5 approximately four to five cars back.

6 A. Correct.

7 Q. Playing from 19, I would ask for you to
8 look for how many other cars are in front of you in
9 the chase.

10 I'll pause at 28 seconds. There are at
11 least three other police vehicles in view at this
12 point, correct?

13 A. Correct.

14 Q. Okay. So, if this is all there is, you
15 would be No. 4.

16 A. Correct. But then there's -- if you play
17 the video, there's one more that comes into the
18 camera view that is in front of me with lights and
19 sirens on.

20 Q. Exactly. I'll play from 28.

21 Here we see this vehicle coming in from
22 another direction.

23 A. Correct.

24 Q. And that vehicle ends up in front of you as

1 well.

2 A. Correct.

3 Q. So, at that point you're No. 5.

4 A. Correct.

5 Q. And at this point the information that you
6 have about the reason for the call is threats with a
7 gun.

8 A. It was threats with a gun, and then there
9 were also the details that the female was inside the
10 business and hiding.

11 Q. Okay. So, you knew one suspect was still
12 inside.

13 A. Wasn't sure exactly if the suspects were
14 still inside or not.

15 Q. So, at this point the information that you
16 had about the reason for the call was threats with a
17 gun.

18 A. Correct.

19 Q. And you didn't get the information that
20 there was an allegation of a robbery until later.

21 A. Correct.

22 Q. I'm playing from 32 seconds.

23 (Video played.)

24

1 BY MS. GROSENICK:

2 Q. Now, there's a police vehicle directly in
3 front of you, correct?

4 A. Correct.

5 Q. And that vehicle does not have its red and
6 blue lights on, correct?

7 A. Correct.

8 Q. And I stopped at 53 seconds for the record
9 and I'll play from there now.

10 (Video played.)

11 BY MS. GROSENICK:

12 Q. Pausing at two minutes and three seconds
13 and you can see that this is the truck that you were
14 chasing.

15 A. Correct.

16 Q. And it drove past you.

17 A. Yes, ma'am.

18 Q. At this point you become the lead car in
19 the chase.

20 A. Yes, ma'am.

21 Q. And you are the lead car in that chase all
22 the way up until the pit maneuver.

23 A. Yes, ma'am.

24 Q. Now, this is where the vehicle goes south

1 on 15th and left on Glendale?

2 A. Correct.

3 Q. Playing from two minutes and three seconds.

4 (Video played.)

5 BY MS. GROSENICK:

6 Q. Stopping at two minutes and twenty seconds,
7 the truck put on its left-turn signal?

8 A. Correct.

9 Q. And the vehicle did, in fact, turn left?

10 A. Yes, ma'am.

11 (Video played.)

12 BY MS. GROSENICK:

13 Q. Pausing at three minutes and 17 seconds
14 just to orient us, at this point we're driving
15 eastbound on Glendale, correct?

16 A. Yes, ma'am.

17 Q. Starting to play from 3:17.

18 (Video played.)

19 BY MS. GROSENICK:

20 Q. Stopping at three minutes and 47 seconds,
21 this is the truck, correct?

22 A. Yes, ma'am.

23 Q. And you just saw it put on its left
24 blinker, correct?

1 A. I believe so.

2 Q. Would you like to see it again?

3 A. Yes, ma'am.

4 (Video played.)

5 BY MS. GROSENICK:

6 Q. Backing up to 3:42 -- sorry. Didn't go far
7 enough. 3:35.

8 (Video played.)

9 BY MS. GROSENICK:

10 Q. Stopping at 3:42, did you see the left
11 blinker go on there?

12 A. I can't really see it well from this
13 distance.

14 Q. Okay. Then I'll ask you to watch from here
15 and see the right blinker go back on as it goes into
16 the main lane of travel.

17 (Video played.)

18 BY MS. GROSENICK:

19 Q. Stopping at five minutes and two seconds,
20 the vehicle is essentially turned around at this
21 point, correct?

22 A. What do you mean by "turned around"?

23 Q. Well, the vehicle and you following entered
24 that parking lot that's on the left?

1 A. Correct.

2 Q. And then the vehicle left the parking lot,
3 correct?

4 A. Correct.

5 Q. And is now heading back in the direction of
6 where it entered, correct?

7 A. Correct.

8 Q. Playing from 5:02.

9 (Video played.)

10 BY MS. GROSENICK:

11 Q. Pausing at 5:28, the vehicle has gotten
12 back to Glendale?

13 A. Correct.

14 Q. And the vehicle is now heading west?

15 A. Yes.

16 Q. Earlier you had been behind the same
17 vehicle heading west on Glendale?

18 A. We were heading --

19 Q. I'm sorry. You're right, heading east on
20 Glendale.

21 A. Yes.

22 Q. So, the vehicle has essentially turned
23 around.

24 A. Yes, ma'am.

1 Q. Playing from 5:28.

2 (Video played.)

3 BY MS. GROSENICK:

4 Q. Stopping at six minutes and 44 seconds,
5 this is the intersection with Lincoln, correct?

6 A. Correct.

7 Q. And what we see ahead is some oncoming
8 traffic, correct?

9 A. Correct.

10 Q. And if that vehicle had gone straight
11 through that intersection, it likely would have hit
12 another vehicle oncoming?

13 A. Correct.

14 Q. But it didn't do that.

15 A. Correct.

16 Q. It turned left onto Lincoln, right?

17 A. Yes, ma'am.

18 Q. And it actually applied the brakes before
19 it did that.

20 A. Yes, ma'am.

21 Q. Playing from six minutes and 44 seconds,
22 the vehicle turned on its left turn signal, correct?

23 A. I believe so.

24 (Video played.)

1 BY MS. GROSENICK:

2 Q. Officer, this is the intersection with
3 Stanford, correct?

4 A. Yes.

5 Q. And this is where the vehicle took a left?

6 A. Yes, ma'am.

7 Q. And you were pretty close at that point.

8 A. Yes, ma'am.

9 Q. In fact, if you hadn't applied your brakes,
10 you could have rear-ended the vehicle.

11 A. Possibly.

12 Q. I'm playing from seven minutes and 17
13 seconds.

14 (Video played.)

15 BY MS. GROSENICK:

16 Q. Stopping at seven minutes and 38 section,
17 this is the intersection of Stanford at Victorian?

18 A. Yes.

19 Q. And Victorian is the road that's -- that
20 they're about to go into.

21 A. Correct.

22 Q. There's no road, if you go straight across
23 Stanford, correct?

24 A. Correct.

1 Q. And that's a barrier that goes up to the
2 interstate.

3 A. Yes.

4 Q. And there's a chain-link fence there.

5 A. Correct.

6 Q. This is where you performed the pit
7 maneuver?

8 A. Correct.

9 Q. I want to talk to you about a pit maneuver,
10 because the purpose of that is to disable a vehicle
11 that's being pursued, correct?

12 A. Correct.

13 Q. And it's done by intentionally using your
14 vehicle to hit the other vehicle, correct?

15 A. Correct.

16 Q. The idea is to spin it 180 degrees.

17 A. Correct.

18 Q. And that should make the engine stall.

19 A. Correct.

20 Q. And so in this pit maneuver you did, in
21 fact, spin the vehicle 180 degrees.

22 A. Correct.

23 Q. But the vehicle was not disabled.

24 A. Correct.

1 Q. Your vehicle was disabled.

2 A. Correct.

3 Q. Sufficiently that you couldn't participate
4 any more that morning with your vehicle, correct?

5 A. Correct.

6 Q. And just after this happened, your vehicle
7 drives up on the little barrier and hits the fence.

8 A. Yes, ma'am.

9 Q. You testified on direct that that pit
10 maneuver -- you saw your opportunity to use a pit
11 maneuver here because the vehicle was turning right.

12 A. Correct.

13 Q. At that point you had permission to use a
14 pit maneuver?

15 A. Correct.

16 Q. And that's something that you need
17 permission for because you're talking about
18 colliding your vehicle into another vehicle.

19 A. Depending on the circumstances.

20 Q. Oh, you didn't need permission?

21 A. It just depends on the circumstances. If
22 you have the opportunity, you can get permission.

23 Q. So, at the time that this vehicle is about
24 to turn right onto Victorian, it would be heading --

1 if it had completed that turn, it would be heading
2 west.

3 A. Correct.

4 Q. And that would be away from the
5 intersection with McCarran.

6 A. Correct.

7 Q. Now, you did employ the pit maneuver.

8 A. Correct.

9 Q. You struck the white truck?

10 A. Correct.

11 Q. As it was turning right.

12 A. Yes, ma'am.

13 Q. The pit maneuver caused the vehicle to spin
14 180 degrees.

15 A. Correct.

16 Q. And that placed it pointing in the opposite
17 direction than it had been going.

18 A. Correct.

19 Q. Which would be eastbound on Victorian.

20 A. In the direction that it had been going or
21 it was going to originally go?

22 Q. It was originally going westbound on
23 Victorian.

24 A. Yes.

1 Q. And you spun it 180 degrees.

2 A. Correct.

3 Q. Which meant it was pointing eastbound.

4 A. Yes, ma'am.

5 Q. Towards McCarran?

6 A. Yes, ma'am.

7 Q. Towards the I-80 offramp of McCarran.

8 A. Just pointed -- you could have gone any
9 direction. There were three different ways probably
10 could have gone.

11 Q. And your pit was successful in that you did
12 spin the vehicle 180 degrees.

13 A. Yes.

14 MS. GROSENICK: No further questions.

15 THE COURT: Ms. Rosenthal?

16 FURTHER CROSS-EXAMINATION

17 BY MS. ROSENTHAL:

18 Q. Mr. Chambers, you were parked right behind
19 the suspect vehicle when you were parked at Bob &
20 Lucy's.

21 A. Correct.

22 Q. I'm sorry?

23 A. Correct. Sorry.

24 Q. Thank you. Were you close enough to see or

1 confirm the license plate that was provided over the
2 radio at that time?

3 A. I wasn't -- I really wasn't paying
4 attention. The officers were concerned more about
5 the suspects inside the car.

6 Q. Were you close enough to see the occupant
7 or occupants of the truck?

8 A. From my distance with the tinted windows,
9 again it was hard to tell if there were any
10 occupants inside the truck.

11 Q. At any point did you see Ms. Norman in the
12 vehicle as you pursued it?

13 A. I did not.

14 MS. ROSENTHAL: No further questions.

15 THE COURT: Thank you, Ms. Rosenthal.

16 MR. PRENGAMAN: No further questions.

17 MS. HICKMAN: No.

18 MS. GROSENICK: No further questions.

19 THE COURT: We're going to take another
20 brief recess.

21 (Jury admonished and excused.)

22 (Proceeding out of jury presence.)

23 THE COURT: One other thing I neglected to
24 address is I'm holding my ruling on -- I think it's

1 Exhibit 17, which is the picture of the knife that
2 is attached to Mr. Williams' trousers.

3 And the reason I'm withholding it is
4 because we don't know what Mr. Sims will say and
5 Counsel represented on Friday that it may go to some
6 statement that Mr. Sims may say about what he saw in
7 Mr. Williams' waistband.

8 Given my ruling related to the other
9 photographs that revealed weapons in the vehicle,
10 it's my intention to also give a limiting
11 instruction if that photograph comes in about the
12 fact that it's being used for the limited purpose of
13 establishing what Mr. Sims may have seen, because of
14 the rationale for me not admitting the photographs
15 of the weapons that were found in the truck and so
16 it would be limited for that exclusive purpose. I
17 just wanted to alert you to that as well.

18 We'll be in recess until Mr. Prengaman says
19 he's ready.

20 (Recess taken.)

21 THE COURT: During the break Counsel had a
22 task to see about earlier today and that was if they
23 could come up with a stipulated limiting instruction
24 regarding the -- this court's order regarding

1 Mr. Williams' alleged possession of a firearm prior
2 to -- well, the only other incident where Mr. Sims
3 had met him.

4 The parties had come up with their
5 instructions and I'll ask the clerk to make sure
6 each one of their versions is filed in the record.

7 Ms. Hickman, your instruction was, "You are
8 about to hear testimony related to Mr. Williams'
9 alleged possession of a handgun prior to the events
10 of this case. This evidence cannot be used to prove
11 Mr. Williams' character. It is being admitted for
12 the limited purposes of giving context to a
13 statement Mr. Williams alleged to have made to Mr.
14 Sims and/or Mr. Williams' intent. As with all
15 evidence, it is up to you, the jury, to decide
16 whether to believe all, none, or part of the
17 testimony and the weight to give it."

18 Mr. Picker on behalf of Ms. Norman objects
19 to this instruction, and from what I can tell is
20 asking for just this inclusion after the first
21 sentence of the Williams instruction, which is "You
22 may consider this evidence only against him" --
23 "him" being Mr. Williams -- "not against Ms.
24 Norman."

1 And then Mr. Prengaman has proposed an
2 instruction, "You are about to hear evidence of
3 alleged prior possession of a handgun by Defendant
4 Ryan Williams on the date other than
5 February 22nd, 2020. This evidence is not to be
6 considered for purposes of proving the character or
7 action in conforming therewith on February 22, 2020.
8 However, such evidence may be considered in
9 determining motive and intent on February 22nd,
10 2020, and in determining the element of Robbery and
11 Attempted Robbery, that the offense has been
12 committed by use of force or violence or fear of
13 injury immediate or future."

14 Counsel, having reviewed 48.045 and having
15 reviewed your pleadings and this court's order
16 related to whether or not this testimony was
17 admissible, I'm prepared to give, in large part, the
18 instruction proposed by Mr. Prengaman with the
19 following changes. I'll let you know what I'm going
20 to make changes to.

21 "You are about to hear evidence of an
22 alleged prior possession of a handgun by Defendant
23 Ryan Williams on a date other than February 20,
24 2020. This evidence is not to be considered for

1 purposes of proving character or an action in
2 conformity therewith on February 22, 2020. However,
3 such evidence may be considered in determining
4 motive and intent" -- insert the language --
5 "related to a statement Mr. Williams allegedly made
6 to Mr. Sims on February 22, 2020" -- excuse me.
7 "However, such evidence may be considered in
8 determining motive and intent" -- no insertion.
9 This is Mr. Prengaman's instruction -- "on February
10 22, 2020 and in determining the element of Robbery
11 and Attempted Robbery that the offenses being
12 committed by means of force or violence or fear of
13 injury immediate or future. You may consider this
14 evidence only against Mr. Williams, not against
15 Ms. Norman. As with all evidence, it is up to you,
16 the jury, to decide whether all or none or part of
17 the testimony and the weight to give it."

18 Mr. Prengaman, we're going to have to talk
19 about this. You need to move that microphone. I
20 did not hear something you said this morning. The
21 court reporters who have participated in this trial
22 are having trouble hearing you. And I missed
23 something you said this morning. We need to clip
24 the mic to the mask. I want to test it to see if we

1 can hear you better.

2 Why don't you want to put it on your mask?

3 MR. PRENGAMAN: It's awkward.

4 THE COURT: Let's go off the record.

5 MR. PRENGAMAN: I would like to be heard on
6 the limiting part of that, based on the Court's
7 prior ruling, if this is okay.

8 THE COURT: Yes.

9 MR. PRENGAMAN: The Court previously ruled
10 in the context of the motions that, with respect to
11 the emails, those were heard prior. But the Court
12 believed there's sufficient evidence that the
13 standard of the state --

14 THE REPORTER: I'm sorry. This is
15 terrible. I can't hear every word. I guess we'll
16 keep trying.

17 MR. PRENGAMAN: Your Honor, I submit that
18 based on the Court's ruling previously, this is a
19 co-conspirator statement and it is made in the
20 course and scope of the conspiracy, so I submit --

21 THE COURT: "You know how I roll"?

22 MR. PRENGAMAN: Yes, your Honor, because
23 much like the statement that Ms. Norman makes that
24 the Court has already ruled are co-conspirator

1 statements -- in other words, the Court has ruled
2 the state has sufficient evidence that there is a
3 conspiracy and aiding and abetting to meet the
4 standard.

5 So, I submit, your Honor, in the context of
6 when this occurred, the Defendant Williams comes in,
7 joins Ms. Norman, and then issues these statements
8 to Mr. Sims to get him out of the business. That is
9 in the course and scope of the conspiracy. In other
10 words, his statements made in the course and scope
11 are co-conspirator statements, which are admissible
12 against both defendants. In other words, there
13 should be no limiting instruction because they are
14 admissible as co-conspirator statements.

15 THE COURT: My intention with regard to the
16 limitation was only with regard to the prior handgun
17 possession, not with regard to anything that was
18 said on February 22nd related to that.

19 MR. PRENGAMAN: Okay. I see, your Honor.
20 And maybe -- I was looking at your ruling as a fair
21 import of your ruling is the fact it made those
22 statements -- I see what the Court is saying. No.
23 I understand.

24 THE COURT: I was making clear that the

1 limiting piece which was going to be, You may
2 consider this evidence only against Mr. Williams,
3 not against Ms. Norman. To make it clearer, "You
4 may consider the evidence regarding prior handgun
5 possession only against Mr. Williams, not against
6 Ms. Norman."

7 MR. PRENGAMAN: But in that respect, your
8 Honor, so is part of the events -- in other words,
9 Mr. Sims' understanding of that statement, which,
10 again, I would submit is a co-conspirator statement,
11 his understanding of that as a threat would be
12 admissible so that the conduct piece of that would
13 be admissible against both -- because it's a
14 circumstance of the offense. In other words, two
15 offenders go to do a bank robbery and one of them
16 says, Everybody gets down on the ground or I'll
17 shoot you or kill you. That statement is admissible
18 against both defendants in the course and scope.

19 And so here it's Mr. Sims' understanding,
20 but the statement itself is not, I would submit, not
21 limited to against Mr. Williams.

22 THE COURT: What statement?

23 MR. PRENGAMAN: The import of the
24 statement. In other words --

1 THE COURT: Which statement?

2 MR. PRENGAMAN: The statement, "You know
3 how I roll" as a component of the force and fear
4 element would be admissible against both, I would
5 submit.

6 THE COURT: And I don't think this
7 instruction prevents from arguing that.

8 MR. PRENGAMAN: It just sounds to me like,
9 if we're not telling them what statement we're
10 talking about, that seems to me like a -- I hate to
11 say a flaw, but we're not telling them. We're
12 saying a statement. In other words, if we get that
13 specific, the jury doesn't know what statement we're
14 talking about unless it's identified in the order --
15 I mean in the limiting instruction.

16 THE COURT: But what the instruction is
17 designed to deal with is just the prior handgun
18 possession. It doesn't deal with the statements by
19 either party on February 22, 2020. The beginning of
20 your instruction says, "You are about to hear
21 evidence of alleged prior possession of a handgun by
22 Defendant Ryan Williams on a date other than
23 February 22, 2020. This evidence" -- meaning the
24 evidence of a prior handgun possession -- "is not to

1 be considered for purposes of proving character or
2 action or conformity therewith on February 22.
3 However, such evidence still may be considered in
4 determining motive or intent on February 22, 2020,"
5 et cetera.

6 MR. PRENGAMAN: The Court goes on in that
7 next sentence I believe that to my ears sounded like
8 it was --

9 THE COURT: The next sentence is, "You may
10 consider this evidence only against Mr. Williams,
11 not against Ms. Norman." And the last sentence is,
12 "As with all evidence, it is up to you, the jury, to
13 decide whether to believe all, none, or part of the
14 testimony and the weight to give it."

15 That's it. That's what I'm proposing. I
16 started out and corrected myself by talking about a
17 statement, but that's not in the instruction.

18 MR. PRENGAMAN: Correct.

19 THE COURT: Anything else?

20 MR. PRENGAMAN: To clarify, the Court's
21 view is that doesn't prevent me from arguing the
22 "You know how I roll" statement is admissible
23 against both. Thank you.

24 THE COURT: Ms. Hickman, would you like Ms.

1 Grosenick to make a record?

2 MS. GROSENICK: Can you please read it one
3 more time?

4 THE COURT: You should have a copy of it
5 there in front of you. It's Mr. Prengaman's
6 instruction with two additions.

7 His instruction, "You are about to hear
8 evidence of alleged prior possession of a handgun by
9 Defendant Ryan Williams on a date other than
10 February 22, 2020. This evidence is not to be
11 considered for purposes of proving character or
12 action in conformity therewith on February 22, 2020.
13 However, such evidence may be considered in
14 determining motive and intent on February 22, 2020,
15 and determining the element Robbery, Attempted
16 Robbery, that the offense was committed by means of
17 force or violence or fear of injury, immediate or
18 future."

19 Added to Mr. Prengaman's instruction, Mr.
20 Picker's sentence, "You may consider this evidence
21 only against Mr. Williams, not against Ms. Norman"
22 and add the last sentence of the instruction you
23 proposed, Ms. Grosenick, "As with all evidence, it
24 is up to you, the jury, to decide whether to believe

1 all, none, or part of the testimony and the weight
2 to give it."

3 MS. GROSENICK: Thank you, your Honor.

4 My first objection is including the "in
5 this as a reason for which the jury can consider
6 it." That was not part of the state's offer of
7 reasons for using the prior handgun possession in
8 briefing and arguing this motion and it was not
9 grounds found by the Court. So, we have not had
10 sufficient opportunity to research or provide
11 evidence against why a motive would be an
12 inappropriate use of this evidence. We object to
13 "motive" being mentioned in there.

14 My second objection is that I think it's
15 inappropriate. I think it's objectionable for the
16 Court to be instructing the jury on how to use a
17 piece of evidence in relation to elements of the
18 offense. So, I think that offering -- this may be
19 used in considering intent or providing context to
20 statements allegedly made by Mr. Williams is more
21 neutral. I think that the state can argue in its
22 closing argument why certain evidence is relevant,
23 but I think that this instruction offered by the
24 state announced as to the Court instructing the jury

1 to use it in any certain way because it's singling
2 out elements -- it's singling out specific alleged
3 crimes and telling the jury that this is what it
4 could be used for without going specifically to the
5 elements. I think that's too much direction from
6 the Court to the jury.

7 And then this is a minute clarification.
8 The Court is not planning on telling the jury what
9 the statement is, right?

10 THE COURT: Right.

11 MS. GROSENICK: Okay.

12 MR. PICKER: I don't have an objection to
13 the instruction. I would ask that given certain
14 elements of Mr. Sims' testimony at the preliminary
15 hearing, among other issues, that, actually, we wait
16 until Williams testifies before we give the
17 instruction as opposed to before it.

18 THE COURT: In other words, "You are about
19 to hear," waiting until the testimony is elicited,
20 and then say, "You just heard."

21 MR. PICKER: I would prefer that, your
22 Honor, because I think that -- with all due respect
23 to Mr. Sims --

24 THE COURT: The testimony you're talking

1 about is when the state asks the witness about, On a
2 prior occasion did you meet Mr. Williams, what
3 happened on that occasion, what did you observe, et
4 cetera. It's after that testimony that you think
5 it's appropriate to give the instruction.

6 MR. PICKER: I would agree, immediately
7 after. If he does reference seeing a firearm in
8 anyone's possession prior to February 22nd, then you
9 do the instruction then.

10 THE COURT: Ms. Grosenick, any objection to
11 the timing?

12 MS. GROSENICK: Not at all.

13 MR. PRENGAMAN: Your Honor, just looking at
14 the Court order, if I didn't raise -- I had it in my
15 head -- in other words, Ms. Grosenick is correct
16 that I did not raise motive, and that's fair to take
17 that out, I think.

18 THE COURT: What do you think about her
19 suggestion of taking out motive and reading as
20 follows, paragraph starts, "However" -- here's what
21 he says, "However, such evidence may be considered
22 in determining" -- delete "motive or" -- "intent."
23 So, it's, "However, such evidence may be considered
24 in determining intent." Then Ms. Grosenick, "or

1 providing context to statements allegedly made by
2 Mr. Williams on February 22, 2020."

3 MR. PRENGAMAN: I just -- I believe that
4 without telling them what statements, that's too
5 broad. In other words, if you look at it from the
6 jury's perspective.

7 THE COURT: It's "intent or providing
8 context to statements allegedly made."

9 MR. PRENGAMAN: Your Honor, I still think
10 from the jury's perspective that's very broad
11 because it doesn't tell them which statements. I do
12 think -- well, our supreme court said the trial
13 court should tell jurors both how it could be used
14 so the Court should be specific in terms of how it
15 should be used.

16 And I also think that's almost too
17 limiting, because the Court's ruling said you may
18 consider this because it's relevant to that element
19 of the offense. I think this tells them exactly the
20 element and I think that's consistent with what our
21 supreme court directed. The other way is just too
22 broad and doesn't even tell them they can only
23 consider it for that, for the context.
24 Theoretically, they can run wild with it. And any

1 statement that they hear Mr. Williams make
2 theoretically that would apply to, unless you tell
3 them which one.

4 THE COURT: I think that would carry more
5 weight, Mr. Prengaman, if the state was favorable to
6 Mr. Williams and not adverse. In this case it's
7 adverse, so I'm prepared to add that in, Ms.
8 Grosenick, to the instruction.

9 MS. GROSENICK: Okay.

10 THE COURT: I will either take my cue from
11 Counsel when you think it's appropriate to read it
12 or make that decision as we go forward once the
13 testimony is upon us.

14 One other thing. I indicated -- and I
15 think this may happen today as well -- that I was
16 prepared, in light of my ruling, as to the
17 photographs on the motion made by Mr. Williams that
18 I will issue on Friday from the record related to
19 all the weapons. And I was prepared to give a
20 limiting instruction to the extent that Exhibit 17
21 is admitted.

22 Do you all remember what Exhibit 17 is?
23 Everybody's nodding. The picture being admitted,
24 "This picture is being admitted for the limited

1 purpose of addressing Mr. Sims' allegation that he
2 saw a -- I'll use the term "black handle" because I
3 don't know what he'll testify to -- "he saw a black
4 handle on the Mr. Williams waistband." I don't know
5 what he will testify to, but it will reflect what he
6 testifies to.

7 So, the picture's being admitted for the
8 limited purpose of addressing Mr. Sims' allegation
9 that he saw a black handle on Mr. Williams'
10 waistband and cannot be used for any other purpose
11 in this case. Mr. Picker.

12 MR. PICKER: I request that that
13 instruction only be given if Mr. Sims testifies to
14 that fact.

15 THE COURT: Yes, I agree. Or if the
16 photograph is admitted. This one pertains to a
17 photograph.

18 MR. PICKER: Yes, your Honor. It only
19 becomes relevant if Mr. Sims actually testifies.

20 THE COURT: He can testify to the black
21 handle. It's only if the photograph comes in. The
22 purpose of the limiting instruction is that it's a
23 weapon.

24 MR. PICKER: Thank you. With that

1 clarification, I understand.

2 THE COURT: Okay. Ms. Hickman and/or Ms.
3 Grosenick?

4 MS. HICKMAN: One moment, please.

5 Given Mr. Sims' testimony at the
6 preliminary hearing, I would like to see Mr. Sims
7 testify to what he says before we agree to what the
8 instruction would say. So, I'll keep that in mind,
9 but I think we need to wait to see what he says.

10 THE COURT: Okay. Let's wait to see what
11 he testifies to. And then, Counsel, at the
12 appropriate time I'm going to leave it to one of you
13 as we move through that testimony, I have no problem
14 giving the instruction at the end of the case, if
15 that's fine for all parties, as opposed to realtime
16 with the testimony. If someone wants it given today
17 during the testimony, indicate that for me. All
18 right.

19 Deputy, go ahead. The jury, please.

20 (Jury seated.)

21 THE COURT: Mr. Prengaman, your next
22 witness.

23 MR. PRENGAMAN: The state calls Steven
24 Sims.

1 (Witness sworn.)

2 DIRECT EXAMINATION

3 BY MR. PRENGAMAN:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. Would you see please state your name.

7 A. Steven Marcel Sims.

8 Q. Could you spell your first, middle, and
9 last for the court reporter.

10 A. Steve, S-t-e-v-e-n, Marcel, M-a-r-c-e-l,
11 Sims, S-i-m-s.

12 Q. Mr. Sims, do you live in Washoe County?

13 A. Yes, I do.

14 Q. How long have you lived in Washoe County?

15 A. Since 2008.

16 Q. And are you familiar with the Bob & Lucy's
17 Tavern on Oddie Boulevard?

18 A. Yes, I am.

19 Q. Do you recall an incident that occurred at
20 that Bob & Lucy's on Oddie back on February 22nd,
21 2020?

22 A. Yes, I do.

23 Q. Back on that day were you at the tavern,
24 Bob & Lucy's Tavern, around 6:00 a.m.?

1 A. Yes.

2 Q. And what were you doing there?

3 A. Gambling.

4 Q. And do you remember approximately, as best

5 as you can recall as you sit here today, about what

6 time you arrived at Bob & Lucy's that morning?

7 A. I'd say, like, 4:30, 4:00 -- 4:30 a.m.

8 Q. Is that an estimate?

9 A. Yes.

10 Q. Now, back on that date did you go to the

11 bartender who was there that morning?

12 A. Yes, I did.

13 Q. Was that David Cole?

14 A. Yes, it was.

15 Q. And back on that day were you staying with

16 Mr. Cole?

17 A. Yes.

18 Q. Back then did you know a woman named

19 Adrianna Norman?

20 A. Yes, I do.

21 Q. And when did you first meet Adrianna

22 Norman?

23 A. October -- October of 2019.

24 Q. And was that in Winnemucca?

1 A. Yes.

2 Q. And so you were in -- were you living in
3 Winnemucca for a period of time at the end of the
4 2019?

5 A. Yes, I was.

6 MR. PICKER: Objection, leading.

7 MR. PRENGAMAN: I submit it's on a
8 preliminary matter, your Honor.

9 THE COURT: All right. Go ahead, Mr.
10 Prengaman.

11 BY MR. PRENGAMAN:

12 Q. Mr. Sims, I didn't hear the answer.

13 Were you living in Winnemucca for a period
14 of time at the end of 2019?

15 A. Yes, I was.

16 Q. And did that continue to early 2020?

17 A. Yes.

18 Q. At some point while you were in Winnemucca
19 did you live with Ms. Norman?

20 A. Yes.

21 Q. And, again, as you sit here today from your
22 memory, approximately when do you think you started
23 staying with her at her residence?

24 A. December of 2019.

1 Q. And, again, at some point did you leave her
2 residence?

3 A. Yes.

4 Q. And about when was that?

5 A. Mid-January -- yeah, mid-January.

6 Q. Mid-January of 2020?

7 A. Excuse me. Yes. January of 2020.

8 Q. Okay. Did you consider her a friend when
9 you were living with her?

10 A. Yes.

11 Q. Do you see Adrianna Norman in the courtroom
12 today?

13 A. Yes, I do.

14 Q. Can you please describe so the record's
15 clear what you're talking about, where you see her
16 and the clothes she's wearing.

17 A. Directly in front of me, turquoise blouse
18 and black blazer.

19 Q. And can you describe the clothing of the
20 person to her immediate right.

21 A. Looks like a gray shirt and brown and gray
22 striped tie.

23 Q. Now, the woman that you pointed out, was
24 she wearing a mask?

1 A. Yes.

2 Q. Are you confident that you recognize her
3 even though she's wearing a mask?

4 A. Yes.

5 Q. Any doubt in your mind that is Adrianna
6 Norman?

7 MR. PICKER: Objection, asked and answered.

8 BY MR. PRENGAMAN:

9 Q. Any doubt in your mind that's Adrianna
10 Norman?

11 A. No.

12 MR. PRENGAMAN: Your Honor, may the record
13 reflect the identification of Adrianna Norman.

14 THE COURT: It does.

15 MR. PRENGAMAN: Thank you.

16 BY MR. PRENGAMAN:

17 Q. Now, Mr. Sims, at some point when you were
18 staying with Ms. Norman in Winnemucca, did you meet
19 a man named Ryan?

20 A. Named who?

21 Q. Named Ryan.

22 A. Yes.

23 Q. Ryan Williams.

24 A. Yes.

1 Q. And how many times prior to
2 February 22nd, 2020, before that day how many
3 times had you met Ryan Williams?

4 A. Once.

5 Q. And did you see Ryan Williams again on
6 February 22nd, 2020?

7 A. Yes.

8 Q. And where did you see him?

9 A. Bob & Lucy's.

10 Q. So, going back to the -- approximately --
11 so before the February 22nd, so before that day at
12 Bob & Lucy's, the only time previously that you met
13 Ryan Williams, about when was that approximately?

14 A. It would have been -- it would have been
15 end of November, the beginning of December,
16 somewhere in that, give or take a week, of 2019.

17 Q. Okay. And at this point I just want to ask
18 you generally did you spend -- how much time did you
19 spend with him on that occasion? Again,
20 approximately as best as you can recall sitting
21 here, how much time did you spend with him on that
22 prior occasion prior to February 22nd, 2020?

23 A. A whole day from 9:00 in the morning to
24 9:00 at night.

1 Q. Okay. And do you see that man Ryan
2 Williams in the courtroom today?

3 A. Yes, I do.

4 Q. And can you please describe for us where
5 you see him and the clothing he is wearing.

6 A. Pretty much in front of me wearing a gray
7 shirt and striped tie.

8 Q. And can you describe for me the clothing of
9 the person who is to Mr. Williams' immediate right.

10 A. Adrianna.

11 Q. I'm sorry. The man you've just identified
12 is Ryan Williams is wearing a mask.

13 A. Yes, he is.

14 Q. Are you able to identify him irrespective
15 of the mask he's wearing?

16 A. Yes, I can.

17 Q. Any doubt in your mind that's Ryan
18 Williams?

19 A. No.

20 MR. PRENGAMAN: Your Honor, may the record
21 reflect the identification of Ryan Williams?

22 THE COURT: It does.

23 MR. PRENGAMAN: Thank you.

24

1 BY MR. PRENGAMAN:

2 Q. Now, Mr. Sims, I want to focus on the prior
3 occasion for the moment. We'll come back to Bob &
4 Lucy's on February 22nd. Right now I want to ask
5 about that prior occasion of who else was present
6 that day when you went --

7 A. Adrianna's roommate at the time. I can't
8 recall his name.

9 Q. Was Adrianna present also?

10 A. Yes.

11 Q. And I just want to ask again generally what
12 types of things did you do together during that time
13 that evening that you met Mr. Williams? Again, let
14 me ask it this way.

15 Did you, for instance, have lunch at a
16 restaurant?

17 A. We had fast-food. We had In and Out,
18 parked and ate.

19 Q. Mr. Williams was present for that?

20 A. Yes.

21 Q. And was Adrianna Norman present for that?

22 A. Yes.

23 Q. Did the four of you, for instance, go to
24 one or more casinos and gamble?

1 A. Yes.

2 Q. Did the four of you go to one or more
3 stores that day?

4 A. Yes.

5 Q. Who introduced you to Ryan Williams that
6 day.

7 A. I guess Adrianna.

8 Q. And at some point that day when you met
9 him -- "him" being Mr. Williams -- did you know that
10 he was carrying a gun?

11 A. Yes.

12 Q. Did he show it to you?

13 A. It was visible. It was sitting out. I
14 don't want to say he took it out and said, Hey,
15 look. I seen it.

16 Q. Just focusing on what you observed, how did
17 you first come to learn that he was carrying a gun?

18 A. He sat it on the console. I was in the
19 backseat and he was in the driver's seat. He sat it
20 on the console.

21 Q. And when he did that, did you at some point
22 make any comment or remark about the gun?

23 A. Yes.

24 Q. And did you and he have some type of

1 exchange or conversation about the gun?

2 A. Yes.

3 Q. What did the gun look like?

4 A. Black.

5 Q. Are you able to say whether it was a
6 semiautomatic or revolver?

7 A. Semiautomatic.

8 Q. From what you observed, was he carrying
9 that gun throughout the day?

10 A. Yes.

11 Q. On his person?

12 A. Yes.

13 Q. The very next time you saw Mr. Williams
14 after that day was when?

15 A. Was the day February 22, the morning.

16 Q. Now, let me go to you staying with Ms.
17 Norman at her residence in Winnemucca.

18 THE COURT: Counsel, can I interject?
19 Would this be an appropriate time?

20 MS. GROSENICK: Yes.

21 THE COURT: Excuse me, Mr. Prengaman.

22 "Ladies and gentlemen of the jury, you just
23 heard evidence of an alleged prior possession of a
24 handgun by the Defendant Ryan Williams on a date

1 prior to February 22nd, 2020. This evidence is
2 not to be considered for purposes of proving
3 character or action in conformity therewith on
4 February 22, 2020. However, such evidence may be
5 considered in determining intent or providing
6 content to statements allegedly made by Mr. Norman
7 on February 22nd, 2020, and in determining the
8 element of Robbery and Attempted Robbery that the
9 offense was committed by means of force or violence
10 or fear of injury immediate or future. You may
11 consider this evidence only against Mr. Williams,
12 not against Ms. Norman.

13 "As with all evidence, it is up to you, the
14 jury, to decide whether to believe all, none, or
15 part of the testimony and the weight to give it."

16 Mr. Prengaman, go ahead and continue,
17 please.

18 MR. PRENGAMAN: Thank you, your Honor.

19 BY MR. PRENGAMAN:

20 Q. Mr. Sims, at some point did you leave
21 Winnemucca and -- well, where did you live before
22 you went to Winnemucca? Just the city.

23 A. Sparks.

24 Q. At some point did you leave Winnemucca and

1 come back to Sparks?

2 A. Yes.

3 Q. Was that that middle of January time frame
4 you previously described?

5 A. Yes, sir.

6 Q. Now, when you left on that day, were you
7 still living at Ms. Norman's residence?

8 A. Yes.

9 Q. When you left did you tell her you were
10 leaving?

11 A. No, I did not.

12 Q. So you just left.

13 A. Yes.

14 Q. Did you receive any communications from her
15 soon after you left?

16 A. Yes.

17 Q. Wham form?

18 A. What form?

19 Q. Let me ask it this way: Telephone, phone
20 call, text messages.

21 A. Text message.

22 Q. And at that point you had a phone that you
23 received those messages on.

24 A. Yes.

1 Q. And how did you come to have that phone?

2 A. Adrianna purchased a new phone and gave me
3 her old phone.

4 Q. So, when you had left, was the phone that
5 you received those messages on the phone she had
6 given you?

7 A. Yes.

8 Q. And was that phone still on her account?

9 A. I believe so.

10 Q. In those messages -- well, was it one
11 message or a series of messages?

12 A. Series.

13 Q. And did those messages include some
14 accusations?

15 A. Yes.

16 Q. And what type of accusation was made in the
17 text messages?

18 A. That I had taken an X Box and/or a tablet.
19 I believe that was it.

20 Q. Was there any content that it was a threat?

21 A. At some point I was threatened.

22 Q. In those messages?

23 A. Yes.

24 Q. Mr. Sims, I'm going to show you what we've

1 marked for identification as Exhibits 108 to 109.

2 (Witness reviewing document.)

3 BY MR. PRENGAMAN:

4 Q. Starting with Exhibit 108, do you recognize
5 those as a series of text messages sent from Ms.
6 Norman to you?

7 A. Yes.

8 Q. And are those -- do those contain the
9 content that we were just discussing, the
10 accusation, the threat?

11 A. Yes.

12 Q. And then does Exhibit 109 contain a message
13 sent from Ms. Norman to you via Facebook Messenger?

14 A. Yes.

15 Q. Does it similarly contain content, a
16 threat?

17 A. Yes.

18 Q. And are those messages that were received
19 from you shortly after you left in mid-January 2020?

20 A. Yes, they are.

21 MR. PRENGAMAN: We move for the admission
22 of 108 and 109.

23 MS. HICKMAN: No objection. I would ask
24 the Court to read the limiting instruction regarding

1 those text messages.

2 THE COURT: Yes.

3 Mr. Picker?

4 MR. PICKER: Thank you, your Honor.

5 No objection.

6 THE COURT: "Ladies and gentlemen of the
7 jury, you're about to hear testimony related to text
8 messages Ms. Norman sent Mr. Sims prior to the
9 events that occurred in this case on
10 February 22nd, 2020. These text messages may not
11 be considered against Mr. Williams."

12 Now, I'll read the other instruction that I
13 read to you again simply because I think I misread a
14 piece of it, so I want to read it one more time to
15 you.

16 "You just heard evidence" -- this is
17 regarding the handgun possession -- "by Defendant
18 Ryan Williams on a date other than February 22nd,
19 2020. This evidence is not to be considered for
20 purposes of proving character or action in
21 conformity therewith on February 22, 2020. However,
22 such evidence may be considered in determining
23 intent or providing content to statements allegedly
24 made by Mr. Williams on February 22nd, 2020, and

1 in determining the elements of Robbery and Attempted
2 Robbery that the offense be committed by means force
3 or violence or fear of injury immediate or future.

4 "You may consider this evidence only
5 against Mr. Williams and not against Ms. Norman. As
6 with all evidence, it is up to you, the jury, to
7 decide whether to believe all, none, or part of the
8 testimony and the weight to give it."

9 Thank you so much.

10 Mr. Prengaman, you may continue.

11 MR. PRENGAMAN: Thank you.

12 THE COURT: 108 and 109 are admitted over
13 no objection.

14 (Exhibits 108 and 109 admitted.)

15 BY MR. PRENGAMAN:

16 Q. So, Mr. Sims, beginning at the bottom, the
17 first message is, "So you left. And so, okay, I
18 guess you could have said something."

19 Is that referencing the fact that you left
20 without saying goodbye?

21 MR. PICKER: Objection, asks for
22 speculation.

23 THE COURT: Can you adjust the exhibit,
24 first of all. Okay, I see it. Thank you.

1 Mr. Prengaman, the objection is it calls
2 for speculation.

3 MR. PRENGAMAN: It's a lay witness opinion
4 based on his relationship.

5 THE COURT: I'll allow it. Go ahead.
6 BY MR. PRENGAMAN:

7 Q. Let me ask it this way, Mr. Sims. Based on
8 your relationship with Ms. Norman, what did you
9 understand these communications to be referencing?

10 A. They were in reference to her son's tablet
11 that was missing and X Box.

12 Q. When you talk about that, are you
13 referencing the -- for instance, the second from the
14 top, "You're a piece of shit. You stole from my
15 motherfucking kids"?

16 A. Yes, sir.

17 Q. And then the fourth from the top, "Buy a
18 new phone. This number will be turned off by the
19 end of the day." Based on your relationship with
20 Ms. Norman, what did you take that to be in
21 reference to?

22 A. The phone that she had given me, that she
23 would have it discontinued.

24 Q. And then is it accurate that the last one

1 in the series is "Just know your day's coming"?

2 A. Yes.

3 Q. Then moving to Exhibit 109, the message
4 says, "It's almost your time," correct?

5 A. Yes.

6 Q. Mr. Sims, after those communications from
7 Ms. Norman, what was the next time you communicated
8 with or spoke to Ms. Norman?

9 A. That morning, February 22nd, 2020.

10 Q. At Bob & Lucy's Tavern?

11 A. Yes.

12 Q. And talking about communications, did you
13 respond in any way to those messages?

14 A. Not that I remember, no.

15 Q. So, you don't recall answering them or
16 giving any type of response?

17 MR. PICKER: Objection, asked and answered.

18 MR. PRENGAMAN: That's fair.

19 THE COURT: Mr. Prengaman, next question.

20 BY MR. PRENGAMAN:

21 Q. Now, taking you to Bob & Lucy's that
22 morning of February 22nd, 2020, do you recall
23 where you first saw Adrianna Norman that morning?

24 A. Yes.

1 Q. Where were you in the tavern, as you
2 recall?

3 A. Sitting -- I guess it would be the front by
4 the -- close to the ATM machine.

5 Q. And is Bob & Lucy's an establishment that
6 was familiar to you back then?

7 A. Yes, it is.

8 Q. Would it be fair to say that you were a
9 regular there?

10 A. Yes, it is.

11 Q. Where was Ms. Norman when you first saw
12 her?

13 A. Passing the coffee machine coming towards
14 me.

15 Q. Describe her to me when you first see her.

16 A. She has, like, a smirk on her face.

17 Q. Did she continue coming towards you?

18 A. Yes, sir.

19 Q. Describe -- well, when she gets up to you,
20 does she start talking to you?

21 A. Yes.

22 Q. What is the first thing or things that she
23 says when she approaches you?

24 A. I do not remember verbatim but her -- what

1 she said to me.

2 Q. Maybe not verbatim, but to the best of your
3 memory what are the first thing or things she says
4 to you when she approaches you?

5 A. It was something close to like, I told you,
6 I told you I was gonna come or, You didn't think I
7 was gonna come. It was regarding to the threats
8 that I had gotten prior.

9 MR. PICKER: Objection, speculation, move
10 to strike. He just tried to give meaning to my
11 client's thoughts as opposed to what he --

12 THE COURT: Thanks. Mr. Prengaman.

13 MR. PRENGAMAN: Again, I would submit he
14 was offering his lay witness opinion based on his
15 relationship with Ms. Norman.

16 THE COURT: I'll allow it.

17 BY MR. PRENGAMAN:

18 Q. Did she bring up a particular subject when
19 she approached you?

20 A. I can't recall.

21 Q. What does she start talking about after she
22 said what you just described?

23 A. The best I can remember is she was kinda
24 mocking me like, Here I am.

1 Q. And when you said "mocking" you, mocking
2 you in what way?

3 A. That may not be a good description. Maybe
4 I don't understand the question real well. Because
5 I don't remember what Adrianna said to me as she was
6 approaching me. I just remember she was smiling. I
7 was very shocked to see her.

8 Q. Okay. So, when she got up to -- did she
9 come all the way up to where you were at the
10 machine?

11 A. Yes.

12 Q. And did she sit down next to you?

13 A. Yes.

14 Q. Did she start talking to you?

15 A. Yes.

16 Q. What did she start talking about?

17 A. Kinda like -- once again, I don't remember
18 her exact words. It was just kinda like, Payback
19 time. I was doing more talking than she was.

20 Q. And what was the subject that you were
21 talking about?

22 A. That I would never take from her children
23 or from her.

24 Q. And who brought up the accusation of taking

1 from her children? Did you bring it up or did she
2 bring it up?

3 A. I believe I probably brought it up.

4 Q. Okay. And why?

5 A. Because that's what she was -- in my
6 knowledge, she was making good on her promise that I
7 took from her kids and that my time is almost here.
8 So, I was -- when I seen her, I was simply
9 apologizing for leaving without letting her know I
10 left and trying to get her to understand that I
11 didn't take her kids' tablet or X Box.

12 Q. At some point while you are -- when she
13 sits down, how close is she situated to you?

14 A. I'd say like 3 feet apart, 2 feet apart.
15 Pretty close.

16 Q. At some point while you're there talking to
17 Ms. Norman, did you talk to her for some period of
18 time?

19 A. Yes.

20 Q. At some point while you're talking to her,
21 do you see a gun?

22 A. Yes.

23 Q. Where did you see the gun?

24 A. It was under her arm in her jacket

1 (indicating).

2 Q. You sort of indicated. You reached up
3 with, I believe, your left arm -- is that right --
4 indicating under your right?

5 A. Well, I'm not sure. I guess if I thought
6 long enough -- I don't know which arm she had it
7 under. It was under her arm (indicating).

8 Q. You're indicating -- what you're describing
9 is kinda tucked in her armpit.

10 A. Yes.

11 Q. I'm going to show you Exhibit 1,
12 specifically Channel 9 folder, the first file. I'm
13 going to -- I've paused in the opening frame at two
14 seconds. Are you able to see yourself in this view?

15 A. Yes.

16 Q. Mr. Sims, if you press on that screen, you
17 can draw. Just circle yourself where you see
18 yourself.

19 A. (Indicating).

20 Q. I'll move to four minutes and 40 seconds
21 into the footage.

22 And now what do you see yourself doing?

23 A. Looking for something, walking to another
24 machine.

1 Q. And did you see yourself carrying kind of a
2 whitish item?

3 A. Yes.

4 Q. What was that?

5 A. That was a ticket that I cashed out.

6 Q. When you play the machines at Bob & Lucy's,
7 is there some type of voucher system that reflects
8 the value of what you put in the machine?

9 A. Yes, sir.

10 Q. Just briefly how does that work?

11 A. You put cash money in and, if you decide
12 not to play that game anymore and you still have
13 money in there, it prints out a voucher of the
14 remaining amount of money. You can put that into
15 another machine.

16 Q. So, you take that and put it into another
17 machine?

18 A. Yes, sir.

19 Q. I'll show you what has been marked for
20 identification Exhibit 52. I want you to look at
21 that. Tell me if that looks like the type of
22 cash-out voucher issued at Bob & Lucy's from the
23 machines.

24 A. Yes.

1 Q. That's what they look like, correct?
2 A. Excuse me?
3 Q. This is what they look like, correct?
4 A. Yes, sir.
5 Q. I'll move forward to eight minutes, 24
6 seconds. Does it appear at this point you've moved
7 to a different machine?
8 A. Yes, sir.
9 Q. And now you have gone to another machine.
10 A. Yes.
11 Q. I'll pause it there at 8:53. Please just
12 circle the area where you are now seated.
13 A. (Indicating).
14 Q. And is that the same machine that you were
15 sitting at when you first see Adrianna Norman that
16 morning?
17 A. Yes, sir.
18 Q. Now, I've now gone, still in Exhibit 1, to
19 Channel 7 folder and the first file ending in 4956.
20 Do you recognize what we're looking at
21 here?
22 A. Yes.
23 Q. What are we looking at here?
24 A. Bob & Lucy's.

1 Q. And do we see the same machine that you
2 were just -- you just left, were seated at from a
3 different vantage point?

4 A. Yes.

5 Q. Can you circle where that machine would be
6 located?

7 A. (Indicating).

8 Q. Thank you. I'm going to move forward eight
9 minutes, 25 seconds in. We're starting at eight
10 minutes, 26. Is that you sitting at the machine you
11 just circled?

12 A. Yes.

13 Q. And is that where you were seated when you
14 first saw Ms. Norman that morning?

15 A. Yes.

16 Q. Did you see a gentleman walking towards the
17 door?

18 A. Yes.

19 Q. Do you recognize who that was?

20 A. If you play it again.

21 Q. I backed it up to 8:56.

22 A. That looks like George, the security guard.

23 Q. We're going to move forward to 17 minutes,
24 20 seconds in. Now, Mr. Sims, looking at this

1 vantage point, what is over here in the area I've
2 just circled?

3 A. That is one of the entrances and coffee
4 area -- or bench area.

5 Q. And that would be the door that people come
6 in and out of at that time of morning?

7 A. Yes.

8 Q. And then what's back here in this area?

9 A. That is the bartender area.

10 Q. I'm playing forward from 17 minutes, three
11 seconds in. Did you see somebody come in through
12 the doors?

13 A. Yes.

14 Q. And now they're right here?

15 A. Yes.

16 Q. I'm asking you, As you were recalling back
17 then, not as you look at the video now, but as you
18 recall back then, do you recall being aware of this
19 man walking through the casino area?

20 A. No.

21 MR. PRENGAMAN: I'm sorry, your Honor. I'm
22 looking at the time.

23 THE COURT: Might be a good time to break
24 for the day.

1 Ladies and gentlemen of the jury, we're
2 going to take our evening recess.

3 (Jury admonished and excused for
4 the evening.)

5 (End of proceedings at 3:31
6 p.m.)

7 -o0o-

1 STATE OF NEVADA)
2 COUNTY OF WASHOE) SS.

3 I, CHRISTINA MARIE AMUNDSON, official reporter
4 of the Second Judicial District Court of the State
5 of Nevada, in and for the County of Washoe, do
6 hereby certify:

7 That as such reporter, I was present via Zoom
8 in Department No. 1 of the above court on April 19,
9 2021, at the hour of 8:06 a.m. of said day, and I
10 then and there took verbatim stenotype notes of the
11 proceedings had and testimony given therein in the
12 case of State of Nevada, Plaintiff, v. Adrianna
13 Norman, Defendant, Case No. CR20-0630A.

14 That the foregoing transcript is a true and
15 correct transcript of my said stenotype notes so
16 taken as aforesaid, and is a true and correct
17 statement of the proceedings had and testimony given
18 in the above-entitled action to the best of my
19 knowledge, skill and ability.

20 DATED: At Reno, Nevada, on 23rd day of August 2021.

21
22 /S/ Christina Marie Amundson, CCR #641

23 _____
24 Christina Marie Amundson, CCR #641

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 11th day of January 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Jennifer P. Noble, Chief Appellate Deputy,
Washoe County District Attorney

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

Ryan Williams (#96845)
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P.O. Box 7000
Carson City, Nevada 89702

John Reese Petty
Washoe County Public Defender's Office