

IN THE SUPREME COURT OF THE STATE OF NEVADA

---

Case No. 83796

---

DONTE JOHNSON,  
Petitioner,

Electronically Filed  
May 27 2022 05:27 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

v.

STATE OF NEVADA, *et al.*,  
Respondent.

---

Appeal From Clark County District Court  
Eighth Judicial District, Clark County  
The Honorable Jacqueline M. Bluth, District Judge  
(Dist. Ct. No. A-19-789336-W)

APPELLANT'S APPENDIX

Volume 17 of 50

---

RENE L. VALLADARES  
Federal Public Defender  
Nevada State Bar No. 11479  
RANDOLPH M. FIEDLER  
Assistant Federal Public Defender  
Nevada State Bar No. 12577  
Assistant Federal Public Defender  
ELLESE HENDERSON  
Assistant Federal Public Defender  
Nevada State Bar No. 14674

411 E. Bonneville, Suite 250  
Las Vegas, Nevada 89101  
Telephone: (702) 388-6577  
Fax: (702) 388-6419  
Randolph\_Fiedler@fd.org  
Ellesse\_Henderson@fd.org

Counsel for Petitioner  
Donte Johnson

DOCUMENT	DATE	VOLUME	PAGE(S)
Amended Verification, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	05/17/2019	47	11613-11615
Amended Verification – Index of Exhibit and Exhibit in Support, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	05/17/2019	47	11616-11620
Court Minutes, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	02/13/2019	49	12248
Court Minutes, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	10/28/2021	50	12365
Defendant's (Pro Se) Request for Petition to be Stricken as it is Not Properly Before the Court, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	04/11/2019	46	11606-11608
Defendant's (Pro Se) Request to Strike Petition, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	04/04/2019	46	11603-11605



DOCUMENT	DATE	VOLUME	PAGE(S)
Exhibits and Exhibit List in Support of Petition for Writ of Habeas Corpus	02/13/2019	25	6130–6146
6. Judgment of Conviction, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Oct. 3, 2000)	02/13/2019	25	6147–6152
7. Judgment of Conviction (Amended), <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Oct. 9, 2000)	02/13/2019	25	6153–6158
8. Appellant’s Opening Brief, <i>Johnson v. State</i> , Case No. 36991, In the Supreme Court of the State of Nevada (July 18, 2001)	02/13/2019	25	6159–6247
10. Appellant’s Reply Brief, <i>Johnson v. State</i> , Case No. 36991, In the Supreme Court of the State of Nevada (Jan. 15, 2002)	02/13/2019	25–26	6248–6283
15. Motion to Amend Judgment of Conviction, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Apr. 8, 2004)	02/13/2019	26	6284–6295
16. Amended Judgment of Conviction, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Apr. 20, 2004)	02/13/2019	26	6296–6298
17. Judgment of Conviction, <i>State v. Johnson</i> , Case No. 153154, District Court,	02/13/2019	26	6299–6303

	DOCUMENT	DATE	VOLUME	PAGE(S)
	Clark County (June 6, 2005)			
21.	Judgment Affirming Death Sentence (45456), <i>Johnson v. State</i> , Case No. 45456, In Supreme Court of the State of Nevada (Dec. 28, 2006)	02/13/2019	26	6304–6330
22.	Notice of filing of writ of certiorari, <i>Johnson v. State</i> , Case No. 45456, In Supreme Court of the State of Nevada (Apr. 5, 2007)	02/13/2019	26	6331–6332
24.	Petition for Writ of Habeas Corpus, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Feb. 11, 2008)	02/13/2019	26	6333–6343
25.	Pro Per Petition, <i>Johnson v. State</i> , Case No. 51306, In the Supreme Court of the State of Nevada (Mar. 24, 2008)	02/13/2019	26	6344–6364
26.	Response to Petition Writ of Habeas Corpus, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Apr. 29, 2008)	02/13/2019	26	6365–6369
27.	Order denying Pro Per Petition, <i>Johnson v. State</i> , Case No. 51306, In the Supreme Court of the State of Nevada (May 6, 2008)	02/13/2019	26	6370–6372
28.	Supplemental Brief in Support of Petition for Writ of Habeas Corpus, <i>State v. Johnson</i> , Case No.	02/13/2019	26	6373–6441

	DOCUMENT	DATE	VOLUME	PAGE(S)
	153154, District Court, Clark County (Oct. 12, 2009)			
29.	Second Supplemental Brief in Support of Petition for Writ of Habeas Corpus, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (July 14, 2010)	02/13/2019	26	6442–6495
30.	Response to Petition Writ of Habeas Corpus, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Jan. 28, 2011)	02/13/2019	26–27	6496–6591
31.	Reply to Response to Petition Writ of Habeas Corpus, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (June 1, 2011)	02/13/2019	27	6592–6627
32.	Reply Brief on Initial Trial Issues, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Aug. 22, 2011)	02/13/2019	27–28	6628–6785
33.	Findings of Fact and Conclusions of Law, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Mar. 17, 2014)	02/13/2019	28	6786–6793
34.	Petition for Writ of Habeas Corpus, <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Oct. 8, 2014)	02/13/2019	28	6794–6808

DOCUMENT	DATE	VOLUME	PAGE(S)
35. Response to Second Petition for Writ of Habeas Corpus (Post-Conviction), <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Dec. 15, 2014)	02/13/2019	28	6809–6814
36. Reply to Response to Second Petition for Habeas Corpus (Post-Conviction), <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Jan. 2, 2015)	02/13/2019	28	6815–6821
37. Appellant’s Opening Brief, No. 65168, Nev. Sup. Ct., Jan. 9, 2015	02/13/2019	28	6822–6973
38. Findings of Fact and Conclusions of Law), <i>State v. Johnson</i> , Case No. 153154, District Court, Clark County (Feb. 4, 2015)	02/13/2019	28	6974–6979
40. Appellant’s Reply Brief, No. 65168, Nev. Sup. Ct., Nov. 18, 2015	02/13/2019	28–29	6980–7078
45. Autopsy Report for Peter Talamantez (Aug. 15, 1998)	02/13/2019	29	7079–7091
46. Las Vegas Metropolitan Police Dept. Voluntary Statement of Ace Rayburn Hart_Redacted (Aug. 17, 1998)	02/13/2019	29	7092–7121
47. Las Vegas Metropolitan Police Dept., Voluntary Statement of Brian	02/13/2019	29	7122–7138

	DOCUMENT	DATE	VOLUME	PAGE(S)
	Johnson_Redacted (Aug. 17, 1998)			
48.	Indictment, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Sep. 2, 1998)	02/13/2019	29	7139–7149
49.	Las Vegas Metropolitan Police Dept., Voluntary Statement of Terrell Young_Redacted (Sep. 2, 1998)	02/13/2019	29	7150–7205
50.	Las Vegas Metropolitan Police Dept., Voluntary Statement of Charla Severs_Redacted (Sep. 3, 1998)	02/13/2019	29	7206–7239
51.	Las Vegas Metropolitan Police Dept., Voluntary Statement of Sikia Smith_Redacted (Sep. 8, 1998)	02/13/2019	29–30	7240–7269
52.	Superseding Indictment, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Sep. 15, 1998)	02/13/2019	30	7270–7284
53.	Las Vegas Metropolitan Police Dept., Voluntary Statement of Todd Armstrong_Redacted (Sep. 17, 1998)	02/13/2019	30	7285–7338
54.	Las Vegas Metropolitan Police Dept., Voluntary Statement of Ace Hart_Redacted (Sep. 22, 1998)	02/13/2019	30	7339–7358

DOCUMENT	DATE	VOLUME	PAGE(S)
55. Testimony of Todd Armstrong, <i>State of Nevada v. Celis</i> , Justice Court, Clark County, Nevada Case No. 1699-98FM (Jan. 21, 1999)	02/13/2019	30–31	7359–7544
56. Trial Transcript (Volume VIII), <i>State v. Smith</i> , District Court, Clark County, Nevada Case No. C153624 (June 17, 1999)	02/13/2019	31	7545–7675
57. Trial Transcript (Volume XVI-AM), <i>State v. Smith</i> , District Court, Clark County, Nevada Case No. 153624 (June 24, 1999)	02/13/2019	31–32	7676–7824
58. Motion to Permit DNA Testing of Cigarette Butt (Aug. 17, 1998)	02/13/2019	32	7825–7835
59. Trial Transcript (Volume VI), <i>State v. Young</i> , District Court, Clark County, Nevada, Case No. C153154 (Sep. 7, 1999)	02/13/2019	32	7836–7958
60. Interview of Charla Severs (Sep. 27, 1999)	02/13/2019	32	7959–7980
61. Motion to Videotape Deposition of Charla Severs, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Sep. 29, 1999)	02/13/2019	32–33	7981–8004
62. Opposition to Videotape Deposition of Charla Severs, <i>State v. Johnson</i> , District Court, Clark	02/13/2019	33	8005–8050

	DOCUMENT	DATE	VOLUME	PAGE(S)
	County, Nevada Case No. C153154 (Oct. 6, 1999)			
63.	Transcript of Video Deposition of Charla Severs (Filed Under Seal), <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Oct. 6, 1999)	02/13/2019 <b>SEALED</b>	33	8051–8160
64.	Cellmark Report of Laboratory Examination (Nov. 17, 1999)	02/13/2019	33	8161–8165
65.	Motion for Change of Venue, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Nov. 29, 1999)	02/13/2019	33	8166–8291
66.	Records from the California Youth Authority_Redacted	02/13/2019	33–34	8292–8429
67.	Jury Instructions (Guilt Phase), <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (June 8, 2000)	02/13/2019	34	8430–8496
68.	Verdict Forms (Guilt Phase), <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (June 9, 2000)	02/13/2019	34	8497–8503
69.	Special Verdict, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (June 15, 2000)	02/13/2019	34	8504–8506
70.	Affidavit of Kristina Wildeveld (June 23, 2000)	02/13/2019	34	8507–8509

DOCUMENT	DATE	VOLUME	PAGE(S)
71. Amended Notice of Evidence Supporting Aggravating Circumstances, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Mar. 17, 2004)	02/13/2019	34	8510–8518
72. Second Amended Notice of Evidence Supporting Aggravating Circumstances, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Apr. 6, 2004)	02/13/2019	34	8519–8527
73. Opposition to Second Amended Notice of Evidence Supporting Aggravating Circumstances, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Apr. 20, 2004)	02/13/2019	34	8528–8592
74. Reply to Opposition to Notice of Evidence Supporting Aggravating Circumstances, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Apr. 26, 2004)	02/13/2019	34–35	8593–8621
75. Jury Instructions (Penalty Phase 3), <i>State v. Johnson</i> , District Court, Clark	02/13/2019	35	8622–8639



DOCUMENT	DATE	VOLUME	PAGE(S)
County, Nevada Case No. C153154 (Apr. 28, 2005)			
76. Petition for rehearing, Johnson v. <i>State</i> , Nevada Supreme Court, Case No. 45456 (Mar. 27, 2007)	02/13/2019	35	8640–8652
77. John L. Smith, <i>Mabey takes heat for attending his patients instead of the inauguration</i> , Las Vegas Review-Journal (Jan. 5, 2007)	02/13/2019	35	8653–8656
78. Sam Skolnik, <i>Judge out of order, ethics claims say</i> , Las Vegas Sun (Apr. 27, 2007)	02/13/2019	35	8657–8660
79. EM 110 - Execution Procedure_Redacted (Nov. 7, 2017)	02/13/2019	35	8661–8667
80. <i>Nevada v. Baldonado</i> , Justice Court, Clark County, Nevada Case No. 04FH2573X (Mar. 30, 2004)	02/13/2019	35	8668–8698
81. Birth Certificate John White Jr_Redacted	02/13/2019	35	8699–8700
82. Declaration of Eloise Kline (Nov. 19, 2016)	02/13/2019	35	8701–8704
83. Jury Questionnaire 2000_Barbara Fuller_Redacted (May 24, 2000)	02/13/2019	35	8705–8727
84. Media Jury Questionnaire 2000	02/13/2019	35–36	8728–8900
85. Media Jury Questionnaire 2005	02/13/2019	36	8901–9025
86. News Articles	02/13/2019	36–37	9026–9296

DOCUMENT	DATE	VOLUME	PAGE(S)
87. State's Exhibit 63 – Photo	02/13/2019	37	9297–9299
88. State's Exhibit 64 – Photo	02/13/2019	37	9300–9302
89. State's Exhibit 65 – Photo	02/13/2019	37	9303–9305
90. State's Exhibit 66 – Photo	02/13/2019	37	9306–9308
91. State's Exhibit 67 – Photo	02/13/2019	37	9309–9311
92. State's Exhibit 69 – Photo	02/13/2019	37	9312–9314
93. State's Exhibit 70 – Photo	02/13/2019	37	9315–9317
94. State's Exhibit 74 – Photo	02/13/2019	37	9318–9320
95. State's Exhibit 75 – Photo	02/13/2019	37	9321–9323
96. State's Exhibit 76 – Photo	02/13/2019	37	9324–9326
97. State's Exhibit 79 – Photo	02/13/2019	37	9327–9329
98. State's Exhibit 80 – Photo	02/13/2019	37	9330–9332
99. State's Exhibit 81 – Photo	02/13/2019	37	9333–9335
100. State's Exhibit 82 – Photo	02/13/2019	37	9336–9338
101. State's Exhibit 86 – Photo	02/13/2019	37	9339–9341
102. State's Exhibit 89 – Photo	02/13/2019	37	9342–9344
103. State's Exhibit 92 – Photo	02/13/2019	37	9345–9347
104. State's Exhibit 113 – Photo	02/13/2019	37	9348–9350
105. State's Exhibit 116 – Photo	02/13/2019	37	9351–9353
106. State's Exhibit 120 – Photo	02/13/2019	37	9354–9356
107. State's Exhibit 125 – Photo	02/13/2019	37	9357–9359
108. State's Exhibit 130 – Photo	02/13/2019	38	9360–9362
109. State's Exhibit 134 – Photo	02/13/2019	38	9363–9365
110. State's Exhibit 137 – Photo	02/13/2019	38	9366–9368
111. State's Exhibit 145 – Photo	02/13/2019	38	9369–9371
112. State's Exhibit 146 – Photo	02/13/2019	38	9372–9374
113. State's Exhibit 148 – Photo	02/13/2019	38	9375–9377
114. State's Exhibit 151 – Photo	02/13/2019	38	9378–9380
115. State's Exhibit 180 – Photo	02/13/2019	38	9381–9384
116. State's Exhibit 181 – Photo	02/13/2019	38	9385–9388
117. State's Exhibit 216 - Probation Officer's Report - Juvenile_Redacted	02/13/2019	38	9389–9403
118. State's Exhibit 217 - Probation Officer's Report_Redacted	02/13/2019	38	9404–9420

DOCUMENT	DATE	VOLUME	PAGE(S)
119. State's Exhibit 221 – Photo	02/13/2019	38	9421–9423
120. State's Exhibit 222 – Photo	02/13/2019	38	9424–9426
121. State's Exhibit 256	02/13/2019	38	9427–9490
122. Las Vegas Metropolitan Police Dept. Crime Scene Report (Aug. 14, 1998)	02/13/2019	38	9491–9499
123. VCR at Terra Linda	02/13/2019	38	9500–9501
124. VCR Remote Control Buying Guide	02/13/2019	38	9502–9505
125. Jury Instructions (Penalty Phase 3), <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (May 4, 2005)	02/13/2019	38	9506–9519
126. Motion to Bifurcate Penalty Phase, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Apr. 27, 2004)	02/13/2019	38	9520–9525
127. Motion to Reconsider Request to Bifurcate Penalty Phase, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Apr. 11, 2005)	02/13/2019	38	9526–9532
128. Special Verdicts (Penalty Phase 3), <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Apr. 28, 2005)	02/13/2019	38	9533–9544
129. Verdict (Penalty Phase 3), <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (May 5, 2005)	02/13/2019	38	9545–9549

DOCUMENT	DATE	VOLUME	PAGE(S)
130. Declaration of Arthur Cain (Oct. 29, 2018)	02/13/2019	38	9550–9552
131. Declaration of Deborah White (Oct. 27, 2018)	02/13/2019	38	9553–9555
132. Declaration of Douglas McGhee (Oct. 28, 2018)	02/13/2019	38	9556–9558
133. Declaration of Elizabeth Blanding (Oct. 29, 2018)	02/13/2019	38	9559–9560
134. Declaration of Jesse Drumgole (Oct. 27, 2018)	02/13/2019	38	9561–9562
135. Declaration of Johnnisha Zamora (Oct. 28, 2018)	02/13/2019	38	9563–9566
136. Declaration of Johnny White (Oct. 26, 2018)	02/13/2019	38	9567–9570
137. Declaration of Keonna Bryant (Oct. 30, 2018)	02/13/2019	38	9571–9573
138. Declaration of Lolita Edwards (Oct. 30, 2018)	02/13/2019	38	9574–9576
139. Declaration of Loma White (Oct. 31, 2018)	02/13/2019	38	9577–9579
140. Declaration of Moises Zamora (Oct. 28, 2018)	02/13/2019	38	9580–9582
141. Declaration of Vonjelique Johnson (Oct. 28, 2018)	02/13/2019	38	9583–9585
142. Los Angeles Dept. of Child & Family Services_Redacted	02/13/2019	38–39	9586–9831
143. Psychological Evaluation of Donte Johnson by Myla H. Young, Ph.D. (June 6, 2000)	02/13/2019	39	9832–9841
144. Psychological Evaluation of Eunice Cain (Apr. 25, 1988)	02/13/2019	39	9842–9845

DOCUMENT	DATE	VOLUME	PAGE(S)
145. Psychological Evaluation of John White by Harold Kates (Dec. 28, 1993)	02/13/2019	39–40	9846–9862
146. Student Report for John White	02/13/2019	40	9863–9867
147. School Records for Eunnisha White_Redated	02/13/2019	40	9868–9872
148. High School Transcript for John White_Redacted	02/13/2019	40	9873–9874
149. School Record for John White_Redacted	02/13/2019	40	9875–9878
150. Certified Copy SSA Records_Eunice Cain_Redacted	02/13/2019	40	9879–9957
151. Declaration of Robin Pierce (Dec. 16, 2018)	02/13/2019	40	9958–9961
152. California Department of Corrections Records_Redacted (Apr. 25, 2000)	02/13/2019	40	9962–10060
153. Letter from Maxine Miller to Lisa Calandro re forensic lab report (Apr. 13, 1999)	02/13/2019	40	10061–10077
154. Letter from Lisa Calandro Forensic Analytical to Maxine Miller (Apr. 20, 1994)	02/13/2019	40	10078–10080
155. Memorandum re call with Richard Good (Apr. 29, 1999)	02/13/2019	40	10081–10082
156. Letter from Maxine Miller to Berch Henry at Metro DNA Lab (May 7, 1999)	02/13/2019	40	10083–10086
157. Letter from Maxine Miller to Richard Good (May 10, 1999)	02/13/2019	40	10087–10092

DOCUMENT	DATE	VOLUME	PAGE(S)
158. Letter from Maxine Miller to Tom Wahl (May 26, 1999)	02/13/2019	40	10093–10098
159. Stipulation and Order, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (June 8, 1999)	02/13/2019	40	10099–10101
160. Stipulation and Order, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154, (June 14, 1999)	02/13/2019	40	10102–10105
161. Letter from Maxine Miller to Larry Simms (July 12, 1999)	02/13/2019	40–41	10106–10110
162. Stipulation and Order, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Dec. 22, 1999)	02/13/2019	41	10111–10113
163. Letter from Maxine Miller to Nadine LNU re bullet fragments (Mar. 20, 2000)	02/13/2019	41	10114–10118
164. Memorandum (Dec. 10, 1999)	02/13/2019	41	10119–10121
165. Forensic Analytical Bloodstain Pattern Interpretation (June 1, 2000)	02/13/2019	41	10122–10136
166. Trial Transcript (Volume III), <i>State v. Young</i> , District Court, Clark County, Nevada, Case No. C153461 (Sep. 7, 1999)	02/13/2019	41	10137–10215
167. Trial Transcript (Volume VII), <i>State v. Young</i> ,	02/13/2019	41	10216–10332

DOCUMENT	DATE	VOLUME	PAGE(S)
District Court, Clark County, Nevada, Case No. C153461 (Sep. 13, 1999)			
168. National Research Council, <i>Strengthening Forensic Science in the United States: A Path Forward</i> , Washington, D.C.: The National Academies Press (2009)	02/13/2019	41	10333–10340
169. Las Vegas Metropolitan Police Dept. Forensic Lab Report of Examination (Sep. 26, 1998)	02/13/2019	41	10341–10343
170. Todd Armstrong juvenile records_Redacted	02/13/2019	41–42	10344–10366
171. Handwritten notes on Pants	02/13/2019	42	10367–10368
172. Declaration of Cassondrus Ragsdale (Dec. 16, 2018)	02/13/2019	42	10369–10371
173. Report of Dr. Kate Glywasky (Dec. 19, 2018)	02/13/2019	42	10372–10375
174. Curriculum Vitae of Dr. Kate Glywasky	02/13/2019	42	10376–10384
175. Report of Deborah Davis, Ph.D. (Dec. 18, 2018)	02/13/2019	42	10385–10435
176. Curriculum Vitae of Deborah Davis, Ph.D.	02/13/2019	42	10436–10462
177. Report of T. Paulette Sutton, Associate Professor, Clinical Laboratory Sciences (Dec. 18, 2018)	02/13/2019	42	10463–10472
178. Curriculum Vitae of T. Paulette Sutton	02/13/2019	42	10473–10486

DOCUMENT	DATE	VOLUME	PAGE(S)
179. Report of Matthew Marvin, Certified Latent Print Examiner (Dec. 18, 2018)	02/13/2019	42	10487–10494
180. Curriculum Vitae of Matthew Marvin	02/13/2019	42	10495–10501
181. Trial Transcript (Volume V), <i>State v. Smith</i> , District Court, Clark County, Nevada Case No. C153624 (June 16, 1999)	02/13/2019	42–43	10502–10614
182. Trial Transcript (Volume VI), <i>State v. Smith</i> , District Court, Clark County, Nevada Case No. C153624 (June 16, 1999)	02/13/2019	43	10615–10785
183. Las Vegas Metropolitan Police Dept. Interview of Tod Armstrong_Redacted (Aug. 17, 1998)	02/13/2019	43	10786–10820
184. Las Vegas Metropolitan Police Dept. Interview of Tod Armstrong_Redacted (Aug. 18, 1998)	02/13/2019	43	10821–10839
185. Las Vegas Metropolitan Police Dept. Interview of Charla Severs_Redacted (Aug. 18, 1998)	02/13/2019	43–44	10840–10863
186. Las Vegas Metropolitan Police Dept. Interview of Sikia Smith_Redacted (Aug. 17, 1998)	02/13/2019	44	10864–10882
187. Las Vegas Metropolitan Police Dept. Interview of Terrell Young_Redacted (Sep. 2, 1998)	02/13/2019	44	10883–10911
188. Declaration of Ashley Warren (Dec. 17, 2018)	02/13/2019	44	10912–10915



DOCUMENT	DATE	VOLUME	PAGE(S)
189. Declaration of John Young (Dec. 10, 2018)	02/13/2019	44	10916–10918
190. Brief of Plaintiffs-Appellants, <i>Abdur'rahman v. Parker</i> , Tennessee Supreme Court, Nashville Division, Case No. M2018-10385-SC-RDO-CV	02/13/2019	44–45	10919–11321
191. Sandoz' Inc.'s Motion for Leave Pursuant to NRAP 29 to Participate as Amicus Curiae in Support of Real Parties in Interest, <i>Nevada v. The Eighth Judicial District Court of the State of Nevada</i> , Nevada Supreme Court, Case No. 76485	02/13/2019	45	11322–11329
192. Notice of Entry of Order, <i>Dozier v. State of Nevada</i> , District Court, Clark County, Nevada, Case No. 05C215039	02/13/2019	45	11330–11350
193. Declaration of Cassondrus Ragsdale (2018.12.18)	02/13/2019	45	11351–11353
194. Affidavit of David B. Waisel, <i>State of Nevada</i> , District Court, Clark County, Case No. 05C215039 (Oct. 4, 2018)	02/13/2019	45–46	11354–11371
195. Declaration of Hans Weding (Dec. 18, 2018)	02/13/2019	46	11372–11375
196. Trial Transcript (Volume IX), <i>State v. Smith</i> , District Court, Clark County, Nevada Case No. C153624 (June 18, 1999)	02/13/2019	46	11376–11505

DOCUMENT	DATE	VOLUME	PAGE(S)
197. Voluntary Statement of Luis Cabrera (August 14, 1998)	02/13/2019	46	11506–11507
198. Voluntary Statement of Jeff Bates (handwritten)_Redacted (Aug. 14, 1998)	02/13/2019	46	11508–11510
199. Voluntary Statement of Jeff Bates_Redacted (Aug. 14, 1998)	02/13/2019	46	11511–11517
200. Presentence Investigation Report, State’s Exhibit 236, <i>State v. Young</i> , District Court, Clark County, Nevada Case No. C153461_Redacted (Sep. 15, 1999)	02/13/2019	46	11518–11531
201. Presentence Investigation Report, State’s Exhibit 184, <i>State v. Smith</i> , District Court, Clark County, Nevada Case No. C153624_Redacted (Sep. 18, 1998)	02/13/2019	46	11532–11540
202. School Record of Sikia Smith, Defendant’s Exhibit J, <i>State v. Smith</i> , District Court, Clark County, Nevada (Case No. C153624)	02/13/2019	46	11541–11542
203. School Record of Sikia Smith, Defendant’s Exhibit K, <i>State v. Smith</i> , District Court, Clark County, Nevada (Case No. C153624)	02/13/2019	46	11543–11544

DOCUMENT	DATE	VOLUME	PAGE(S)
204. School Record of Sikia Smith, Defendant's Exhibit L, <i>State v. Smith</i> , District Court, Clark County, Nevada (Case No. C153624)	02/13/2019	46	11545–11546
205. Competency Evaluation of Terrell Young by Greg Harder, Psy.D., Court's Exhibit 2, <i>State v. Young</i> , District Court, Clark County, Nevada Case No. C153461 (May 3, 2006)	02/13/2019	46	11547–11550
206. Competency Evaluation of Terrell Young by C. Philip Colosimo, Ph.D., Court's Exhibit 3, <i>State v. Young</i> , District Court, Clark County, Nevada Case No. C153461 (May 3, 2006)	02/13/2019	46	11551–11555
207. Motion and Notice of Motion in Limine to Preclude Evidence of Other Guns Weapons and Ammunition Not Used in the Crime, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Oct. 19, 1999)	02/13/2019	46	11556–11570
208. Declaration of Cassondrus Ragsdale (Dec. 19, 2018)	02/13/2019	46	11571–11575
209. Post –Evidentiary Hearing Supplemental Points and Authorities, Exhibit A: Affidavit of Theresa Knight, <i>State v. Johnson</i> ,	02/13/2019	46	11576–11577

DOCUMENT	DATE	VOLUME	PAGE(S)
District Court, Clark County, Nevada Case No. C153154, June 5, 2005			
210. Post –Evidentiary Hearing Supplemental Points and Authorities, Exhibit B: Affidavit of Wilfredo Mercado, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154, June 22, 2005	02/13/2019	46	11578–11579
211. Genogram of Johnson Family Tree	02/13/2019	46	11580–11581
212. Motion in Limine Regarding Referring to Victims as “Boys”, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154	02/13/2019	46	11582–11585
213. Declaration of Schaumetta Minor, (Dec. 18, 2018)	02/13/2019	46	11586–11589
214. Declaration of Alzora Jackson (Feb. 11, 2019)	02/13/2019	46	11590–11593
Exhibits in Support of Petitioner’s Motion for Leave to Conduct Discovery	12/13/2019	49	12197–12199
1. <i>Holloway v. Baldonado</i> , No. A498609, Plaintiff’s Opposition to Motion for Summary Judgment, District Court of Clark County, Nevada, filed Aug. 1, 2007	12/13/2019	49	12200–12227
2. Handwritten letter from Charla Severs, dated Sep. 27, 1998	12/13/2019	49	12228–12229

DOCUMENT	DATE	VOLUME	PAGE(S)
Exhibits in Support of Reply to State's Response to Petition for Writ of Habeas Corpus	12/13/2019	47	11837–11839
215. <i>Holloway v. Baldonado</i> , No. A498609, Plaintiff's Opposition to Motion for Summary Judgment, District Court of Clark County, Aug. 1, 2007	12/13/2019	47–48	11840–11867
216. <i>Holloway v. Baldonado</i> , No. A498609, Opposition to Motion for Summary Judgment Filed by Defendants Stewart Bell, David Roger, and Clark County, District Court of Clark County, filed Jan. 16, 2008	12/13/2019	48–49	11868–12111
217. Letter from Charla Severs, dated Sep. 27, 1998	12/13/2019	49	12112–12113
218. Decision and Order, <i>State of Nevada v. Johnson</i> , Case No. C153154, District Court of Clark County, filed Apr. 18, 2000	12/13/2019	49	12114–12120
219. State's Motion to Disqualify the Honorable Lee Gates, <i>State of Nevada v. Johnson</i> , Case No. C153154, District Court of Clark County, filed Apr. 4, 2005	12/13/2019	49	12121–12135
220. Affidavit of the Honorable Lee A. Gates, <i>State of Nevada v. Johnson</i> , Case No. C153154, District	12/13/2019	49	12136–12138

DOCUMENT	DATE	VOLUME	PAGE(S)
Court of Clark County, filed Apr. 5, 2005			
221. Motion for a New Trial (Request for Evidentiary Hearing), <i>State of Nevada v. Johnson</i> , Case No. C153154, District Court of Clark County, filed June 23, 2000	12/13/2019	49	12139–12163
222. Juror Questionnaire of John Young, <i>State of Nevada v. Johnson</i> , Case No. C153154, District Court of Clark County, dated May 24, 2000	12/13/2019	49	16124–12186
Findings of Fact, Conclusions of Law and Order, <i>Johnson v. Gittere, et al.</i> , Case No. A–19– 789336–W, Clark County District Court, Nevada	10/08/2021	49	12352–12357
Minute Order (denying Petitioner’s Post–Conviction Writ of Habeas Corpus, Motion for Discovery and Evidentiary Hearing), <i>Johnson v. Gittere, et al.</i> , Case No. A–19–789336–W, Clark County District Court, Nevada	05/15/2019	49	12264–12266
Minutes of Motion to Vacate Briefing Schedule and Strike Habeas Petition	07/09/2019	47	11710
Motion and Notice of Motion for Evidentiary Hearing, <i>Johnson v.</i>	12/13/2019	49	12231–12241

DOCUMENT	DATE	VOLUME	PAGE(S)
<i>Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada			
Motion and Notice to Conduct Discovery, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	12/13/2019	49	12187-12196
Motion for Leave to File Under Seal and Notice of Motion	02/15/2019		11600-11602
Motion in Limine to Prohibit Any References to the First Phase as the “Guilt Phase”	11/29/1999	2	302-304
Motion to Vacate Briefing Schedule and Strike Habeas Petition, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	05/16/2019	46-47	11609-11612
Motion to Vacate Briefing Schedule and Strike Habeas Petition, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	05/23/2019	47	11621-11624
Motion to Withdraw Request to Strike Petition and to Withdraw Request for Petition to be Stricken as Not Properly Before the Court), <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-	06/26/2019	47	11708-11709

DOCUMENT	DATE	VOLUME	PAGE(S)
W, Clark County District Court, Nevada			
Notice of Appeal, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	11/10/2021	50	12366-12368
Notice of Entry of Findings of Fact, Conclusions of Law and Order, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	10/11/2021	49-50	12358-12364
Notice of Hearing (on Discovery Motion), <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	12/13/2019	49	12330
Notice of Objections to Proposed Order, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	02/02/2021	49	12267-12351
Notice of Supplemental Exhibit 223, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada	02/11/2019	49	11242-12244
223. Declaration of Dayvid J. Figler, dated Feb. 10, 2020	02/11/2019	49	12245-12247
Opposition to Defendants' Motion in Limine to Prohibit	12/02/1999	2	305-306



DOCUMENT	DATE	VOLUME	PAGE(S)
Any References to the First Phase as the “Guilt Phase”			
Opposition to Motion in Limine to Preclude Evidence of Other Guns, Weapons and Ammunition Not Used in the Crime	11/04/1999	2	283–292
Opposition to Motion to Vacate Briefing Schedule and Strike Habeas Petition, <i>Johnson v. Gittere, et al.</i> , Case No. A–19–789336–W, Clark County District Court, Nevada	05/28/2019	47	11625–11628
Petition for Writ of Habeas Corpus, <i>Johnson v. Gittere, et al.</i> , Case No. A–19–789336–W, Clark County District Court, Nevada	02/13/2019	24–25	5752–6129
Post–Evidentiary Hearing Supplemental Points and Authorities	06/22/2005	22	5472–5491
Reply to Opposition to Motion to Vacate Briefing Schedule and Strike Habeas Petition	06/20/2019	47	11705–11707
Reply to State’s Response to Petition for Writ of Habeas Corpus	12/13/2019	47	11718–11836
State’s Response to Defendant’s Petition for Writ of Habeas Corpus (Post–Conviction),	05/29/2019	47	11629–11704

DOCUMENT	DATE	VOLUME	PAGE(S)
<i>Johnson v. Gittere, et al.</i> , Case No. A–19–789336–W, Clark County District Court, Nevada			
Stipulation and Order to Modify Briefing Schedule, <i>Johnson v. Gittere, et al.</i> , Case No. A–19–789336–W, Clark County District Court, Nevada	09/30/2019	47	11711–11714
Stipulation and Order to Modify Briefing Schedule, <i>Johnson v. Gittere, et al.</i> , Case No. A–19–789336–W, Clark County District Court, Nevada	11/22/2019	47	11715–11717
Transcript of All Defendant’s Pending Motions	03/02/2000	2	416–430
Transcript of Argument to Admit Evidence of Aggravating Circumstances	05/03/2004	12	2904–2958
Transcript of Argument: Petition for Writ of Habeas Corpus (All Issues Raised in the Petition and Supplement)	12/01/2011	22–23	5498–5569
Transcript of Arguments	04/28/2004	12	2870–2903
Transcript of Decision: Procedural Bar and Argument: Petition for Writ of Habeas Corpus	07/20/2011	22	5492–5497
Transcript of Defendant’s Motion for Leave to File Under	02/25/2019	46	11594–11599

DOCUMENT	DATE	VOLUME	PAGE(S)
Seal, <i>Johnson v. Gittere, et al.</i> , Case No. A-19-789336-W, Clark County District Court, Nevada			
Transcript of Defendant's Motion to Reveal the Identity of Informants and Reveal Any Benefits, Deals, Promises or Inducements; Defendant's Motion to Compel Disclosure of Existence and Substance of Expectations, or Actual Receipt of Benefits or Preferential Treatment for Cooperation with Prosecution; Defendant's Motion to Compel the Production of Any and All Statements of Defendant; Defendant's Reply to Opposition to Motion in Limine to Preclude Evidence of Other Guns, Weapons, Ammunition; Defendant's Motion in Limine to Preclude Evidence of Witness Intimidation	11/18/1999	2	293-301
Transcript of Evidentiary Hearing	05/17/2004	12	2959-2989
Transcript of Evidentiary Hearing	06/14/2005	22	5396-5471
Transcript of Evidentiary Hearing	04/04/2013	23	5570-5673
Transcript of Evidentiary Hearing	04/11/2013	23	5674-5677

DOCUMENT	DATE	VOLUME	PAGE(S)
Transcript of Evidentiary Hearing	06/21/2013	23	5678–5748
Transcript of Evidentiary Hearing	09/18/2013	23–24	5749–5751
Transcript of Excerpted Testimony of Termaine Anthony Lytle	05/17/2004	12	2990–2992
Transcript of Jury Trial – Day 1 (Volume I)	06/05/2000	2–4	431–809
Transcript of Jury Trial – Day 2 (Volume II)	06/06/2000	4–5	810–1116
Transcript of Jury Trial – Day 3 (Volume III)	06/07/2000	5–7	1117–1513
Transcript of Jury Trial – Day 4 (Volume IV)	06/08/2000	7–8	1514–1770
Transcript of Jury Trial – Day 5 (Volume V)	06/09/2000	8	1771–1179
Transcript of Jury Trial – Penalty – Day 1 (Volume I) AM	04/19/2005	12–13	2993–3018
Transcript of Jury Trial – Penalty – Day 1 (Volume I) PM	4/19/2005 <sup>1</sup>	13	3019–3176
Transcript of Jury Trial – Penalty – Day 10 (Volume X)	05/02/2005	20–21	4791–5065

---

<sup>1</sup> This transcript was not filed with the District Court nor is it under seal.

<b>DOCUMENT</b>	<b>DATE</b>	<b>VOLUME</b>	<b>PAGE(S)</b>
Transcript of Jury Trial – Penalty – Day 10 (Volume X) – Exhibits	05/02/2005	21	5066–5069
Transcript of Jury Trial – Penalty – Day 11 (Volume XI)	05/03/2005	21–22	5070–5266
Transcript of Jury Trial – Penalty – Day 12 (Volume XII)	05/04/2005	22	5267–5379
Transcript of Jury Trial – Penalty – Day 12 (Volume XII) – Deliberations	05/04/2005	22	5380–5383
Transcript of Jury Trial – Penalty – Day 13 (Volume XIII)	05/05/2005	22	5384–5395
Transcript of Jury Trial – Penalty – Day 2 (Volume I) AM	04/20/2005	13	3177–3201
Transcript of Jury Trial – Penalty – Day 2 (Volume II) PM	04/20/2005	13–14	3202–3281
Transcript of Jury Trial – Penalty – Day 3 (Volume III) PM	04/21/2005	14–15	3349–3673
Transcript of Jury Trial – Penalty – Day 3 (Volume III–A) AM	04/21/2005	14	3282–3348
Transcript of Jury Trial – Penalty – Day 4 (Volume IV) AM – Amended Cover Page	04/22/2005	16	3790–3791
Transcript of Jury Trial – Penalty – Day 4 (Volume IV) PM	04/22/2005	15–16	3674–3789

<b>DOCUMENT</b>	<b>DATE</b>	<b>VOLUME</b>	<b>PAGE(S)</b>
Transcript of Jury Trial – Penalty – Day 4 (Volume IV–B)	04/22/2005	16	3792–3818
Transcript of Jury Trial – Penalty – Day 5 (Volume V) PM	04/25/2005	16	3859–3981
Transcript of Jury Trial – Penalty – Day 5 (Volume V–A)	04/25/2005	16	3819–3858
Transcript of Jury Trial – Penalty – Day 6 (Volume VI) PM	04/26/2005	17–18	4103–4304
Transcript of Jury Trial – Penalty – Day 6 (Volume VI–A) PM	04/26/2005	16–17	3982–4102
Transcript of Jury Trial – Penalty – Day 7 (Volume VII– PM)	04/27/2005	18	4382–4477
Transcript of Jury Trial – Penalty – Day 7 (Volume VII–A)	04/27/2005	18	4305–4381
Transcript of Jury Trial – Penalty – Day 8 (Volume VIII– C)	04/28/2005	18–19	4478–4543
Transcript of Jury Trial – Penalty – Day 9 (Volume IX)	04/29/2005	19–20	4544–4790
Transcript of Jury Trial – Penalty Phase – Day 1 (Volume I) AM	06/13/2000	8	1780–1908
Transcript of Jury Trial – Penalty Phase – Day 1 (Volume II) PM	06/13/2000	8–9	1909–2068

DOCUMENT	DATE	VOLUME	PAGE(S)
Transcript of Jury Trial – Penalty Phase – Day 2 (Volume III)	06/14/2000	9–10	2069-2379
Transcript of Jury Trial – Penalty Phase – Day 3 (Volume IV)	06/16/2000	10	2380–2470
Transcript of Material Witness Charla Severs’ Motion for Own Recognizance Release	01/18/2000	2	414–415
Transcript of Motion for a New Trial	07/13/2000	10	2471–2475
Transcript of Petition for Writ of Habeas Corpus and Setting of 1. Motion for Leave and 2. Motion for Evidentiary Hearing, <i>Johnson v. Gittere, et al.</i> , Case No. A–19–789336–W, Clark County District Court, Nevada	02/13/2020	49	12249–12263
Transcript of Preliminary Hearing	10/12/1999	2	260–273
Transcript of State’s Motion to Permit DNA Testing	09/02/1999	2	252 – 254
Transcript of State’s Motion to Videotape the Deposition of Charla Severs	10/11/1999	2	255–259
Transcript of Status Check: Filing of All Motions (Defendant’s Motion to Reveal	10/21/1999	2	274–282

DOCUMENT	DATE	VOLUME	PAGE(S)
the Identity of Informants and Reveal Any Benefits, Deals, Promises or Inducements; Defendant's Motion to Compel Disclosure of Existence and Substance of Expectations, or Actual Receipt of Benefits or Preferential Treatment for Cooperation with Prosecution; Defendant's Motion to Compel the Production of Any and All Statements of Defendant; State's Motion to Videotape the Deposition of Charla Severs; Defendant's Motion in Limine to Preclude Evidence of Other Crimes; Defendant's Motion to Reveal the Identity of Informants and Reveal any Benefits, Deals' Defendant's Motion to Compel the Production of any and all Statements of the Defendant			
Transcript of the Grand Jury, <i>State v. Johnson</i> , Case No. 98C153154, Clark County District Court, Nevada	09/01/1998	1–2	001–251
Transcript of Three Judge Panel – Penalty Phase – Day 1 (Volume I)	07/24/2000	10–11	2476–2713
Transcript of Three Judge Panel – Penalty Phase – Day 2 and Verdict (Volume II)	07/26/2000	11–12	2714–2853



<b>DOCUMENT</b>	<b>DATE</b>	<b>VOLUME</b>	<b>PAGE(S)</b>
Transcript Re: Defendant's Motions	01/06/2000	2	307–413
Verdict Forms – Three Judge Panel	7/26/2000	12	2854–2869

## **CERTIFICATE OF SERVICE**

I hereby certify that on May 27, 2022, I electronically filed the foregoing Appendix with the Nevada Supreme Court by using the appellate electronic filing system. The following participants in the case will be served by the electronic filing system:

Alexander G. Chen  
Chief Deputy District Attorney  
Clark County District Attorney's Office

/s/ Celina Moore

Celina Moore  
An employee of the Federal  
Public Defender's Office

THE STATE OF NEVADA v. JOHNSON

1           Q       By Donte Johnson.

2           A       Yes, and Red.

3           Q       He said, "There is two people," that's what

4 he told you?

5           A       No. He is telling me or saying in this

6 answer, two people told him they went there.

7           Q       Now Brian Johnson, go to volume three, page

8 143. Are you there?

9           A       I am.

10          Q       Line two, I believe. Now, is it fair to

11 say, Brian Johnson says he was told there were two

12 perpetrators?

13          A       All I glean from looking at line two are

14 two names.

15          Q       What are they?

16          A       Deco and Red. It doesn't mention what

17 context they were mentioned in.

18          Q       There were three individuals arrested for

19 the crime, correct?

20          A       Correct.

21          Q       Now, there was also statements as to how

22 the victims came to 4825 Terra Linda, if there were four

23 already there, or if two were there, and other people

24 showed up.

25          A       Yes.

THE STATE OF NEVADA v. JOHNSON

1           Q       There was inconsistencies as to whether  
2 there were four people located at the house, with regard  
3 to the testimony of Tod Armstrong, Brian Johnson, and  
4 Charla Severs?

5                       There were inconsistencies as to how  
6 the victims found themselves at 4825 Terra Linda. Would  
7 you agree to that?

8           A       As far as how many initially were there and  
9 how many came later?

10          Q       Correct.

11          A       I would agree with that, yes.

12          Q       In fact, Tod Armstrong said he was told  
13 there were two people there, originally, and that those  
14 two people called for two other people to show up?

15          A       I believe that is correct, yes.

16          Q       And, in fact, Brian Johnson was told there  
17 were three people at the house, and one came over,  
18 accidentally?

19          A       Do you know what page that would be on?

20          Q       Volume three, page 144.

21          A       What was the question again, please?

22          Q       We are on Brian Johnson?

23          A       Yes.

24          Q       His testimony was, he was told there were  
25 three people at the house, and one person happened to

THE STATE OF NEVADA v. JOHNSON

1       come by, essentially?

2               A       Yes.

3               Q       There is different variations as to what

4       information they heard and passed on to you?

5               A       As to how the four people ultimately got

6       there? Yes.

7               Q       It's fair to say there is also

8       inconsistencies as to Tod Armstrong's level of

9       involvement; is that fair to say?

10              A       Yes.

11              Q       In fact, Tod Armstrong was in the car when

12       they traveled from Terra Linda over to Everman, or the

13       other way around, he was in the residence at Everman and

14       drove over to Terra Linda with Donte Johnson?

15              A       Which particular occasion are you referring

16       to?

17              Q       You tell me, was he part of the individuals

18       that showed Donte Johnson where the Terra Linda residence

19       was?

20              A       Tod Armstrong was in the vehicle driven by

21       Donte Johnson, when Ace Hart pointed out the house on a

22       previous occasion.

23              Q       In fact, Tod Armstrong was asked if he was

24       expecting any money or benefit from the robbery that

25       occurred over on Terra Linda. He was asked that,

THE STATE OF NEVADA v. JOHNSON

1 specifically. Do you recall reading that?

2 A Yes.

3 Q What was his answer?

4 A Give me a specific page to be accurate.

5 Q Volume two, page 237?

6 A Okay.

7 Q I believe, line 5.

8 A Thank you. Page 237.

9 Q I believe so. Top of page 237, volume two?

10 A I am not sure how it relates to your

11 question. Page 237, volume two?

12 Q He was asked if he gave them any

13 information about the house?

14 A You are referring to line three.

15 Q Yes.

16 A He was asked that. That's correct.

17 Q He said he didn't give them any

18 information?

19 A Correct.

20 Q And do you remember his testimony was, he

21 didn't expect anything; he was not involved with this

22 crime?

23 A I would have to see specifically after

24 reading so many.

25 Q Was Mr. Armstrong arrested for being

THE STATE OF NEVADA v. JOHNSON

1 involved?

2 A He was not arrested, no.

3 Q It was fair to say you had information he

4 was involved?

5 A There was some indication he was involved.

6 Q If, in fact, you also testified he was the

7 one that during the two weeks Donte Johnson lived with

8 him, he was scared of Mr. Johnson; is that correct?

9 A That would be accurate, yes.

10 Q You had information from Charla Severs that

11 he encouraged Donte Johnson to go over to Terra Linda and

12 rob and burglarize them?

13 A Can you be specific?

14 Q Sure. Volume three, page 35. Should be

15 page 35, line 21.

16 A What was the question, please?

17 Q That Tod was expecting, he essentially made

18 Donte Johnson aware that the money and drugs were there;

19 he should go rob them. It was his insinuation or

20 suggestion?

21 A I am not seeing the question. I am sorry.

22 Q Let me find it.

23 I will approach, your Honor.

24 Here you go?

25 A I guess I misspoke. I am not understanding

## THE STATE OF NEVADA v. JOHNSON

1 your question, as it relates.

2 Q Just Mr. Armstrong's level of potential  
3 involvement. He said he was not involved. Is there  
4 information to suggest he was involved, that he  
5 encouraged Donte Johnson?

6 A There is information he told Donte Johnson  
7 there could be money and mushrooms at the house, yes.

8 Q Okay.

9 A Thank you.

10 Q What I am trying to get out with the plan  
11 or details, there is some inconsistency from different  
12 sources of information you have?

13 A Yes, there always is.

14 Q Turn to volume two, page 225. Bottom  
15 question. Answer on the bottom, page 255, and question  
16 on the top of 226.

17 A Bottom question.

18 Q I will ask you read the question.

19 A "Do you know a person named Sikia Smith?"

20 Answer is: "Yes."

21 Q That's Tiny Bug?

22 A Yes.

23 Q Was Sikia Smith with them that night?

24 A Answer is, no.

25 Q Mr. Armstrong also stated he had asked my



THE STATE OF NEVADA v. JOHNSON

1 client to steal tire rims for him; is that correct?

2 A That's correct.

3 Q We know his bedrooms was one of the

4 bedrooms with a waterbed in it?

5 A By he, you are referring --

6 Q To Tod Armstrong.

7 A Yes.

8 Q That particular night this occurred, he was

9 out sleeping on the couch?

10 A Yes.

11 Q Now, you spoke also of, and I mentioned

12 this earlier, about LaShawna Wright; do you recall that?

13 A Yes, I do.

14 Q In fact, LaShawna Wright gave us

15 information with regard to the .380 handgun?

16 A Correct. Yes.

17 Q It's the casings found at the crime scene,

18 one for each body?

19 A Yes.

20 Q You testified the .380 was consistent with

21 the gun that took the lives of those four individuals?

22 A Yes.

23 Q LaShawna Wright arrived, the girlfriend of

24 Sikia Smith?

25 A Yes.

THE STATE OF NEVADA v. JOHNSON

1 Q And she saw the particular weapon, the next  
2 day after the homicide occurred?  
3 A I believe so, yes.  
4 Q Sometime shortly after the homicide, she  
5 stated she had seen the .380?  
6 A Yes.  
7 Q She stated she had seen it?  
8 A Yes.  
9 Q She stated she saw it in the possession of  
10 Sikia Smith, Tiny Bug?  
11 A Yes.  
12 Q She also said she knew where the gun went,  
13 knew somehow, knew it was sold?  
14 A Yes. She saw somebody sell it..  
15 Q She had seen Sikia Smith sell the handgun?  
16 A She had seen Sikia Smith sell the handgun  
17 but didn't know its location from that point on.  
18 MR. WHIPPLE: Court's indulgence.  
19 Detective Thowsen, I know this is  
20 unusually difficult. I thank you for your time.  
21 I have no further questions.  
22  
23 REDIRECT EXAMINATION  
24 BY MR. STANTON:  
25 Q Detective, I want to go to a couple things

THE STATE OF NEVADA v. JOHNSON

1 that Mr. Whipple brought up. First of all, he showed you  
2 a couple of photographs regarding a butane torch and some  
3 testimony of Shawn Fletcher, regarding presence of  
4 antifreeze at the home; it is consistent with the  
5 manufacture of methamphetamine.

6 Do you remember those questions?

7 A Yes.

8 Q Based upon the totality of your  
9 investigation found out from witnesses up until today's  
10 date, do you have any witnesses that saw any of the  
11 individuals manufacturing methamphetamine?

12 MR. WHIPPLE: Judge, I object.

13 MR. STANTON: Counsel asked the question --

14 THE COURT: Overruled.

15 THE WITNESS: No.

16 BY MR. STANTON:

17 Q There was a question about whether or not  
18 there were inconsistencies between various of the primary  
19 witnesses in the case, as far as what they heard the  
20 Defendant say about the murders.

21 Specifically, Counsel cited you to  
22 a portion of Tod Armstrong's testimony about how many  
23 people left the residence or went over to the Terra Linda  
24 home; do you recall that?

25 A Yes, I do.

THE STATE OF NEVADA v. JOHNSON

1           Q       Counsel then asked a question. This is Tod  
2       Armstrong sleeping on the couch, correct, at the time  
3       Deco and Red leave the Everman home?

4           A       I believe he was on the couch. Whether or  
5       not he was sleeping there, he was on the couch.

6           Q       From your recollection of the testimony and  
7       the events, indeed, it was true when Defendant and  
8       Terrell left the home, they left, went back, picked up  
9       Tiny Bug and went to the Terra Linda address?

10          A       That's correct.

11          Q       When Tod Armstrong says two people left the  
12       Everman home, that's not inconsistent with the number of  
13       people that ultimately arrived at the Terra Linda home?

14          A       That's correct.

15                   MR. STANTON: Nothing further.

16                   MR. WHIPPLE: Nothing further.

17                   THE COURT: All right. You are excused.

18       Thank you.

19                   THE WITNESS: Thank you, your Honor.

20                   MR. DASKAS: With the Court's permission  
21       we will call a representative from our office to read the  
22       testimony of Charla Severs from the Defendant's trial.  
23       This is Pam Weckerly from our office.

24                               PAM WECKERLY,

25       having been called to read the Deposition testimony of

THE STATE OF NEVADA v. JOHNSON

1 CHARLA SEVERS,  
2 was sworn to accurately read the answers on behalf of the  
3 absent witness, CHARLA SEVERS, as follows:

4  
5 DIRECT EXAMINATION

6 BY MR. DASKAS:

7 Q Ms. Weckerly, what I will do is read the  
8 questions posed to the witness at the trial, June 7,  
9 2000, and I will ask you to read the answers she gave.

10 A Okay.

11 Q Charla, do you go by any other names?

12 A Yeah.

13 Q And what other names do you use?

14 A La La.

15 Q La La, L-a L-a?

16 A Yeah.

17 Q Is that yes?

18 A Yes.

19 Q Okay. I need you to speak real loudly  
20 because the air conditionerrrs are loud and we've been  
21 told that we're not being heard on the tapes. Okay?

22 I take it Charla Severs is your birth  
23 name then. It's the name your mother gave you?

24 A Yes.

25 Q Who calls you La La?

THE STATE OF NEVADA v. JOHNSON

1 A My friends and my family.

2 Q Have you ever used any other names other  
3 than -- or gone by any other names other than Charla  
4 Severs or La-La?

5 A No. Only sometimes, when I get arrested,  
6 maybe.

7 Q Okay. You say, when you have been  
8 arrested, you use a different name --

9 A Yeah.

10 Q -- than your own?

11 A Yeah.

12 Q Why?

13 A Just so they wouldn't have my real name.

14 Q Okay. Now, then, do you live here in Las  
15 Vegas, Nevada, now?

16 A Yes.

17 Q And who do you live with?

18 A My mother.

19 Q Directing your attention to the summer of  
20 1998, do you remember that summer?

21 A Yes.

22 Q Okay. I want to talk a little bit about  
23 that summer. Okay. Did you have a boyfriend in 1998?

24 A Yes.

25 Q Who was your boyfriend?

THE STATE OF NEVADA v. JOHNSON

1           A       Deco.

2           Q       And who is Deco?

3           A       Donte Johnson.

4           Q       Is Donte Johnson in the room today?

5           A       Yeah.

6           Q       Can you point to him and describe a article

7       of clothing that he's wearing in court?

8           A       You want me to point at him?

9           Q       Will you, please.

10               MR. DASKAS: May the record reflect the

11       identification of the Defendant, your Honor?

12               THE COURT: Yes.

13       BY MR. DASKAS:

14           Q       Now, you say -- what did you call him,

15       Deco, or Donte?

16           A       Deco.

17           Q       All right. And did Deco go by any other

18       names, other than Deco or Donte Johnson?

19           A       Yeah, yes.

20           Q       What name -- what other name do you know

21       Deco by?

22           A       John White.

23           Q       Okay. Now, do you know what Deco's mother

24       calls him?

25           A       No.

## THE STATE OF NEVADA v. JOHNSON

1           Q       All right. Tell me, when did you first  
2 start dating Donte Johnson or Deco?

3           A       Like, in July of '98.

4           Q       July '98. And tell me a little bit about  
5 your relationship with Donte Johnson in July. Did you  
6 live together or did you see -- just see each other once  
7 in a while?

8           A       We lived together.

9           Q       Okay. And where were you staying at?

10          A       At the Thunderbird Motel.

11          Q       Okay. Can you tell me about how long you  
12 stayed at the Thunderbird Motel with Deco?

13          A       For, like, maybe three weeks or something.

14          Q       Okay. And before -- is that when you first  
15 met Deco and started staying with him, was at the  
16 Thunderbird, or did you stay with him somewhere else  
17 before that?

18          A       That's when I first met him and started  
19 staying with him.

20          Q       Okay. So how soon after you met him, did  
21 you start staying with him?

22          A       Like, maybe a week or two weeks.

23          Q       Okay. And once you started staying with  
24 him, did you stay with him continuously?

25          A       Yeah.



THE STATE OF NEVADA v. JOHNSON

1 Q How often? Would that be every day?

2 A Yeah.

3 Q Okay. Now, when you were staying at the

4 Thunderbird Motel, did anyone else stay with you, other

5 than you and Deco?

6 A Yeah.

7 Q And who stayed at the motel with you?

8 A Red, and this guy named Ace.

9 Q Okay. Now, describe Red for us, if you

10 would.

11 A He's like 5 feet 8 inches and like 250

12 pounds, or something like that, and he got braids --

13 he had braids in his hair.

14 Q Okay. Would you recognize Red if you saw

15 him again?

16 A Yeah.

17 Q Does Red go by any other names?

18 A Terrell Young.

19 Q And you mentioned a guy named -- by the

20 name of Ace. Describe Ace for us.

21 A He's like tall and skinny, and he had curly

22 hair.

23 Q Okay. White guy or black guy?

24 A Black.

25 Q Okay. And do you also know a guy by the

THE STATE OF NEVADA v. JOHNSON

1 name of Ace Hart?

2 A Yes.

3 Q Is that a different Ace than the Ace that

4 stayed with you at the Thunderbird?

5 A Yes.

6 Q Okay. How long did Ace stay with you and

7 Donte over there at the Thunderbird?

8 A I don't remember -- until we moved out of

9 the Thunderbird, like a couple of days before we moved

10 out.

11 Q And did Terrell Young stay the entire time

12 at the Thunderbird, or did he move out before you moved

13 out?

14 A He stayed the whole time.

15 Q All right. Now, tell me, do you know what

16 room or what name the room at the Thunderbird was rented

17 under?

18 A Ace, Ace Hart.

19 Q Ace Hart?

20 A Yeah.

21 Q And that's a different Ace than the one

22 that stayed over at the room?

23 A Yeah.

24 Q Do you know how the room was paid or who

25 paid the room?

THE STATE OF NEVADA v. JOHNSON

1           A       No.

2           Q       Okay. Tell me, how would you get in and

3 out of the room at the Thunderbird? Was there a lock on

4 the door?

5           A       Yeah.

6           Q       And who had keys to the room -- or the room

7 at the Thunderbird?

8           A       Deco.

9           Q       Okay. Anyone else have a key to the room?

10          A       Red.

11          Q       Okay. And did you have your own key to the

12 room, the Thunderbird room?

13          A       No.

14          Q       Okay. And how long do you think you stayed

15 at the Thunderbird approximately?

16          A       Like, three weeks, or something like that.

17          Q       Now, once you left the Thunderbird, who did

18 you leave the Thunderbird with?

19          A       Deco.

20          Q       Anyone else go with you?

21          A       Yeah, Red.

22          Q       And where did you go to?

23          A       To Tod's house.

24          Q       Okay. And can you describe Tod for us,

25 just so we know who you're talking about?

THE STATE OF NEVADA v. JOHNSON

1           A       A tall, skinny white guy.

2           Q       Okay. Now, do you recall about what month

3       it was when you moved or went over to Tod's house?

4           A       August.

5           Q       The start of August, the end of August, or

6       middle?

7           A       Like, the start.

8           Q       Okay. And you indicated that you would

9       recognize Terrell Young, if you saw a picture of him. Do

10      you know a person by the name of Sikia Smith?

11          A       Yes.

12          Q       And how do you know Sikia Smith?

13          A       I met him at Tod's house.

14          Q       Okay. And do you know who Sikia Smith was

15      friends with?

16          A       Yeah.

17          Q       Who was Sikia Smith friends with?

18          A       Deco.

19          Q       And if you saw Sikia Smith's picture again,

20      would you recognize it?

21          A       Yeah.

22          Q       I'm showing you what has been marked as

23      State's proposed Exhibit 180. Do you recognize the

24      person that I am pointing to right here on the far right

25      side of the board?

THE STATE OF NEVADA v. JOHNSON

1 A Yes.

2 Q Who is that?

3 A Tiny Bug.

4 Q Okay. Did Sikia Smith use the name, Tiny

5 Bug?

6 A Yeah.

7 Q And is -- on the other far end, is that

8 picture, approximately, named and labeled?

9 A Yes.

10 Q And who is it?

11 A Red.

12 Q Okay. Is this how those three looked to

13 you in August of 1998?

14 A Yes.

15 Q Okay. And in the center is your boyfriend

16 Deco; is that right?

17 A Yeah.

18 MR. DASKAS: I'd move admission of State's

19 proposed Exhibit 180. Court says. All right. It will

20 be admitted subject to perhaps to some alteration and

21 subject to your earlier question.

22 BY MR. DASKAS:

23 Q Charla, I am showing you what has been

24 previously admitted as two calendars and the months are

25 August and July of 1998.

THE STATE OF NEVADA v. JOHNSON

1 Do you recognize those months?

2 A Yes.

3 Q Will it assist you to refer to the

4 calendar, if I ask you about dates?

5 A Yes.

6 Q Okay. And those exhibits --

7 Sorry, Judge, are numbered 158 and

8 159, for the record.

9 BY MR. DASKAS:

10 Q Now, then, is this the month you lived at

11 the Thunderbird?

12 A Yes.

13 Q Can you tell me about when you would have

14 moved or gone over to Tod's house?

15 A Like August 4, around that time.

16 Q Right around here?

17 A Yeah.

18 Q All right. Now, tell me when you went over

19 to Tod's house, how is it that you all knew Tod, you,

20 Deco, and Red? Did you know Tod?

21 A No.

22 Q Was this the first time you met Tod?

23 A Yeah.

24 Q Okay. Did you have, like, a mutual friend,

25 somebody in the middle of the two of you?

THE STATE OF NEVADA v. JOHNSON

1           A       Yeah.

2           Q       Who was in the middle?

3           A       Deco.

4           Q       Okay. Did Deco know Tod?

5           A       Yeah.

6           Q       Okay. When you went to Tod's, how long did

7       you think you were gonna stay there?

8           A       I didn't know. I didn't know.

9           Q       Did you have, like, a lot of clothing and

10       stuff, when you went to Tod's house?

11          A       No.

12          Q       And what I mean by that is, did you take

13       all your clothes over to Tod's house?

14          A       No.

15          Q       Did you take any of your stuff to Tod's

16       house, when you first went there?

17          A       No.

18          Q       Why?

19          A       Cause I didn't have no clothes where I was

20       at.

21          Q       Okay. You just had the clothes that were

22       on your back?

23          A       Yeah.

24          Q       Okay. And did you later start taking

25       clothes and things to Tod's house?

THE STATE OF NEVADA v. JOHNSON

1 A Yeah.

2 Q All right. We will talk about that. Tell  
3 me, before we talk about the Everman residence, let me  
4 ask you a couple of things.

5 During the month of July, did Deco  
6 have a job?

7 A No.

8 Q Did Terrell have a job?

9 A No.

10 Q And do you know if Sikia Smith had a job?

11 A No.

12 Q Okay. Did you have a job?

13 A No.

14 Q In the month of July 1998, did you smoke  
15 cigarettes?

16 A Yeah.

17 Q What kind of cigarettes?

18 A Newports.

19 Q Do you know if Deco or Donte Johnson smoked  
20 cigarettes?

21 A No. He smoked Black & Mild cigars.

22 Q Okay. He smoked Black & Mild cigars?

23 A Yeah.

24 Q Did he ever smoke cigarettes?

25 A Maybe, if he ran out of cigars, once in a



## THE STATE OF NEVADA v. JOHNSON

1 while.

2 Q Okay. Did he ever ask you for a Newport,  
3 for instance?

4 A Not that I remember.

5 Q Okay. Did you see him smoke cigarettes  
6 though, when he ran out of cigars?

7 A Yeah.

8 Q Okay. And how about Terrell Young, did he  
9 smoke cigarettes?

10 A I don't remember. I don't remember.

11 Q Let's talk a little bit about the Everman  
12 residence now. Tell me, when you got there, can you  
13 describe the Everman residence for these people? How  
14 many bedrooms --

15 A Three.

16 Q Okay. One-story house or two-story house?

17 A One story.

18 Q Okay. And whose house was it?

19 A Tod's mother's.

20 Q Okay. Was Tod's mother living there?

21 A No.

22 Q Was Tod living there?

23 A Yeah.

24 Q Was anybody else living there with Tod in  
25 the month of August?

## THE STATE OF NEVADA v. JOHNSON

1           A       I think -- I think, Ace and B.J.

2           Q       Okay.

3           A       I mean, Ace.

4           Q       Ace?

5           A       Yeah.

6           Q       Now, when we talk Ace, is this the same Ace

7       from the -- that stayed at the Thunderbird, or is this

8       the different Ace?

9           A       This is the white guy.

10          Q       Okay. Describe Ace Hart for us.

11          A       He's, like, short. He's white, and he got

12       blond hair. He's skinny.

13          Q       Okay. And how -- you say, short?

14          A       Yeah.

15          Q       How short?

16          A       Like, maybe 5 foot 6.

17          Q       Now, do you know in the month of August, if

18       Tod had a job?

19          A       No, he didn't.

20          Q       Did Ace have a job?

21          A       No.

22          Q       You mentioned one other person, I think you

23       said, B.J.

24          A       Yes.

25          Q       Does B.J. have any other name, other than

THE STATE OF NEVADA v. JOHNSON

1       **B.J.**

2               A       Brian.

3               Q       Okay. Is that -- let's talk about Brian.

4       Did Brian actually live at the house on Everman, or did

5       Brian visit the house on Everman?

6               A       He visit the house.

7               Q       Okay. He did or didn't live there?

8               A       He didn't live there.

9               Q       Okay. Do you know if Brian had a job?

10              A       No, he didn't.

11              Q       Okay. Now, had you ever met Tod, Ace or

12       **B.J. Before August?**

13              A       Yeah. I met B.J. and Ace before August.

14              Q       Okay. And about what month would you have

15       met B.J. and Ace?

16              A       In July.

17              Q       Okay. And do you know if B.J. smoked crack

18       cocaine in July?

19              A       Yeah, he did.

20              Q       How about Ace?

21              A       Yeah.

22              Q       And tell me, how about Tod Armstrong, in

23       August, once you met him, did he smoke crack cocaine?

24              A       Yes.

25              Q       Did you know these three to smoke it by

## THE STATE OF NEVADA v. JOHNSON

1 themselves, with each other, or how would they -- when  
2 would you see them, or -- or how would they use crack  
3 cocaine?

4 A When they was all together at the house,  
5 they would smoke it.

6 Q Okay. How often were Ace, Tod and B.J.,  
7 together, at the Everman house?

8 A Like, every other day, like every other day  
9 they were there.

10 Q Okay. So how often would you say Tod  
11 Armstrong smoked crack cocaine?

12 A Like every other day, when B.J. would come  
13 over.

14 Q Okay. And tell me, how would Tod, or Ace,  
15 or B.J. get their crack cocaine, if you know?

16 A They would sometimes buy it from Deco.

17 Q And who would be the one that actually buys  
18 it, if you know?

19 A B.J.

20 Q And why would B.J. be the one that buys it?

21 A Because his mom gave him money all the  
22 time.

23 Q Okay. Of those three, who was the one with  
24 money?

25 A B.J.

THE STATE OF NEVADA v. JOHNSON

1           Q       Okay. Who would they buy their drugs from?

2   You said, Deco?

3           A       Yes.

4           Q       All right. Okay. Now, did you actually

5   see Deco sell them drugs before?

6           A       Yeah.

7           Q       When Deco would sell drugs to B.J., who

8   would he give the drugs to B.J.

9           A       I'm not sure. One time I seen him give it

10   to him in a Black & Mild box.

11          Q       Okay. You say, "One time."?

12          A       Yeah.

13          Q       Did you ever see him give it to him without

14   a Black & Mild box?

15          A       Yeah.

16          Q       And how about -- how many times did you see

17   him do it without a Black & Mild box?

18          A       Maybe, maybe like once or twice.

19          Q       Okay. Have you ever seen Donte sell crack

20   cocaine to anyone else, other than these three?

21          A       No.

22          Q       Okay. You never seen him sell it to

23   anybody else?

24          A       No.

25          Q       Okay. Now, then, when you went to the

THE STATE OF NEVADA v. JOHNSON

1     **Everman house, how long did you think you were going to**  
 2     **stay there?**

3             A        Until we, like, got enough money to leave  
 4     town or something.

5             Q        And when you say, "We got enough money to  
 6     leave town," who was planning on leaving town?

7             A        Deco, and Red, and me.

8             Q        Okay. Why were you going -- I mean, did  
 9     you want to leave town with Deco?

10            A        Yeah.

11            Q        If your mother lived here, why wouldn't you  
 12     want to stay here with your mother?

13            A        Because I was with Deco.

14            Q        Okay. Can you tell me what your  
 15     relationship was like with Deco in, say, August, what  
 16     your feelings were for him?

17            A        I loved him.

18            Q        Is that something you felt strongly about  
 19     in August?

20            A        Yeah.

21            Q        How strongly?

22            A        Real strong.

23            Q        Okay. Had you been in love before?

24            A        No.

25            Q        Had you had a boyfriend before Deco?

THE STATE OF NEVADA v. JOHNSON

1           A       No, not a boyfriend.

2           Q       I take it you dated other boys before?

3           A       Yeah.

4           Q       And had you ever felt this strongly about a

5 boy or a man before?

6           A       No.

7           Q       Now, then, once the three of you went to

8 the Everman residence, who had a key to that house?

9           A       I am not sure. I'm not sure.

10          Q       Okay. Did you have a key?

11          A       No.

12          Q       Did Deco have a key?

13          A       No.

14          Q       Did Terrell have a key?

15          A       No.

16          Q       Was there a lock on the door?

17          A       Yes.

18          Q       Was there more than one door, meaning, a

19 front door and perhaps a back door, or a side door?

20          A       Yeah, all three of those.

21          Q       How would you, Deco, and Red come into the

22 house?

23          A       Well, I know most of the time I came

24 through the window, because nobody was there, and by the

25 time they'd get there, Tod would be there. So they'd

## THE STATE OF NEVADA v. JOHNSON

1 just knock on the door --

2 Q Okay.

3 A -- or just come through the door.

4 Q So if no one was there, you'd go through  
5 the window?

6 A Yeah.

7 Q And what window are we talking about?

8 A The bathroom window.

9 Q And if someone was there, you'd go through  
10 the front door?

11 A Mostly the side door.

12 Q Okay. And who would let -- would Tod let  
13 you in?

14 A Yeah.

15 Q Ace or B.J., if they were there?

16 A Yeah.

17 Q Now, how often did -- well, you say B.J.  
18 actually came over about every other day?

19 A Yeah.

20 Q Okay. And did I ask you if you knew if  
21 Tod, Ace or B.J. had a job?

22 A Yeah, you asked me that.

23 Q I am sorry. Now, what bedroom did you stay  
24 in at the Everman house?

25 A The master bedroom.



THE STATE OF NEVADA v. JOHNSON

1 Q And what bedroom did Deco stay in?

2 A The master bedroom.

3 Q And how about Terrell?

4 A The master bedroom.

5 Q Okay. Now, did -- the longer you stayed

6 there, you started to get some things for yourself; is

7 that right, some clothing?

8 A Yes.

9 Q More than just the clothes you came with?

10 A Yeah.

11 Q And where would you keep your clothing

12 items?

13 A In the master bedroom.

14 Q How about Deco; did he have more than one

15 change of clothes?

16 A Yes.

17 Q And where would he keep his items?

18 A In the master bedroom.

19 Q And how about Terrell Young?

20 A In the master bedroom.

21 Q Okay. And did anyone else, other than the

22 three of you, keep anything in the master bedroom?

23 A Well, when we got there, there was clothes

24 of Tod's in there, and Ace's clothes were in the master

25 bedroom.

THE STATE OF NEVADA v. JOHNSON

1 Q Okay. And did Tod and Ace keep their  
2 clothes in any other room, other than the master bedroom?  
3 A In the laundry room.  
4 Q Okay. So there is a laundry room in the  
5 house. There is a master bedroom, and two other  
6 bedrooms?  
7 A Yeah.  
8 Q Is there a living room in this house?  
9 A Yeah.  
10 Q Can you describe the living room?  
11 A It's like -- it's kind of small, and it had  
12 a big window in the front, and it had -- the couch was in  
13 front of the window, and there was another couch across  
14 from that couch.  
15 Q Other than clothing items that you had,  
16 Deco and Terrell had, did Deco or Terrell bring any other  
17 items to the house at Everman?  
18 A Yes.  
19 Q Okay. Let me talk about that. Had you  
20 ever seen a duffel bag at the Everman house?  
21 A Yes.  
22 Q And whose duffel bag was it?  
23 A Deco's.  
24 Q Can you describe the duffel bag?  
25 A It was, like, green and tan, I think.

THE STATE OF NEVADA v. JOHNSON

1           Q       I need you to speak up.

2           A       It was like green and tan.

3           Q       And can you show the jury about how large

4       the duffel bag was, with your hands?

5           A       Like -- maybe, like, this big.

6           Q       How many feet or inches is that?

7           A       I'm not sure. Like, maybe four feet.

8           Q       Okay. And how tall was the bag?

9           A       Like, this tall.

10          Q       And how many inches or feet is that?

11          A       I'm not sure.

12          Q       Okay. Do you know what was in the bag?

13          A       Guns.

14          Q       Okay. Now, how do you know there were guns

15       in that bag?

16          A       Because that was always what was in the

17       bag.

18          Q       Okay. Who brought the guns, or the bag

19       with the guns to the house?

20          A       Deco.

21          Q       Now, had you ever seen these guns that were

22       in the bag?

23          A       A couple of them.

24          Q       Okay. Let's talk about the couple of guns

25       in the bag you've seen. How many guns have you seen in

## THE STATE OF NEVADA v. JOHNSON

1 the bag?

2 A Like, two of them.

3 Q Okay. Describe the two you'd seen?

4 A One was like a revolver, and the other one  
5 was, like, a -- like a sawed-off looking gun.

6 Q Okay. You say a sawed-off looking gun?

7 A Yes.

8 Q I am going to try to have you explain that  
9 to me. Was there a part of the gun that you held onto a  
10 handle?

11 A Yeah.

12 Q What did the handle look like?

13 A Like a banana. I don't know. The whole  
14 thing kind of looked like a gun.

15 Q Okay. You've done a shape that curved; is  
16 that right? You did a curving shape with your finger  
17 just now?

18 A Yes.

19 Q What part of it curved?

20 A The handle part.

21 Q Okay. And did it curve a long ways down or  
22 a short ways down?

23 A Short ways down.

24 Q And what color was this handle part that  
25 curved down?

THE STATE OF NEVADA v. JOHNSON

1           A       Brown.

2           Q       And how long was the handle part? If you

3       can, show me.

4           A       Like, maybe, maybe, like, this long.

5           Q       And how long was the barrel part? You

6       said, it was sawed off?

7           A       Yeah. It was like, this long, but it was

8       like short at the end right here.

9           Q       How many inches was the handle part?

10          A       I'm not good at math, so I don't know.

11          Q       Can you --

12          A       It was like --

13          Q       Can you show us with your fingers?

14          A       The handle part?

15          Q       Yeah.

16          A       Like this maybe, like six inches.

17          Q       Okay. And how long was the barrel part,

18       the whole barrel, first of all?

19          A       Like, 12 or 13 inches.

20          Q       And how long was the part that stood off

21       the handle?

22          A       It was -- it was kind of little, like maybe

23       three or four inches.

24          Q       Okay. Other than the revolver and the gun

25       you just described, did you see any other guns at the

THE STATE OF NEVADA v. JOHNSON

1 house at Everman that were in that bag?

2 A Yeah.

3 Q Describe the other guns?

4 A There was a black one with a clear clip on

5 it, shaped like a banana.

6 Q Okay. You say, it was a black gun with a

7 clear clip?

8 A Uh-huh.

9 Q What color was the clip?

10 A It was like black, clear black.

11 Q And can you tell me how many bullets, for

12 lack of a better word, went in the clip?

13 A Maybe, like 24 or something like that.

14 Q How long was the clip? If you will, show

15 me with your hands?

16 A Like 8 or 9 inches, and it curved like

17 that.

18 Q And you say, "It curved."

19 A Yeah.

20 Q Okay. The witness has held up her hands

21 and estimated 8 or 9 inches.

22 How long was this gun total? In

23 other words, the total length, can you show me with your

24 hands?

25 A It was, like, this long.

THE STATE OF NEVADA v. JOHNSON

1           Q       Okay. And about how long is that?

2           A       Maybe, like, 19 inches, 20 inches.

3           Q       Okay.

4           A       It was 19 or 20.

5           Q       Was it -- it was broader than your

6       shoulders, right?

7           A       Yes.

8           Q       You have held your hands out, beyond your

9       shoulders?

10          A       Yeah.

11          Q       Okay. Now, how often did those guns stay

12       in the bags, or how often were they out of the bags?

13          A       They stayed in the bag most of the time,

14       mostly all the time, not unless they was handling them or

15       whatever.

16          Q       Okay. So I guess by that, if they were

17       handling them, they were out of the bag?

18          A       Yes.

19          Q       And if they weren't handling the bags, or

20       the guns, where would the guns go?

21          A       Inside the bag.

22          Q       Was there anything else kept in the bag?

23          A       No.

24          Q       Okay. Did you ever see any gloves in the

25       Everman house?

THE STATE OF NEVADA v. JOHNSON

1           A       Yes.

2           Q       Can you describe the gloves you saw?

3           A       It was, like, brown all over, and in the

4           palm part, it was like a black knit, a black knit part.

5           Q       And how many pairs of gloves did you see at

6           the Everman house?

7           A       Like, three or four.

8           Q       Whose gloves were they?

9           A       Deco's, and Red's, and Tiny Bug's.

10          Q       And do you know how Deco, Red, and Tiny Bug

11          got the gloves?

12          A       No.

13          Q       Do you know where they got them from?

14          A       No.

15          Q       How many times did you see the gloves at

16          the house?

17          A       All the time.

18          Q       How often did Tiny Bug come over to the

19          house?

20          A       Not that often. It only seemed like,

21          maybe, two times.

22          Q       Okay. Did you ever see any duct tape at

23          the house?

24          A       Yes.

25          Q       Where was the duct tape that you saw?



## THE STATE OF NEVADA v. JOHNSON

1           A       Under the coffee table in a box, in, like,  
2           a shoe box.

3           Q       And do you know where the duct tape came  
4           from?

5           A       No.

6           Q       And how many rolls of duct tape?

7           A       One.

8           Q       Okay. Now, other than the guns you've  
9           described -- or of the guns you have described, did you  
10          ever see Tod Armstrong, Ace or B.J. handle those guns?

11          A       Yes.

12          Q       Okay. And how often would Tod, Ace, or  
13          B.J. handle those guns?

14          A       Whenever they would pull them out and was  
15          just looking at them and holding them.

16          Q       Whenever who would pull them out?

17          A       Like Deco would pull them out, and the  
18          guys, they'd just pull them out and be holding them.

19          Q       And how often did Deco pull the guns out?

20          A       Just once -- I am not sure, just once in a  
21          while.

22          Q       Okay. And did Ace, Tod or B.J. ever just  
23          pull the guns out, themselves?

24          A       No.

25          Q       And did you ever see Tod with a gun, not

THE STATE OF NEVADA v. JOHNSON

1 the kind of guns you are talking about from the bag, but  
 2 another gun?  
 3 A Yes.  
 4 Q Okay. And that was a shotgun?  
 5 A Yes.  
 6 Q And did Tod keep that shotgun at the house?  
 7 A I am not sure.  
 8 Q How many times did you see the shotgun at  
 9 the house?  
 10 A One time.  
 11 Q Do you know what happened to the shotgun  
 12 after you saw it the one time?  
 13 A No.  
 14 Q And did you ever meet a person or know a  
 15 person by the name of Matthew Mowen?  
 16 A Yeah.  
 17 Q How did you meet Matthew Mowen?  
 18 A He came to the house one day.  
 19 Q In what month?  
 20 A August.  
 21 Q And where were you staying when Matt came  
 22 to the house?  
 23 A I was staying at Everman.  
 24 Q Okay. Still at the Armstrong residence or  
 25 house?

THE STATE OF NEVADA v. JOHNSON

1           A       Yes. Yes.

2           Q       And using August '98, can you tell me about

3 what day Matt would have come to the house, if you can

4 tell me, or if you know?

5           A       Like, the 14th.

6           Q       Okay. You say, "Like, the 14th."?

7           A       Yeah, August 14.

8           Q       Now, you've given previous statements; is

9 that correct?

10          A       Yes.

11          Q       About a homicide that occurred?

12          A       Yes.

13          Q       What day did the homicide occur on?

14          A       The 17th.

15          Q       Okay. Let me, if I could, if you saw a

16 statement that was dated, would that refresh your

17 recollection as to the date?

18          A       If I what?

19          Q       If you see a statement that you gave in

20 this case, about --

21          A       Uh-huh.

22          Q       -- what day we're talking about, would that

23 refresh your recollection?

24          A       Yes.

25          Q       Okay. I want to show you, August 18th,

## THE STATE OF NEVADA v. JOHNSON

1 1998, is the date on this voluntary statement. Whose  
2 name appears at the top?

3 A Mine.

4 Q Okay. And at the end, I believe, it's  
5 dated the same day, and gives the time, August 18th. Do  
6 you see what day on the calendar, August 18th is?

7 A Yes.

8 Q And do you know when the police first came  
9 to the house and arrested Deco?

10 A Yeah.

11 Q What day was that?

12 A The 18th.

13 Q Okay. And how many days after the murder  
14 did the police come and arrest Deco?

15 A Okay. Like, three -- three or four days  
16 later.

17 Q Okay. And what day did the murder happen?

18 A And it was like maybe the 13th, the 13th.

19 Q Okay. And if the murders happened -- if  
20 the police arrested Deco on the -- you said the 18th,  
21 right?

22 A Yes.

23 Q The night you gave a statement?

24 A Yes.

25 Q And if the murders happen on the 13th, what

THE STATE OF NEVADA v. JOHNSON

1 day would Matt have come to the house?

2 A Like, the 11th.

3 Q About the 11th?

4 A Yeah, the 10th or the 11th, yeah.

5 Q Okay. Now, let me talk about that. When

6 Matt came to the house, who was home?

7 A Tod, and Deco, and Red, and myself.

8 Q Tod, Deco, Red, and yourself?

9 A Yeah.

10 Q Ace was not there?

11 A No, not that I remember.

12 Q Okay. How about Sikia Smith?

13 A No.

14 Q About what is it that Matt was doing at the

15 house?

16 A He was coming to look for some crack.

17 Q Now, had you ever seen Matt before?

18 A No.

19 Q Had Matt, based on what you'd seen, had

20 Matt ever purchased cocaine with Deco before or from

21 Deco?

22 A No.

23 Q How often were you with Deco in July and

24 August?

25 A Every day.

## THE STATE OF NEVADA v. JOHNSON

1 Q Would Deco go places without you?  
2 A Yeah.  
3 Q How often?  
4 A Every day.  
5 Q Okay. And how long would he be gone for?  
6 A Maybe, like, three, four hours.  
7 Q When you were with Deco, each day in July  
8 and August, had you ever seen Deco sell any cocaine to  
9 Matthew Mowen?  
10 A No.  
11 Q Did Matt buy cocaine from Deco that day?  
12 A No.  
13 Q Why?  
14 A Because he didn't have any.  
15 Q Who didn't have any?  
16 A Deco didn't have any crack.  
17 Q Okay. And did Matt say anything to Deco or  
18 talk with all of you?  
19 A Yeah.  
20 Q And what did Matt talk about?  
21 A He was just showing us these -- like these  
22 Valium he had. They was some pills that make you relax.  
23 Q And what color were the pills?  
24 A I think they were white. They were little  
25 and, and they were white.

## THE STATE OF NEVADA v. JOHNSON

1 Q About how many pills did he have?

2 A Well, he just handed -- he handed me one,  
3 and he handed Red one.

4 Q And did he have more than two, or do you  
5 know?

6 A I am not sure.

7 Q Okay. Did he talk about those pills at  
8 all?

9 A Yeah. He said they'd make you feel good.

10 Q Other than talking about the pills that he  
11 gave you, did he say anything else?

12 A No.

13 Q Okay.

14 A Not that I remember.

15 Q Did Matt talk at all about selling drugs  
16 himself?

17 A No.

18 Q Did Matt talk at all about any money that  
19 Matt had?

20 A Did Matt say about any money he had? No.

21 Q Okay. Did Matt talk about a music group, a  
22 Phish concert?

23 A No, not that I remember.

24 Q Okay. Were you part of the conversation?

25 A No.

## THE STATE OF NEVADA v. JOHNSON

1 Q Okay. Who was part of the conversation?

2 A Deco, and Red, and Tod.

3 Q And where were you?

4 A I was sitting right in the living room,  
5 right in the same room with them, on the floor.

6 Q Were you paying attention to the  
7 conversation?

8 A Just parts of it.

9 Q Why only parts of it?

10 A Because I was -- I was -- I don't know. I  
11 just wasn't. I was watching TV, and I wasn't paying  
12 attention.

13 Q Okay. How long was Matt there at the  
14 house?

15 A Maybe like 5 or ten minutes.

16 Q Now, when Matt left, was there any  
17 conversation that you heard between Tod, Deco, and Red?

18 A Yes.

19 Q What did they talk about?

20 A Tod said that Matt had -- stockholders like  
21 \$10,000 at the house and a lot of mushrooms and that they  
22 can get some money at the house if they went and robbed  
23 him.

24 Q And that's what you say Tod said?

25 A Yeah.



THE STATE OF NEVADA v. JOHNSON

1           Q       What can did Deco say about it?

2           A       I can't remember. I don't remember what he

3       said about it.

4           Q       And how about -- well, did he say anything?

5           A       I don't remember.

6           Q       Okay. And how about Terrell, did you know

7       if Terrell said anything about it?

8           A       No.

9           Q       Did the conversation ever come up again

10       about Matt having money after Matt left?

11          A       Not around me, no.

12          Q       Okay. Now, then, I want to take you to

13       August 13th of 1998. Were you at the Everman residence?

14          A       Yes.

15          Q       When you came to the Everman residence on

16       the fourth, did you think you were going to stay there

17       until the 13th?

18          A       No.

19          Q       And who else was home that the night?

20          A       On what day.

21          Q       On the 13th, before the murders happen?

22          A       Red, and Deco, and -- Red, Deco, and Tod

23       and Ace.

24          Q       Red, Deco, Tod, and Ace?

25          A       Yeah.

THE STATE OF NEVADA v. JOHNSON

1 Q Anyone else?

2 A Tod, Red, Deco, and Tiny Bug.

3 Q Okay. And who all left the day of the

4 murder?

5 A Tiny Bug, Red, and Deco.

6 Q Okay. And was it light outside or dark

7 outside when they left?

8 A It was -- it was dark.

9 Q What time was it, if you know?

10 A I am not sure.

11 Q Okay. When the three of them left, did you

12 go with them?

13 A No.

14 Q Did you watch them leave?

15 A Yeah.

16 Q Are you sure they left together?

17 A Yeah.

18 Q Was Tod still in the house when the three

19 left together?

20 A Yeah.

21 Q Are you sure of that?

22 A Yeah.

23 Q Where was Tod at when they left? What room

24 was Tod in?

25 A The living room.

THE STATE OF NEVADA v. JOHNSON

1 Q And what room were you in when they left?

2 A The master room. After they left I went to

3 the bedroom.

4 Q Okay. When you went to the bedroom after

5 they left, did you come out into the living room at all?

6 A Maybe once.

7 Q And did you see Tod when you came out?

8 A Yeah.

9 Q Did Tod stay at the Everman house that

10 night?

11 A Yes.

12 Q Are you sure of that?

13 A Yes.

14 Q Did you stay at the Everman house that

15 night?

16 A Yes.

17 Q Now, when the three left, can you tell me

18 what Deco was wearing?

19 A Some black jeans and Alaska black shirt,

20 and some Red few buy shoes.

21 Q And you say, black jeans?

22 A Yeah.

23 Q And do you know what style they were?

24 A No.

25 Q What brand?

THE STATE OF NEVADA v. JOHNSON

1 A No.

2 Q And a black shirt. Being long sleeves oral

3 short sleeves?

4 A Short sleeve.

5 Q And do you recall what Terrell wore?

6 A The same thing that Deco had on. He had

7 black jeans on and a black shirt.

8 Q Now, did Deco have his own clothes, and

9 Terrell have his own close?

10 A Yes.

11 Q Would they wear each other's clothes?

12 Wear?

13 A No.

14 Q They didn't share clothes?

15 A No.

16 Q How did Deco wear his pants?

17 A Like, sagging off his but the.

18 Q Did you say, sagging?

19 A Uh-huh.

20 Q All right. Would they be tight on his

21 waist?

22 A No.

23 Q How would they be on his waist?

24 A They wouldn't be on his waist. Shade be

25 like under his but the, like when people sag, and they

THE STATE OF NEVADA v. JOHNSON

1 will wear there pants under there but the.

2 Q Okay. And how, if they're wearing them  
3 under there but the, how would Deco keep his pants on?

4 A With a belt.

5 Q Now, when -- and how did Terrell wear his  
6 pants?

7 A The same way.

8 Q Sagging?

9 A Yeah.

10 Q How about Sikia Smith? What was he wearing  
11 when he left that night?

12 A Some brown, like, Deco I pants, and a black  
13 hood I.

14 Q Brown pants and a black hood I?

15 A Yeah.

16 Q I guess that's a shirt with a hood?

17 A Yeah.

18 Q Okay. Now, when the three of them left,  
19 did any of them take anything with them?

20 A Yeah.

21 Q What was taken out of the house when they  
22 left?

23 A The duffel bag.

24 Q And who took the duffel bag?

25 A Red was carrying it.

THE STATE OF NEVADA v. JOHNSON

1 Q And where were the guns when they left?

2 A Inside the bag.

3 Q Now, are you sure of that?

4 A Yeah.

5 Q Did you actually see Red carry the bag?

6 A Yeah.

7 Q Could you tell, as you watched Red with the

8 bag, about if the bag was full or not?

9 A Yes.

10 Q Was it full?

11 A Yeah, it was heavy looking.

12 Q Were any of the guns left at the house?

13 A No.

14 Q Did you see any guns at the house that

15 night?

16 A No.

17 Q Now, can you tell me where the gloves were

18 that night when the three boys leave?

19 A Red had his on, and I think Deco's is

20 hanging out his back pocket, and I don't know where Tiny

21 Bug's was at.

22 Q Was the duct tape still in the shoe box

23 that you described?

24 A I don't remember.

25 Q Okay. Did you see the duct tape, one way

THE STATE OF NEVADA v. JOHNSON

1 or another?

2 A No.

3 Q Okay. Can you tell me how long you were --

4 that Deco was gone from the house?

5 A Like, 6 hours, maybe.

6 Q Okay. And what did you do for those 6

7 hours?

8 A I was asleep.

9 Q What room did you sleep in?

10 A The master bedroom.

11 Q And can you tell me where Ted was when you

12 went to she?

13 A On the couch in the living room.

14 Q And what was Tod doing before you actually

15 went to sleep? What's the last what's the last thing you

16 saw Tod doing?

17 A He was a asleep in the living room.

18 Q Okay. How did you wake up after sleeping

19 for at while?

20 A Yeah.

21 Q Can you tell me about how long you'd been

22 sleep for, before you woke up?

23 A I don't know.

24 Q Do you know what time it was when you woke

25 up?

THE STATE OF NEVADA v. JOHNSON

1 A No.

2 Q Okay. Tell me what woke you up?

3 A When Deco came home, he kissed me on the

4 cheek.

5 Q Okay. Was it still dark outside?

6 A Yeah.

7 Q Could you see outside to see if it was

8 dark?

9 A Yeah.

10 Q Was there a window in the master bedroom?

11 A Yes.

12 Q Okay. Deco kissed you on the cheek?

13 A Yeah.

14 Q And you woke up?

15 A Yeah.

16 Q And what happens from there?

17 A Then we went into the living room.

18 Q And who is in the living room at that time?

19 A Red, and Tod, and I don't remember who

20 else. I can't remember who else.

21 Q Okay. Red and Tod?

22 A Yeah.

23 Q Are you sure Tod's in the living room?

24 A Yeah.

25 Q Are you sure Red's in the living room?



## THE STATE OF NEVADA v. JOHNSON

1           A       Yeah.

2           Q       And what happens now in the living room?

3           A       Oh, they was just talking. Everybody was

4 all -- they was all talking, kind of behind up, talking

5 and everything.

6           Q       Behind up? Who was behind up?

7           A       Deco.

8           Q       Anyone else behind up?

9           A       Not really.

10          Q       What do you mean by, "Behind up?,"

11          A       They was like talking, just like -- like

12 they just -- like they just was having fun or something.

13          Q       And who was talking the most?

14          A       Deco.

15          Q       What is it that Deco was saying, and who

16 was he talking to?

17          A       I don't know what he was saying, but he

18 just told me that we have to go to sleep, because you

19 have to go to sleep after you kill somebody.

20          Q       All right. And who said that to you?

21          A       Deco.

22          Q       Okay. When Deco said, "You have to go to

23 sleep after you kill somebody," what did you do?

24          A       Nothing.

25          Q       What?

THE STATE OF NEVADA v. JOHNSON

1           A       Nothing.

2           Q       Why wouldn't you do anything if Deco told

3       you he'd just killed somebody?

4           A       I don't know. Because I didn't think

5       nothing of it.

6           Q       Okay. When Deco says that, and Europe in

7       the living room, where is the duffel bag?

8           A       On the Mr. Moore next to the couch.

9           Q       Can you see if the duffel bag is full, or

10       is it empty?

11          A       It was full.

12          Q       Did you see any other item in the -- well,

13       was the duffel bag ever opened?

14          A       No.

15          Q       Was there any other items in the living

16       room that will hadn't been there earlier?

17          A       No, not that I seen at that time, no.

18          Q       Okay. Now, be how long was everyone in the

19       living room for after you walked out of the master

20       bedroom?

21          A       Maybe like an hour so.

22          Q       Okay. And during that period of time, what

23       is it that Deco said about when he'd been?

24          A       All I remember is he just said he had to go

25       get some money. He went to go get some money.

## THE STATE OF NEVADA v. JOHNSON

1 Q He told you he'd gone to get some money?

2 A Yeah.

3 Q And did he get money while he was gone?

4 A Not like -- not the amount of money that he

5 wanted.

6 Q Okay. How much money did he tell you he

7 got?

8 A Only like a couple of a hundred bucks.

9 Q And did he tell you if he got anything

10 else?

11 A No.

12 Q And did he tell you how he got the money?

13 A No.

14 Q And do you know when the three boys left

15 that night, what they left in? In other words, did they

16 walk? Did they drive? How did they get around?

17 A They drove.

18 Q And what kind of car did they drive?

19 A Like a white tempo.

20 Q Okay. And did Deco tell you what he did

21 once he got to his destination, once he got to the place

22 he was going to get money at?

23 A .

24 Q The question was, did Deco tell you what he

25 did once he got to where he was going to get the money?

## THE STATE OF NEVADA v. JOHNSON

1           A       No, I don't remember. I don't  
2 understand -- I don't quite understand what you're saying  
3 but --

4           Q       Okay, during the conversation in the living  
5 room --

6           A       Uh-huh.

7           Q       -- Did Deco tell you how he got the money,  
8 or where he got the money from?

9           A       He didn't tell me where, but he told me  
10 stockholders to kill somebody.

11          Q       He told you stockholders to kill somebody?

12          A       Yeah.

13          Q       And did he tell you why he killed somebody?

14          A       Because they wouldn't know who he was, and  
15 he didn't get no money.

16          Q       Okay. And did he tell you if more than one  
17 person was killed?

18          A       No, not at that time.

19          Q       Okay. Did he tell you will who killed the  
20 person?

21          A       I know he told me he killed the Mexican, a  
22 Mexican dude.

23          Q       Did he tell you why he killed the Mexican  
24 dude?

25          A       Because he don't like Mexicans and he was

## THE STATE OF NEVADA v. JOHNSON

1 talking -- talking mess.

2 Q Talking mess?

3 A Yeah.

4 Q And did he tell you what he did before he  
5 actually killed the Mexican dude for talking mess?

6 A He was just cussing him out and he pulled  
7 him -- he had kicked him and stuff. He kicked him, and  
8 that's it.

9 Q And did he tell you how will he killed him?

10 A He shot him in the back of the head.

11 Q And did he tell you what happened when he  
12 shot the person in the back of the head?

13 A Yeah, because I asked him.

14 Q What did you ask him?

15 A I asked him what kind of noise did they  
16 make when he shot them.

17 Q And what did he tell you?

18 A He said they said -- they made a uh noise.

19 Q And did he tell you whether or not there  
20 was any blood?

21 A Yeah.

22 Q And what did he tell you about blood?

23 A That it just -- it just squirted up, that  
24 it squirted up, up like in the air.

25 Q Did he tell you, during this first

## THE STATE OF NEVADA v. JOHNSON

1 conversation that we're talking about in the living room,  
2 if -- or how many people were killed?

3 A No, not that I remember.

4 Q Okay. Were there other conversations where  
5 he told you more about what happened?

6 A Yeah, pause I asked him how did he -- how  
7 the people didn't hear the gunshots, and he said, because  
8 he turned --

9 Q Let me -- I'll get to the other  
10 conversations in just a minute. Before I get there, let  
11 me ask you this:

12 Did he tell you -- well, let's talk about  
13 the other conversations then.

14 At the end of this conversation, where did  
15 you go.

16 A In the room, in the bedroom.

17 Q And who went with you?

18 A Deco.

19 Q And did the two of you sleep together that  
20 night?

21 A Yeah.

22 Q And how about Terrell Young; where degree?

23 A He stayed in the living room.

24 Q And do you know if Tod went anywhere that  
25 night?

THE STATE OF NEVADA v. JOHNSON

1           A       No, no.

2           Q       Okay. Now, were there other conversations

3           about what had happened that night when he was gone for 6

4           hours?

5           A       Well, yeah.

6           Q       All right. When did the other

7           conversations happen?

8           A       In the room.

9           Q       Which room?

10          A       The master bedroom.

11          Q       Okay. Tell me, was this the next day?

12          A       No. This is still the same day, I believe.

13          Q       Okay. The same day before you go to sleep?

14          A       Yeah.

15          Q       And tell me what you asked him in the

16          master bedroom?

17          A       How did he -- how did people not here the

18          gunshots.

19          Q       ?

20          A       How did he -- "How did people not hear the

21          gunshots."

22          Q       And what did Deco tell you?

23          A       Because he turned the music up real loud.

24          Q       And who did he say turned up the music?

25          A       He did.

THE STATE OF NEVADA v. JOHNSON

1 Q Deco?

2 A Yeah.

3 Q And where is Terrell when you -- deco says

4 that to you?

5 A In the living room.

6 Q Did you ask him anything else --

7 A No.

8 Q -- That night?

9 A No.

10 Q Okay. Did you go to sleep after that?

11 A Yeah.

12 Q Okay. Now, did you talk again about the

13 murders?

14 A The next day.

15 Q Okay. And did you learn more about from

16 Deco about the murders the next day?

17 A Yeah.

18 Q And tell me where you're at when you talk

19 to Deco the next day and learn more?

20 A In the living room.

21 Q And who is there for that talk?

22 A Red.

23 Q Anyone else?

24 A No.

25 Q Okay. And who is telling you now about the



## THE STATE OF NEVADA v. JOHNSON

1 **murders?**

2 A Deco.

3 Q And what does Deco now tell you?

4 A He told me to watch the introduce.

5 Q Okay. And did you watch the introduce?

6 A I can't recall.

7 Q And what did you see?

8 A I seen alike a problem picture of Matt on  
9 the introduce, and then they was pulling bodies out of  
10 this house.

11 Q Had you ever been to mats house before?

12 A No.

13 Q Did you know where Matt lived?

14 A No.

15 Q Did you recognize Matt when you saw him in  
16 that problem picture on the introduce?

17 A Yeah.

18 Q What did -- did that mean anything to you  
19 when you saw it?

20 A No.

21 Q Okay. Did you recognize it?

22 A Yeah.

23 Q Did you say anything about the fact that  
24 you recognized Matt?

25 A And I was like he -- I said, "He was just

## THE STATE OF NEVADA v. JOHNSON

1 over here the other day." and then I said like, "I know  
2 you didn't," and then he said, "Yeah," and then I said,  
3 "That's fucked up."

4 Q Okay. You said to Deco, "I know you  
5 didn't," ?

6 A Uh-huh.

7 Q Is that Yes.

8 A Yes.

9 Q And what did Deco say?

10 A He said, yeah, he did.

11 Q And you told him that was fucked up; is  
12 that what you said?

13 A Yeah.

14 Q Is that what you thought?

15 A Yeah.

16 Q And did you talk about what you thought and  
17 what had happened?

18 A No, that was -- that's all I can remember I  
19 said.

20 Q Okay. Did Deco tell you anything more?

21 A He told me, "Don't worry about it."

22 Q Anything else?

23 A No, not that I remember.

24 Q And did the conversation come up again  
25 between you and Deco about what happened?

THE STATE OF NEVADA v. JOHNSON

1           A       No.

2           Q       Did you learn anything more about -- from

3       Deco about how many people were killed total?

4           A       Yeah.

5           Q       Okay. And who told you, total, how many

6       people were killed?

7           A       Deco.

8           Q       And how many people did Deco tell you,

9       total, were killed?

10          A       For people.

11          Q       Did he say how the other three decide?

12          A       He said he shot them in the back of the

13       head.

14          Q       And did he tell you anything about whether

15       or not those people bled when they were shot in the back

16       of the head?

17          A       Uh-huh. Well, when I asked him how the

18       blood looked, he said it squirted out. So I figured he

19       was talking about all of them.

20          Q       Did he tell you that each was shot in the

21       back of the head?

22          A       Yes.

23          Q       Now, did Deco ever tell you will how many

24       people were at the house when you when he first got there

25       that night?

## THE STATE OF NEVADA v. JOHNSON

1 A Uh-huh, yeah.

2 Q What did Deco tell you about how many  
3 people were at the house?

4 A There was just like two people at the  
5 house.

6 Q And what did he tell you those people were  
7 doing when Deco, and the other two drive up?

8 A I think one of them was mowing the lawn --  
9 I mean, watering the grass.

10 Q Did he say which one was watering the  
11 grass?

12 A No.

13 Q Okay. And what was the other one doing?

14 A I don't remember.

15 Q Okay. What did Deco tell you he did or  
16 said to the guy that was watering the grass?

17 A To get his fucking ass in the house.

18 Q Were those Deco's words?

19 A Yeah.

20 Q Tell me what Deco told -- did Deco tell  
21 what the guy did?

22 A He went in the house.

23 Q Did Deco tell you what Deco or the others  
24 to the other guy, once the guy went in the house?

25 A No, not that I remember.

THE STATE OF NEVADA v. JOHNSON

1 Q Okay. There were two, you say, at the  
2 house?

3 A Yes.

4 Q Did Deco tell you how this Thunderbird one  
5 got to the house?

6 A They didn't have no money and they didn't  
7 want to die, so they said that they've got friends that  
8 got money, so they called them to come over.

9 Q Okay. And how many more came over other  
10 than the two?

11 A Just two more came over.

12 Q Did Deco tell you if anything else was  
13 taken?

14 A No.

15 Q Did Deco tell you if anything else was  
16 taken?

17 A No, huh-uh, he --

18 Q From the house?

19 A No.

20 Q Okay. Now, in August, same August 13th of  
21 1998, was there a VCR before the murders in the living  
22 room of the Everman house?

23 A No.

24 Q Before the murders, before the 13th of  
25 August, 1998, was there a VCR in the living room of the

THE STATE OF NEVADA v. JOHNSON

1     **Everman house?**

2             A       No.

3             Q       Was there a VCR in the living room of the

4     **Everman house after the murders?**

5             A       Yes.

6             Q       And did you see that VCR?

7             A       Yes.

8             Q       Did you find out where the VCR came from?

9             A       Tod told me it was his girlfriend's.

10            Q       Without telling me what Tod tells you --

11            A       Uh-huh.

12            Q       -- How about a play station? Was there a

13     **play station --**

14            A       Yes.

15            Q       -- At the house before the murders?

16            A       No.

17            Q       How about after the murders?

18            A       Yes.

19            Q       Did you ever see a blew pager at the house

20     **at Everman?**

21            A       No.

22            Q       Never?

23            A       No, never.

24            Q       Okay. And based on your knowledge --

25     **okay -- what you saw, did you ever see or here Deco talk**

## THE STATE OF NEVADA v. JOHNSON

1 to Tod about what had happened, the killings?

2 A No, no.

3 Q Okay. How about to B.J. or Ace?

4 A No.

5 Q And did you see -- did B.J. or Ace come

6 over to the house after the killings at all, the next

7 day, or the day after?

8 A Yes, one time.

9 Q Okay. And do you remember what day that

10 would have been that will B.J. and Ace came to the house?

11 A The day after the murder.

12 Q Okay. And was Deco home then?

13 A No.

14 Q Was Terrell home?

15 A No.

16 Q Okay. Now, then, what day was Deco

17 arrested?

18 A On August 18th.

19 Q All right. Let me talk about that, but was

20 it during the daytime or the nighttime?

21 A It was like early in the morning, like Don.

22 Q Okay. And who was home when Deco got

23 arrested?

24 A Me, and Scale, and Deco.

25 Q You, Scale, and Deco? Now, who is Scale?

THE STATE OF NEVADA v. JOHNSON

1           A       Deco's home boy.

2           Q       And home boy is a what?

3           A       His friend.

4           Q       Okay. Had Scale been involved in the for

5 boys murders?

6           A       No.

7           Q       Had you seen -- did Scale leave with the

8 with the others on the night of the 13th?

9           A       No.

10          Q       When the police came to the house, did they

11 bring all three of you out of the house?

12          A       Not at one time.

13          Q       Okay at different times?

14          A       Yeah.

15          Q       Now, request when the police came to the

16 house, just before they got there, where were the guns?

17          A       In the bag.

18          Q       And did anyone try to move the guns before

19 the police got there?

20          A       Yeah.

21          Q       Who?

22          A       Deco and Scale. They hid them.

23          Q       You say Deco and Scale hid them?

24          A       Yeah.

25          Q       Did you watch them homicide them?



## THE STATE OF NEVADA v. JOHNSON

1           A       No, I was looking out the window and just  
2 watching. I heard them say they had to hide the guns.  
3           Q       And who said that?  
4           A       Deco said, "Homicide the guns."  
5           Q       Okay. And where was the bag at when Deco  
6 says homicide the guns?  
7           A       On the side of the couch.  
8           Q       All three of you are taken out of the  
9 house?  
10  
11          Q       And did anyone try to move the guns before  
12 the police got there?  
13          A       Yeah.  
14          Q       Who?  
15          A       Deco and Scale, they hid them.  
16          Q       You say Deco and Scale hid them?  
17          A       Yeah.  
18          Q       Did you watch them hide them?  
19          A       No, I was looking out the window and just  
20 watching  
21          Q       And who said that?  
22          A       Deco said, "Hide the guns."  
23          Q       Okay. And where was the bag at when Deco  
24 said, "Hide the guns."?  
25          A       On the side of the couch, on the side of

THE STATE OF NEVADA v. JOHNSON

1 the couch.

2 Q All three of you are taken out of the

3 house?

4 A Yeah.

5 Q And where are you placed?

6 A On the sidewalk.

7 Q Now, did Deco say anything to you while you

8 were on the sidewalk or as the police were arresting him?

9 A Yeah.

10 Q What did he tell you?

11 A To tell them that I just met him, to say

12 that I just met him.

13 Q Okay. Tell me this. Right before Deco's

14 getting arrested, what are your feelings for Deco?

15 A I love him.

16 Q Were you sure of that?

17 A Yeah.

18 Q Did you want to get Deco in trouble?

19 A No.

20 Q What did you want to do for Deco at that

21 moment?

22 A I wanted to help him.

23 Q Were you willing to help him?

24 A Yeah.

25 Q And did you try to help him?

THE STATE OF NEVADA v. JOHNSON

1           A       Yeah.

2           Q       Okay. Now, that night on the 18th, I think

3       I showed you this statement, right?

4           A       Yeah.

5           Q       Did you talk to the police?

6           A       Yeah.

7           Q       Did you try to help Deco that night?

8           A       Yeah.

9           Q       What did you do in order to try to help

10       Deco that night when you talked to the police?

11          A       I told them I had just met him.

12          Q       Was that true?

13          A       No.

14          Q       And why did you tell them that?

15          A       Because he told me to tell them that.

16          Q       Did you tell them if you knew Deco's name?

17          A       Yeah, I told them I knew his name.

18          Q       And what did you say his name was?

19          A       John Lee White.

20          Q       Okay. And did the police ask you whether

21       or not you knew anything about four boys that were

22       killed?

23          A       Yeah.

24          Q       What did you tell them?

25          A       I didn't know what he was talking about.

THE STATE OF NEVADA v. JOHNSON

1           Q       Now, did you, in fact, know what the police  
2       were talking about?

3           A       Yeah.

4           Q       Why would you lie to the police then?

5           A       Because I was trying to help Deco.

6           Q       Despite what you told the police, was Deco  
7       arrested?

8           A       Yes.

9           Q       Now, after Deco's arrested, did you still  
10       keep in contact with Deco?

11          A       Yeah.

12          Q       Why?

13          A       Because he was my boyfriend, and that's  
14       what people do. They visit them and keep contact if  
15       they're in jail.

16          Q       Okay. And how regularly would you visit or  
17       talk to Deco after his arrest?

18          A       Like, every visit, and I talked to him  
19       every day.

20          Q       Okay. On the phone?

21          A       Yeah.

22          Q       Okay. Would you talk to him about helping  
23       him?

24          A       Yeah.

25          Q       And did you, in fact, tell him you'd help

THE STATE OF NEVADA v. JOHNSON

1 him?

2 A Yeah.

3 Q Now, between the day of his arrest, August

4 18, and September 1st -- September 1st was the day of the

5 Grand Jury.

6 Do you remember that?

7 A Yeah.

8 Q Did you get a subpoena?

9 A Yeah.

10 Q Had you ever met me, or did you know me

11 before September 1st?

12 A No.

13 Q When is the first time you and I met?

14 A At the Grand Jury on September 1st.

15 Q And when you came to the Grand Jury, tell

16 me, did you want to get Deco in trouble?

17 A No.

18 Q What did you want to do for Deco at the

19 Grand Jury?

20 A Get him out of jail.

21 Q You came into the Grand Jury, and you swore

22 to tell the truth; is that correct?

23 A Yeah.

24 Q You took a oath?

25 A Yeah.

THE STATE OF NEVADA v. JOHNSON

1 Q And did you tell the truth to the Grand  
2 Jurors?  
3 A No.  
4 Q Why?  
5 A Because I was trying to help Deco.  
6 Q Did I ask you questions about whether or  
7 not you knew about the murder?  
8 A Yeah.  
9 Q And did you tell the truth about what you  
10 knew?  
11 A No.  
12 Q Did I ask you any questions about a pair of  
13 black pants?  
14 A Yeah.  
15 Q What did I ask you about the black pants?  
16 A Whose were they.  
17 Q Now, had you ever seen a picture of the  
18 black pants before that time?  
19 A No.  
20 Q So this would have been the first time you  
21 saw a picture of the back pants?  
22 A Yes.  
23 Q Okay. Ms. Severs, directing your attention  
24 to State's Exhibit 98. Do you recognize number 98?  
25 A Yes.

THE STATE OF NEVADA v. JOHNSON

1 Q What's number 98?

2 A The Everman house.

3 Q It's a picture -- it's a picture of the

4 Everman house?

5 A Yes.

6 Q And in 99 -- can I have you hold that for

7 me? Where is that picture from?

8 A The living room at the Everman house.

9 Q And what do you see there in the living

10 room?

11 A The TV and the VCR and the Play Station and

12 a Nintendo.

13 Q Okay. Now, was the VCR -- is this have

14 been VCR that wasn't there before the murders?

15 A Yes?

16 Q All right. When is the next -- after the

17 night that you were woke up, when is the next time that

18 you see, or the first time that you see, the VCR and the

19 Nintendo, or the Play Station?

20 A I don't remember. I just know it was

21 there.

22 Q Okay. Keep those in order. Can you tell

23 me -- that's number 102 -- what that's a picture of?

24 A The living room, the coffee table.

25 Q And whose things are on the coffee table?

THE STATE OF NEVADA v. JOHNSON

1 A Everybody's.

2 Q Okay. Everybody, meaning, the people that

3 were staying at the house?

4 A Yes.

5 Q Deco's things?

6 A Yes.

7 Q Terrell's things?

8 A Maybe the cup, yeah.

9 Q Okay. And how about anything of Tod

10 Armstrong's?

11 A Yes.

12 Q Okay. You'd previously talked about a box

13 in the living room; is that right?

14 A Yes.

15 Q Number 103, is there a box in the living

16 room?

17 A Yes.

18 Q Whose box is that?

19 A Deco's.

20 Q And can you tell me what's in that box?

21 A Some Garcia Vega cigars or some Black &

22 Mild cigars.

23 Q And what's a -- I think you said, a Garcia

24 and Vega cigar?

25 A Yeah.



THE STATE OF NEVADA v. JOHNSON

1 Q And is that a -- that's a type of cigar?

2 A Yes.

3 Q And the Black & Milds?

4 A Yes.

5 Q Is there more than one Black & Mild box in

6 that shoe box?

7 A Yes.

8 Q And whose shoe box was that?

9 A Deco's.

10 Q Number 104, do you recognize that?

11 A Yes.

12 Q How do you recognize 104?

13 A That's the living room with the duffel bag

14 and the radio.

15 Q Okay. And that duffel bag, is that the

16 duffel bag you described earlier?

17 A Yes.

18 Q And what was kept in that duffel bag?

19 A Guns.

20 Q Is that the same duffel bag that Deco said,

21 "We got to get the guns and homicide them," when the

22 police came?

23 A Yeah.

24 Q Is that where the guns were at, right

25 before the police got there?

THE STATE OF NEVADA v. JOHNSON

1           A       Yeah.

2           Q       Number 107, do you recognize 107?

3           A       Yes.

4           Q       And what's in 107?

5           A       The master bedroom with the gun and the

6 back jeans.

7           Q       All right. Which gun is shown there?

8           A       The black gun with the banana clip on it.

9           Q       And is that the one you were talking about

10 earlier?

11          A       Yeah.

12          Q       Now, tell me this, when is the first time

13 that you saw that picture?

14          A       When I went to the Grand Jury on September

15 1st.

16          Q       And how was it that you saw that picture?

17 Where were you at when you saw it?

18          A       In front of the Grand jury.

19          Q       Were people sitting this listening to you?

20          A       Yes.

21          Q       Andy show you this?

22          A       Yes.

23          Q       Okay. And what had you told me in front of

24 the people at the Grand Jury, about black pants at that

25 house?

THE STATE OF NEVADA v. JOHNSON

1           A       That Deco didn't have no black pants.

2           Q       Was that the truth?

3           A       No.

4           Q       Tell me the truth about the black pants

5       that are shown here. Whose black pants are they?

6           A       Deco's and Red's.

7           Q       One pair for Deco and one pair for Red?

8           A       Yeah.

9           Q       Now, when you were shown this particular

10       picture, did you have any idea that there was blood on

11       the pants?

12          A       No.

13          Q       When did you learn that there was blood on

14       those pants?

15          A       When you showed me the picture at the Grand

16       Jury.

17          Q       Okay. Now, if you would have known that

18       there was blood on those pants, either the night the

19       police got there or before the police got there, what

20       would you have done to those pants?

21          A       I would have washed them out.

22          Q       Why?

23          A       So this wouldn't be no evidence, no blood

24       on the pants.

25          Q       Did you think evidence of the blood would

THE STATE OF NEVADA v. JOHNSON

1 be important to the prosecution?

2 A Yeah.

3 Q If blood evidence was important, why would  
4 you try to wash it out?

5 A Because I wasn't trying to help you.

6 Q You weren't trying to help me?

7 A No.

8 Q Tell me something, you were under oath when  
9 you testified in front of the Grand Jury, did that matter  
10 to you?

11 A I didn't think nothing of it.

12 Q What did you think more of, you are oath or  
13 you are love of Donte?

14 A Donte.

15 Q September 3rd, '98, two days later, after  
16 the Grand Jury, --

17 A Yeah.

18 Q -- did detectives meet with you?

19 A Yes.

20 Q Okay. Was that in my office?

21 A Yes.

22 Q Was I present?

23 A Yes.

24 Q And how about Mr. Daskas?

25 A Yes.

THE STATE OF NEVADA v. JOHNSON

1           Q       Now, during that meeting did either myself,  
2       Mr. Daskas or the detective threaten you in any way?  
3           A       No.  
4           Q       And did anyone make any promises to you at  
5       that time?  
6           A       No.  
7           Q       Did you did we tell you what to say in any  
8       way?  
9           A       No.  
10          Q       It we suggest to you what answers to give?  
11          A       No.  
12          Q       Okay. And did you tell the same story or  
13       the same things on September 3rd, that you told to the  
14       Grand Jury?  
15          A       No.  
16          Q       All right. What did you change? What did  
17       you tell us different?  
18          A       That Deco wasn't with me, and that he was  
19       at the murder.  
20          Q       Okay. You said -- so to the Grand Jury,  
21       what did you tell the Grand Jury where Deco was at?  
22          A       With me at home.  
23          Q       Was that true? Was he with you at home?  
24          A       No.  
25          Q       And, in fact, let me ask you this. When

## THE STATE OF NEVADA v. JOHNSON

1       you told the Grand Jury that Deco was at home with you,  
2       is that the first time you and I had met?

3           A       Yeah.

4           Q       The first time we were talking?

5           A       Yeah.

6           Q       And when you told me that, did I ask you,  
7       "Okay. If he was with you, tell me what night it was."

8           A       Yeah.

9           Q       And could you tell the Grand Jury what  
10       night it was?

11          A       No.

12          Q       And did you have any idea what day it  
13       was --

14          A       No.

15          Q       -- that you were telling the Grand Jury  
16       about? No idea?

17          A       No.

18          Q       Okay. So on September 3rd, 1998, what is  
19       it that you tell the police that's different?

20          A       That Deco was at the murder, and he wasn't  
21       at home with me.

22          Q       And tell me on the 3rd how thank you feel  
23       about Deco?

24          A       I still loved him.

25          Q       Okay, now, if you still loved him, why

THE STATE OF NEVADA v. JOHNSON

1 would you now -- well, did you think that information  
 2 would help particular?  
 3 A No.  
 4 Q Well, did you think it would hurt him?  
 5 A Yeah.  
 6 Q If you loved him and that information would  
 7 hurt, why would you tell the police that then?  
 8 A I don't know.  
 9 Q Any reason at all you can think of?  
 10 A No.  
 11 Q Did you tell the police anything different  
 12 now or anything new on the 3rd as the police were talking  
 13 to you?  
 14 A I told them Tod had went with him.  
 15 Q You said Tod had went with him?  
 16 A Yeah?  
 17 Q Now, was that true?  
 18 A No.  
 19 Q And why would you say that Tod went with  
 20 him then?  
 21 A Because he had set up everything, and I  
 22 thought everybody was being prejudiced and just trying to  
 23 arrest Donte.  
 24 Q Okay. You had believed that Tod had set it  
 25 up; is that right?

THE STATE OF NEVADA v. JOHNSON

1 A Yeah.

2 Q And you wanted Tod to get in trouble too?

3 A Yeah.

4 Q And did Tod go with the boys that night?

5 A No.

6 Q Did Tod kill the boys?

7 A No.

8 Q Now, then, after September 3rd, on

9 September 15th, 1998, did you come in front of the Grand

10 Jury again, if a second time?

11 A Yes.

12 Q Did you get a subpoena?

13 A Yeah.

14 Q Now, did you want to have to come back for

15 the Grand Jury?

16 A No.

17 Q Why did you do it then?

18 A Because I didn't want to get a warrant for

19 my arrest.

20 Q Okay. Do you remember what you told the

21 Grand Jury on the 15th?

22 A That Deco wasn't at home with me.

23 Q Okay. Now, was this the same people that

24 you'd lied to 15 days earlier?

25 A I think so, yeah.



THE STATE OF NEVADA v. JOHNSON

1 Q Okay. You told them that, in fact,  
2 particular wasn't with you?  
3 A Yeah.  
4 Q And where did you tell them that Deco be  
5 had gone?  
6 A To the house where the people got murdered  
7 at.  
8 Q And do you recall anything else that you  
9 told them about Deco's's involvement, the second time now  
10 in front of the Grand Jury?  
11 A Yeah. I told them stockholders killed  
12 them. I told them stockholders killed the people.  
13 Q Now, did you think that information was  
14 going to help Deco?  
15 A No.  
16 Q And how will did you feel about Deco on the  
17 15th?  
18 A I still loved him.  
19 Q After telling the Grand Jury about Deco's  
20 involvement, did you think Deco would get in more  
21 trouble?  
22 A Yeah, yes.  
23 Q Did you want Deco to the get in more  
24 trouble?  
25 A No.

THE STATE OF NEVADA v. JOHNSON

1 Q Did you want to still help Deco?

2 A Yeah.

3 Q Did you try to help Deco after testifying

4 the second time?

5 A Yeah.

6 Q Do you remember what you did in order to

7 help him?

8 A I told them that he didn't have no, no --

9 he still didn't have no black pants.

10 Q Okay. So you still wanted to help Deco a

11 little bit?

12 A Yes.

13 Q So you told the Grand Jury that he didn't

14 have black pants?

15 A Yeah.

16 Q Why would you have told the Grand Jury

17 that?

18 A Because I knew that the pants had blood on

19 them, and that they was his pants, and they could

20 probably say that he was there at the murder.

21 Q Did you think that, that would be a

22 important piece of evidence?

23 A Yeah.

24 Q So you told the Grand Jury some things, but

25 not everything?

THE STATE OF NEVADA v. JOHNSON

1           A       Yes.

2           Q       Now, you were still under oath though,

3       right?

4           A       Yeah.

5           Q       Why wouldn't you tell them everything?

6           A       Because I was still trying -- I just didn't

7       want them to know that the pants was his.

8           Q       Now, then, after the 15th, did you leave

9       the Grand Jury?

10          A       Yeah.

11          Q       And did you try to help Deco in some way

12       after the 15th?

13          A       Yeah.

14          Q       And how often would you talk with Deco,

15       say, after the 15th?

16          A       Every day.

17          Q       Did you want Deco to no that you had told

18       on him?

19          A       No.

20          Q       Did Deco know if you had told on him by

21       them?

22          A       No.

23          Q       Okay. Now, what thank you do next in order

24       to Heparin Deco?

25          A       I wrote a letter.

THE STATE OF NEVADA v. JOHNSON

1 Q Okay. Tell me, you the wrote a letter.  
 2 Who did you write the letter to?  
 3 A To the District Attorneys Office.  
 4 Q Now, at that point in time did you know my  
 5 name?  
 6 A Yeah.  
 7 Q Had I threatened you at all in this case in  
 8 any way from the time I first met you until even after  
 9 the 15th when you left?  
 10 A No.  
 11 Q Had I persuaded you or tried to tell you  
 12 what answers to give?  
 13 A No.  
 14 Q Had I made any promises to you, whatsoever?  
 15 A No.  
 16 Q Given you any benefit?  
 17 A No.  
 18 Q Okay. So you wrote a letter to me. Do you  
 19 remember about what day that was?  
 20 A No.  
 21 Q Okay. I'm showing you what has been parked  
 22 in, and a I've shown Counsel, what has been marked now as  
 23 Exhibit 85. Do you recognize that letter?  
 24 A Yes.  
 25 Q And on the other side of that letter, who

THE STATE OF NEVADA v. JOHNSON

1 do you write it to you to?

2 A To whom it may concern.

3 Q Okay. And tell me what you it with that

4 letter?

5 A I put it on you remember door.

6 Q Okay. You put it on my door where?

7 A At the District Attorneys office.

8 Q Okay. Right there at the door, on the

9 fourth floor door?

10 A Yes.

11 Q Did you know that really wasn't my door?

12 A I knew that that's where you would --

13 that's where you'd be at.

14 Q Okay. That's the building, at least the

15 floor I am on?

16 A Yes.

17 Q And tell me what is it that you wrote in

18 the letter?

19 A I said that I lied on Deco, and he really

20 wasn't there and that --

21 Q Okay. I need you -- I can hardly hear you?

22 A I said that I lied on Deco, and he really

23 wasn't there, that somebody else was theirs.

24 Q Now, who did you say was there?

25 A Somebody named Belo.

THE STATE OF NEVADA v. JOHNSON

1 Q And who was that somebody, named, Belo?

2 A Just somebody that I had -- a name that I  
3 had knew of somebody when.

4 Q Okay. Did you want Belo to get in trouble  
5 for this?

6 A No.

7 Q And is that the whole letter that you wrote  
8 to me?

9 A Yes.

10 Q Now, did you believe this letter would  
11 cause me to do?

12 A Believe that Deco didn't do it.

13 Q Okay. You thought it would make me believe  
14 Donte didn't do it?

15 A Yeah.

16 Q What were your feelings for Deco when you  
17 wrote the letter?

18 A I loved him.

19 Q Now, then, after you wrote that letter to  
20 myself, did Deco get any trial benefit from that letter?

21 A No.

22 Q Did anything change for Deco?

23 A No.

24 Q And how did that make you feel, that the  
25 long term didn't help Deco?

THE STATE OF NEVADA v. JOHNSON

1 A I was paid.

2 Q Stop. Did you true to help him a second  
3 time or again is?

4 A Yeah.

5 Q And house it that you tried to help him  
6 now?

7 A I had wrote a letter to the introduce? You  
8 wrote a letter to the introduce.

9 Q Now did you know that this case had been on  
10 the introduce a couple of times by now?

11 A Yes.

12 Q Okay. Do you remember what introduce Chan  
13 tell you wrote?

14 A Chan Channel 8.

15 Q And where were you at when you wrote that  
16 newsletter?

17 A In jail.

18 Q And were you in jail in relation to this  
19 case at all?

20 A No.

21 Q Okay. I am showing you what's been marked  
22 as State's proposed Exhibit 186 Is that a copy of the  
23 letter to the Channel 8 news?

24 A Yes.

25 Q And did you tell me who wrote that letter?

THE STATE OF NEVADA v. JOHNSON

1           A       I did.

2           Q       Is it signed by yourself?

3           A       Yes.

4           Q       Okay. Now what is it that you told

5       Chandler 8 news for this murder?

6           A       That I was there, and Deco wasn't there.

7           Q       Okay. And what date was that letter

8       written on?

9           A       December 2nd.

10          Q       Okay. And I should have asked you, if I

11       could, what date the first letter was written on. That's

12       my mistake?

13          A       August 27.

14          Q       Did you say, August 27th?

15          A       Yes.

16          Q       Okay.

17          A       I mean, September 27th.

18          Q       September 27th, and this is --

19          A       December 2nd.

20          Q       So two months later; is that right?

21          A       Yeah.

22          Q       And what did you tell Channel -- you said,

23       you told Channel 8 that you were there, and he wasn't?

24          A       Yeah.

25          Q       And what did you think that was going to do



THE STATE OF NEVADA v. JOHNSON

1     **for Deco?**

2             A       Get him out of jail.

3             Q       And did it will get him out of jail?

4             A       No.

5             Q       Did it help him?

6             A       No.

7             Q       And did you want to help him then?

8             A       Yeah.

9             Q       Now, did you have a plan when you wrote

10    that letter to Channell 8?

11            A       Yeah.

12            Q       And who made that plan?

13            A       Me and Deco.

14            Q       Had you talked to Deco about the plan?

15            A       I can't recall.

16            Q       And what was the plan?

17            A       That I say that I did it, and then he'd get

18    out of jail, and then I say that he threatened me, and

19    that's why I said I did it, and then I get out of jail

20    and up and then I meet him somewhere, wherever he would

21    have went.

22            Q       Do you still want to be able to meet up

23    with Deco and --

24            A       Yeah.

25            Q       -- be with him?

THE STATE OF NEVADA v. JOHNSON

1 A Yes.

2 Q Did that plan work?

3 A No.

4 Q Now, when that plan wouldn't -- didn't

5 work, what did you do?

6 A Nothing, not that I remember.

7 Q And did you believe that sooner or later

8 you'd get subpoenaed on this case?

9 A I didn't think nothing of it.

10 Q Okay. Did you stay in Las Vegas, Nevada?

11 A No.

12 Q Where did you go?

13 A New York.

14 Q And while in New York, did you get

15 arrested?

16 A Yes.

17 Q And what was it a arrest from -- are you

18 familiar with a material witness warrant in this case?

19 A Yes.

20 Q And do you know who issued that material

21 witness warrant or who will drafted it?

22 A You.

23 Q Okay. And who was it for?

24 A For this case.

25 Q Okay. And it was for whose arrest, though?

THE STATE OF NEVADA v. JOHNSON

1           A       Oh, my arrest.

2           Q       Okay. Were you arrested as a material

3       witness then?

4           A       Yes.

5           Q       In what state?

6           A       New York.

7           Q       Okay. When you were arrested in New York

8       for a material witness warrant, did you want me to be

9       able to believe find you?

10          A       No.

11          Q       Did you want to help me in the case against

12       Donte Johnson?

13          A       I didn't think nothing of it.

14          Q       Okay. Was that money still in the back?

15          A       No.

16          Q       But you still have feelings for him,

17       though?

18          A       Yeah.

19          Q       Did you want to have to come back here and

20       testify against Donte at that time?

21          A       No.

22          Q       And the material witness warrant forced you

23       to believe brought back in custody, correct?

24          A       Yes.

25          Q       Didn't you come back and be placed in

THE STATE OF NEVADA v. JOHNSON

1 custody?

2 A Yes.

3 Q And how about how long were you in custody?

4 A Like, two months.

5 Q Okay. Now, while you were in custody, did

6 Mr. Daskas and myself come to the jail?

7 A Yes.

8 Q And make any promises to you then?

9 A No.

10 Q Did Mr. Daskas make any promises to you

11 then?

12 A No.

13 Q Did we in any way suggest what to tell us?

14 A No.

15 Q Did you have a understanding of what it was

16 I expected from if you were of what it was I expected

17 from you, if you were to testify again?

18 A To tell the truth.

19 Q And did you -- was there actually a time

20 when you came then back to court during those two months

21 or after those two months, while in custody, and testify?

22 A Yes.

23 Q And on that occasion did you take a oath?

24 A Yes.

25 Q Did you tell the truth?

## THE STATE OF NEVADA v. JOHNSON

1 A Yeah.

2 Q Now then, why did you tell the truth then  
3 finally?

4 A Because I wanted to get it over with, and I  
5 wanted to get out of jail.

6 Q Okay. Did you think that if you testified  
7 and told the truth, you'd get out of jail?

8 A Yes.

9 Q And prior to or when you were in jail, did  
10 you think that if you testified and told the truth you'd  
11 get out of jail?

12 A Yes.

13 Q And prior to -- or when you were in jail,  
14 did you get a attorney?

15 A Yeah.

16 Q And who asked for you to be released from  
17 jail?

18 A My attorney.

19 Q Okay. And what did the state do when your  
20 attorney asked for that?

21 A They was -- they just wanted a deposition,  
22 and it was all right.

23 Q Okay. When you were released, was there  
24 any conditions of you are your release?

25 A Yeah, I was on house arrest.

THE STATE OF NEVADA v. JOHNSON

1 Q Okay. And did you obey those conditions?

2 A Yes.

3 Q And do you know why you were on house

4 arrest? What was the purpose of house arrest?

5 A So I wouldn't leave town.

6 Q And did you leave town?

7 A No.

8 Q And from being on house arrest, what was

9 that ultimately supposed to make you do?

10 A I don't know.

11 Q What assurance did the State want?

12 A That I would be here for trial.

13 Q Okay. And you've done that?

14 A Yeah.

15 Q Now, when you were arrested for the

16 material witness warrant, you were brought back here, and

17 there was also a warrant for possession of a stolen

18 vehicle?

19 A Yeah.

20 Q Okay. Now, did I make any promises about

21 that case?

22 A You told me that if I granted my subpoena

23 and stayed out of trouble, I would get -- the case would

24 get dropped.

25 Q Okay. So you had to stay out of trouble?

THE STATE OF NEVADA v. JOHNSON

1           A       Yeah.

2           Q       And you had to make your appearance?

3           A       Yes.

4           Q       Now, did I tell you that you had to testify

5       a certain way in order to get that case dismissed?

6           A       No.

7           Q       Did I tell you what answers you'd have to

8       do in order to get that case dismissed?

9           A       No.

10          Q       At any time, in my meetings with you, have

11       I suggested what answers to give?

12          A       No.

13          Q       Have you wanted to be here today to

14       testify?

15          A       No.

16          Q       And why?

17          A       Because I am nervous and I don't want to be

18       up here.

19          Q       Okay. There is been times that you've

20       cried, or you've looked down and put your hands in your

21       hands. Is there a reason why you would do that?

22          A       No, just because I get emotional.

23                   MR. DASKAS: That concludes direct

24       examination of Charla Severs.

25                   THE COURT: THE COURT: I will call a

## THE STATE OF NEVADA v. JOHNSON

1 recess. Jury is admonished not to converse among  
2 yourselves or with anyone else on any subject connected  
3 with this trial or to read, watch or listen to any report  
4 of or commentary on the trial by any person connected  
5 with the case or by any medium of information including  
6 without limitation newspapers, television, internet or  
7 radio.

8                               You are directed you are not to form  
9 or express an opinion on this case until it is finally  
10 submitted to you by the Court.

11                               \* \* \* \* \*

12                               (END OF PROCEEDINGS 11:54 A.M.)

13  
14 ATTEST:     FULL, TRUE, AND ACCURATE TRANSCRIPT OF  
15 PROCEEDINGS.

16 

17                               KRIS MOORE, CCR 273  
18  
19  
20  
21  
22  
23  
24  
25



527

7

**FILED**

DISTRICT COURT

CLARK COUNTY, NEVADA 2005 APR 27 A 9:04

**ORIGINAL**

*Shirley A. Hansen*  
CLERK

THE STATE OF NEVADA, )  
 )  
 PLAINTIFF, )  
 )  
 VS. ) CASE NO.: C153154  
 )  
 DONTE JOHNSON, )  
 )  
 DEFENDANT. )  
 ----- )

REPORTER'S TRANSCRIPT

OF

TRIAL BY JURY

(VOLUME VI - P.M.)

BEFORE THE HONORABLE JUDGE LEE A. GATES  
DISTRICT COURT JUDGE  
DEPARTMENT VIII

DATED TUESDAY, APRIL 26, 2005

FOR THE PLAINTIFF: ROBERT J. DASKAS, ESQ.  
DAVID STANTON, ESQ.

FOR THE DEFENDANT: ALZORA B. JACKSON, ESQ.  
BRET WHIPPLE, ESQ.

REPORTED BY: SONIA L. RILEY, CCR NO. 727

89

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

1

AA04103

COUNTY CLERK

APR 27 2005

RECEIVED

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 ROBERT J. DASKAS, ESQ.  
4 DAVID STANTON, ESQ.  
5 DISTRICT ATTORNEY'S OFFICE  
6 200 South Third Street  
7 Las Vegas, Nevada 89101  
8 (702) 455-4711

8 FOR THE DEFENDANT:

9 ALZORA B. JACKSON, ESQ.  
10 SPECIAL PUBLIC DEFENDER'S OFFICE  
11 333 South Third Street  
12 Second Floor  
13 Las Vegas, Nevada 89155  
14 (702) 455-6265

15 BRET O. WHIPPLE, ESQ.  
16 229 S. Las Vegas Blvd.  
17 Suite 205  
18 Las Vegas, Nevada 89101  
19 (702) 257-9500

20 \* \* \* \* \*

21

22

23

24

25

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

PAGE

STATE'S CASE RECAPITULATION (RESUMED)

7

DEFENSE'S CASE-IN-MITIGATION

117

1	<u>W I T N E S S E S</u>	
2		
3	<u>STATE</u>	<u>PAGE</u>
4	<u>CHARLA SEVERS (VIA TRANSCRIPT)</u>	
5	CROSS-EXAMINATION	7
6	REDIRECT EXAMINATION	42
7	RECROSS-EXAMINATION	51
8	FURTHER REDIRECT EXAMINATION	57
9		
10	<u>BERCH HENRY</u>	
11	DIRECT EXAMINATION	58
12		
13	<u>GARY TELGENHOFF, M.D.</u>	
14	DIRECT EXAMINATION	79
15		
16		
17		
18	<u>DEFENSE</u>	
19	<u>MOISES ZAMORA</u>	
20	DIRECT EXAMINATION	117
21	CROSS-EXAMINATION	128
22		
23	<u>ARTHUR CAIN</u>	
24	DIRECT EXAMINATION	131
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

W I T N E S S E S

DEFENSE

PAGE

EUNICE CAIN

DIRECT EXAMINATION

151

CROSS-EXAMINATION

164

JOHNNISHA ZAMORA

DIRECT EXAMINATION

165

CROSS-EXAMINATION

196

\* \* \* \* \*

E X H I B I T S

<u>STATE</u>	<u>DESCRIPTION</u>	<u>ADM.</u>
247	Certified copies of verdict forms	116
<u>DEFENSE</u>		
B	Photo	157
C	Photo	171
E, F, G	Photos	189
M	Letter from California Department of Social Services	174
Q, R, S	Photos	125
T, U, V, W, X, Y	Photos	133
BB	Photo	137
EE	Photo	191
FF	Photo	191
GG	Photo	191
HH	Photo	191
II	Photo	171
JJ	Photo	191
LL	Poster board of family tree	131
* * * * *		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

\* \* \* \* \*

**THE BAILIFF:** Be seated, come to order.

Court is again in session.

Counsel, I'm bringing the jury in.

(Jury present.)

**THE BAILIFF:** Be seated, come to order.

**THE COURT:** Proceed.

**MS. JACKSON:** Thank you, your Honor.

STATE'S CASE RECAPITULATION (RESUMED)

CHARLA SEVERS (RESUMED)

CROSS-EXAMINATION

**BY MS. JACKSON:**

"Q Morning, Miss Severs. How  
are you?

"A Fine.

"Q The last time you were here,  
about four months ago, five months  
ago --

"A Yes.

"Q -- you were testifying right  
over there.

1                    "A     Yes.

2                    "Q     Sitting in that chair?

3                    "A     Yes.

4                    "Q     And the day before you were

5                    testifying you were in custody in the

6                    Clark County Detention Center,

7                    correct?

8                    "A     Yes.

9                    "Q     And that custody was there

10                   because the district attorneys put you

11                   in jail?

12                   "A     Yes.

13                   "Q     Okay. And then they wanted

14                   to you testify in this case?

15                   "A     Yes.

16                   "Q     You gave testimony?

17                   "A     Yes.

18                   "Q     In hopes that you'd be

19                   released after had you gave that

20                   testimony, right.

21                   "A     Yes.

22                   "Q     And, as a matter of fact,

23                   later that day, less than an hour

24                   later, you were out front in the --

25                   outside in the -- out by the street,



1           isn't that correct?

2           "A     Yes.

3           "Q     You were sitting there --

4           one minute you were in prison and the

5           next you were out, right?

6           "A     I wasn't out of jail, but I

7           was, yeah, I was --

8           "Q     You weren't in handcuffs

9           that day.

10          "A     No.

11          "Q     After you gave testimony.

12          "A     No.

13          "Q     You weren't in prison garb

14          that day after you gave testimony.

15          "A     No.

16          "Q     And it's shortly thereafter

17          you were released?

18          "A     Yes.

19          "Q     Okay. Who is Jacquinisha

20          (phonetic)?

21          "A     It was my daughter, but I

22          lost her.

23          "Q     I'm sorry?

24          "A     It was my daughter, but I

25          had lost her.

1                   "Q     Do you have a child now?  
2                   "A     In my stomach.  
3                   "Q     When you say you lost her,  
4                   what do you mean?  
5                   "A     Like she died. I had a  
6                   miscarriage.  
7                   "Q     There was a miscarriage?  
8                   "A     Yes.  
9                   "Q     Then there is no  
10                  Jacquinisha?  
11                  "A     No.  
12                  "Q     Litiva White living in  
13                  New York with another person?  
14                  "A     No.  
15                  "Q     There's no child that you  
16                  had?  
17                  "A     No.  
18                  "Q     You wrote a letter saying  
19                  that you had a child.  
20                  "A     Yeah.  
21                         "You sent a picture to John  
22                  White --  
23                  "A     Yeah.  
24                  "Q     Showing this?  
25                  "A     Yeah.

1                   "Q     You told him it was his  
2                   child?  
3                   "A     It was.  
4                   "Q     You showed a picture of a  
5                   fully-developed baby.  
6                   "A     That lives in New York.  
7                   "Q     That was living in New York?  
8                   "A     Yeah.  
9                   "Q     But, in fact, that was not?  
10                  "A     I take care of the baby, but  
11                  it's not my baby, no.  
12                  "Q     It was just somebody else's  
13                  baby that you propped up and took a?  
14                  "A     That I a take care of, yeah.  
15                  "Q     And you took a picture of  
16                  and you told John White that it was  
17                  your -- that it was his child?  
18                  "A     Yeah.  
19                  "Q     And you said it was  
20                  Jacquinisha?  
21                  "A     Yeah.  
22                  "Q     Is the name you gave it?  
23                  "A     Yeah.  
24                  "Q     And, in fact, that was a  
25                  lie?

1                   "A     That's her name.  
2                   "Q     But it's not your child?  
3                   "A     No.  
4                   "Q     And that's what you told  
5                   John White?  
6                   "A     Yeah.  
7                   "Q     See anything wrong with  
8                   that?  
9                   "A     No.  
10                  "Q     All right. Let's talk about  
11                  the night that this -- the murders  
12                  happen. You said that you were at the  
13                  Everman house?  
14                  "A     Yes.  
15                  "Q     Who was there?  
16                  "A     Todd, Deko, Red, myself and  
17                  Tiny Bug.  
18                  "Q     Okay. Tiny Bug's Sikia  
19                  Smith?  
20                  "A     Yeah.  
21                  "Q     You said you saw them leave,  
22                  that being Todd -- I'm sorry, that  
23                  being Deko, red and Tiny Bug?  
24                  "A     Yes.  
25                  "Q     The three of 'em?

1                   "A     Yes.  
2                   "Q     Okay.  Todd was there that  
3                   night?  
4                   "A     Yes.  
5                   "Q     He was in the house?  
6                   "A     Yes.  
7                   "Q     He saw them leave?  
8                   "A     Yes.  
9                   "Q     Okay, so if Todd says only  
10                  two of them were there and only two of  
11                  them left, he's mistaken?  
12                  "A     I guess so, yeah, because I  
13                  seen three of 'em leave.  
14                  "Q     'Cause you saw three leave?  
15                  "A     Yeah.  
16                  "Q     But he didn't say -- so if  
17                  he says Sikia Smith or Tiny Bug wasn't  
18                  there, that was a mistake or maybe he  
19                  missed it?  
20                  "A     Yes.  
21                  "Q     Okay.  When they came back  
22                  that night later on, who came back?  
23                  "A     Red, Deko and Todd -- I mean  
24                  Red and Deko and Tiny Bug, all three?  
25                  "Q     And Tiny Bug is Sikia Smith.

1                   "A     Yes.

2                   "Q     Do you know Sikia Smith's

3 girlfriend?

4                   "A     Yeah.

5                   "Q     What's her name?

6                   "A     Shawn.

7                   "Q     LaShawnya?

8                   "A     Yeah.

9                   "Q     Okay, LaShawnya Wright?

10                  "A     I guess that's her last

11 name.

12                  "Q     Okay, so Sikia Smith came

13 back with them that night?

14                  "A     Yes, I think so, yeah.

15                  "Q     And if Todd stated -- was

16 Todd home that night when they came

17 back?

18                  "A     Yes.

19                  "Q     Was he awake?

20                  "A     Yes, when I came in the

21 room.

22                  "Q     Did he see these people come

23 back in?

24                  "A     Yeah.

25                  "Q     Let me ask you this. You

1 saw three people come in that night?"  
2 **THE WITNESS:** Am I on line 21?  
3 **MR. DASKAS:** Line 21, I believe -- yeah.  
4 "A "I didn't see who came in.  
5 I didn't see who came in," but when I  
6 came in the living room, that's who I  
7 leave was in the living room.  
8 "Q Who do you believe was in  
9 the living room?  
10 "A Deko, Red and Tiny Bug.  
11 "Q Okay. Sikia Smith?  
12 "A Yes.  
13 "Q Okay. Was Todd there at  
14 that time?  
15 "A Yes.  
16 "Q Was Todd awake at that time?  
17 "A Yes.  
18 "Q Was Todd engaging in some  
19 kind of conversation or was he  
20 standing near them where he could see  
21 all three of 'em?  
22 "A He was sitting on the couch.  
23 "Q And he had a perfect vision  
24 of all three of 'em?  
25 "A Yes.

1                   "Q     Now let's talk about this  
2                   duffel bag.  
3                   "Did you see inside of that  
4                   duffel bag on that night prior to  
5                   Deko, Red and Sikia Smith leaving?  
6                   "A     No.  
7                   "Q     You didn't see what was  
8                   inside that duffel bag?  
9                   "A     No.  
10                  "Q     And when he came back you  
11                  didn't see what was inside that duffel  
12                  bag?  
13                  "A     No.  
14                  "Q     No?  
15                  "You don't -- you didn't  
16                  even look the next day, did you?  
17                  "A     No.  
18                  "Q     And you didn't -- so you  
19                  don't know what was inside there?  
20                  "A     Yeah, I do.  
21                  "Q     You can tell me ever item  
22                  that was in there as he was walking  
23                  out the door that night?  
24                  "A     No.  
25                  "Q     'Cause you didn't see inside



1 of it, am I right?

2 "A Yeah.

3 "Q Okay. When you first moved  
4 into the Everman house, when was that?

5 "A August 4th.

6 "Q August 4th.

7 "And who was living there  
8 already?

9 "A Todd and Ace.

10 "Q Todd and Ace.

11 "Did You notice -- did you  
12 look around the house at all when you  
13 first moved in?

14 "A No.

15 "Q The duct tape that you were  
16 talking about when you first moved in  
17 there, it was there on the coffee  
18 table, wasn't it, under the coffee  
19 table?

20 "A Not that I remember, no.

21 "Q When do you first remember  
22 seeing that?

23 "A When I was sitting in the  
24 living room one day and I just looked  
25 under the coffee table and the duct

1 tape was in there.

2 "Q And when was that?

3 "A I don't remember.

4 "Q Prior to August 14th

5 or after August 14th, the murders?

6 "A Before August 14th.

7 "Q So before you saw the duct

8 tape sitting there in the open, in the

9 living room, under the coffee table?

10 "A Yes.

11 "Q Okay. And it wasn't in this

12 duffel bag that we're talking about?

13 "A No.

14 "Q And it was Todd's house?

15 "A Yes.

16 "Q And Todd had lived there

17 for -- before you got there?

18 "A Yes.

19 "Q Was Todd Armstrong smoking

20 crack cocaine during the time that you

21 were there?

22 "A Yes.

23 "Q How many times a week would

24 he smoke cocaine?

25 "A Like four.

1 "Q Four?  
2 "A Four Or five times a week.  
3 "Q Four or five times?  
4 "A Yeah.  
5 "Q Almost every day?  
6 "A Yeah.  
7 "Q How many times per day was  
8 he smoking it?  
9 "A All day.  
10 "Q All day?  
11 "A Uh-huh.  
12 "Q You're gonna have to help me  
13 out. When you say all day, I mean --  
14 "A Like --  
15 "Q He'd start up in the  
16 morning?  
17 "A Yes.  
18 "Q And keep going at night?  
19 "A Yes.  
20 "Q Would he stay up all night?  
21 "A Yes.  
22 "Q All right. Who else was  
23 over there smoking crack cocaine?  
24 "A B.J. and Ace.  
25 "Q B.J. and Ace.

1                    "A     Yes.

2                    "Q     Who smoked the most?

3                    "A     B.J.

4                    "Q     B.J did it more than anybody

5                    else?

6                    "A     Yeah.

7                    "Q     And Ace did it quite a bit

8                    too?

9                    "A     Yes.

10                   "Q     Okay.   Where did they get

11                   the crack?

12                   "A     Most of the time they'd get

13                   it from Deko.

14                   "Q     You'd mentioned before that

15                   Deko had sold some crack cocaine to

16                   other people.

17                   "A     Yes.

18                   "Q     And you had mentioned that

19                   sometimes when he sold it he put it

20                   into a Black and Mild box, is that

21                   correct?

22                   "A     Yes.

23                   "Q     They showed you Exhibit 103,

24                   which has a box, which you said was

25                   Deko's?

1                    "A     Yes.  
2                    "Q     And a Garcia Vega?  
3                    "A     Yes.  
4                    "Q     And a Black and Mild box?  
5                    "A     Yes.  
6                    "Q     Is that the kind of box that  
7                    he would deposit the crack cocaine in  
8                    and sell it to -- or hand it to  
9                    somebody?  
10                   "A     Yes.  
11                   "Q     Okay, so he used that  
12                   sometime in his transactions?  
13                   "A     Yes.  
14                   "Q     Because it was a way to  
15                   carry the drugs away?  
16                   "A     Yes.  
17                   "Q     And that was common for him  
18                   to do that sometimes?  
19                   "A     I only seen him do it once.  
20                   "Q     Okay, how many times did you  
21                   see him sell cocaine?  
22                   "A     Like two or three times.  
23                   "Q     Two or three times, so,  
24                   30 percent of the time he'd sell it in  
25                   the Black and Mild boxes?

1                   "A     Yeah.

2                   "Q     And there's nothing odd

3                   about that?

4                   "A     No.

5                   "Q     Did you ever speak to

6                   LaShawnya Wright regarding this case?

7                   "A     No.

8                   "Q     You talked about the -- the

9                   District Attorney asked you about a

10                  VCR. Did you ever hear that Deko

11                  bought the VCR for twenty dollars from

12                  Sikia Smith?

13                  "A     No.

14                  "Q     You never heard that?

15                  "A     No.

16                  "Q     Okay. You mentioned that

17                  Deko never talked to Todd or Ace --

18                  "A     I didn't say --

19                  "Q     -- about this?

20                  "A     About this what?

21                  "Q     About this murder.

22                  "A     No, I didn't say that.

23                  "Q     He, in fact, did?

24                  "A     Yes.

25                  "Q     When did he talk to them

1 about it?

2 "A I'm not sure. I wasn't  
3 around, but they knew about it when --

4 "Q Okay.

5 "A -- they was around me.

6 "Q All right, were you present,  
7 personally, physically present, when  
8 you heard Deko talking to Todd about  
9 these murders?

10 "A No.

11 "Q Okay, were you physically  
12 present when you heard -- when Deko --  
13 if Deko spoke to Ace about these  
14 murders?

15 "A No.

16 "Q So, do you have -- what  
17 about for B.J., do you have  
18 independent knowledge that Deko spoke  
19 to B.J.? Were you there present when  
20 Deko spoke to B.J. about these  
21 murders?

22 "A No.

23 "Q Okay. So, in fact, you have  
24 no knowledge that Deko ever spoke to  
25 Ace, Todd or B.J. about these murders,

1           isn't that correct?

2           "A     No. I mean yeah, that's

3           correct.

4           "Q     So, you weren't -- you never

5           heard this conversation and you never

6           saw it?

7           "A     No?

8           "Q     Okay. When is the last time

9           you talked to Todd, Armstrong, that

10          is?

11          "A     I said hi to him yesterday.

12          "Q     Okay, how long did you talk

13          with him?

14          "A     Like Five seconds.

15          "Q     Okay, before that when's the

16          last time you talked to him?

17          "A     Like a couple of days before

18          the -- like a couple of days before

19          the murder.

20          "Q     Okay. Then after that did

21          you speak to him at all?

22          "A     No.

23          "Q     You haven't talked to him

24          since the days after the murders?

25          "A     No, no.



1           "Q     No. Now in this case under  
2           these facts, you've given five  
3           separate statements; is that right?  
4           "A     I believe so.  
5           "Q     Okay, you wrote two letters,  
6           one dated December 2nd and one dated  
7           September 27th?  
8           "A     Yes.  
9           "Q     All right. And you gave one  
10          to Channel 8 News saying I did it,  
11          that being you?  
12          "A     Yeah.  
13          "Q     And the other one you said  
14          Deko didn't do it, somebody else did  
15          it?  
16          "A     Yes.  
17          "Q     You said Todd was there and  
18          Todd wasn't there?  
19          "A     Yes.  
20          "Q     You got up in front of the  
21          Grand Jury, you promised to tell the  
22          truth and you lied?  
23          "A     Yeah.  
24          "Q     You got up there and you  
25          said, 'Okay, well, Deko did it, but he

1           wasn't wearing black pants.'

2           "A     Yes.

3           "Q     Okay, now, explain to this  
4           me. You said you wanted to help and  
5           Mr. Guymon asked you, 'Well, why would  
6           you still lie about the pants?' You  
7           got up there with the Grand Jury and  
8           you gave them a statement implicating  
9           Deko as the killer.

10          "A     Yes.

11          "Q     You knew that was gonna hurt  
12          him, am I right?

13          "A     Yes.

14          "Q     You knew your statement was  
15          gonna hurt what -- was gonna hurt him?

16          "A     Yes.

17          "Q     But you figured now, if I  
18          tell a lie about the pants and say he  
19          was wearing shorts, that that could  
20          save him?

21          "A     Yeah.

22          "Q     If you said that he  
23          committed the murders and said all  
24          these things about him, what was your  
25          thinking then about, well I'll just

1 tell them that he wasn't wearing the  
2 black pants?

3 "A 'Cause I thought maybe if I  
4 said that he was there okay that's one  
5 thing, but if they don't have no  
6 evidence that he was there then he  
7 could still get off on it.

8 "Q And you're the one that said  
9 he did the shooting, though, in the  
10 Grand Jury transcripts?

11 "A I wasn't the only one that  
12 said it though.

13 "Q My question is, you said  
14 earlier, 'Well, maybe if they think he  
15 was there, but didn't do the shooting,  
16 he could get off,' but at the Grand  
17 Jury testimony you said he was the  
18 shooter.

19 "A I said if they didn't have  
20 any evidence, if they didn't have any  
21 evidence, that he -- then they  
22 would -- he would get off.

23 "Q At the Grand Jury testimony  
24 you said that he was the shooter, am I  
25 correct?

1 "A Yes.

2 "Q Okay. Further, at the Grand  
3 Jury testimony, you stated -- you were  
4 asked what they were wearing and you  
5 said that Deko was wearing shorts; is  
6 that correct?

7 "A Yeah.

8 "Q You said again -- you were  
9 asked, 'Did Deko have any -- did Deko  
10 own any black pants,' and your answer  
11 to that was at the Grand Jury here --

12 "A That he didn't own any black  
13 pants.

14 "Q Okay. You committed what we  
15 call perjury in front of the Grand  
16 Jury? Would you agree with that?

17 "A Yeah.

18 "Q You lied under oath. You  
19 promised to tell the truth not once,  
20 not twice, three times?

21 "A If that's how many times I  
22 went, yeah.

23 "Q You gave statements you  
24 promised to tell the truth, but in the  
25 Grand Jury you lied, am I right?

1                   "A     Yeah.

2                   "Q     Have you been charged with

3                   perjury yet?

4                   "A     No.

5                   "Q     Okay. Your motivation to be

6                   here today is why?

7                   "A     Because I want to get this

8                   over with.

9                   "Q     And you don't want to go to

10                  prison, isn't that right?

11                  "A     No. That is what you think

12                  my motivation is, but no.

13                  "Q     Well, when I asked you last

14                  time, 'Why is it today your statement

15                  is consistent with the facts and

16                  you're saying Mr. Johnson did this,

17                  but you're changing the facts as to

18                  whether or not he's wearing black,'

19                  did you ever state to me, 'because I

20                  had to tell the truth because I'm

21                  going to go to jail'?

22                  "A     Yeah.

23                  "Q     You ever say that before?

24                  "A     Yeah.

25                  "Q     And that was your motivation

1 to tell the truth; isn't that right?  
2 "A At the time I was in jail,  
3 yes.  
4 "Q And that was your motivation  
5 to testify?  
6 "A Yes.  
7 "Q All right. It was the  
8 District Attorney that told you about  
9 the black pants, isn't that correct?  
10 "A Yes.  
11 "Q It was the District  
12 Attorneys or the investigators in this  
13 case that told you about the blood on  
14 the back of the pants, isn't that  
15 correct?  
16 "A Yes.  
17 "Q You had no knowledge of  
18 this?  
19 "A No.  
20 "Q You knew that was an  
21 important piece of information.  
22 "A Yes.  
23 "Q Suddenly, when you're in  
24 handcuffs, you're brought back here on  
25 a Material Witness Warrant, you're

1 placed in custody, you're told if you  
2 testify you'll be released, you then  
3 bring up the fact that yes, in fact,  
4 there are black pants isn't that  
5 correct?

6 "A I think I brought it up  
7 before then.

8 "Q When?

9 "A Like maybe the last -- I  
10 don't know.

11 "Q What statement? What of  
12 these five statements did you -- did  
13 you bring that up in?

14 "A Or maybe I didn't.

15 "Q Maybe it was the last one  
16 after you were in handcuffs --

17 "A Okay.

18 "Q Let's talk a little bit  
19 about Todd. How long have you known  
20 Todd?

21 "A I met him on August 4th.

22 "Q On August 4th?

23 "A Yeah.

24 "Q And how long have you known  
25 Ace, did you know Ace?

1                    "A        I met him in like the end of  
2                    July.  
3                    "Q        Okay.    What's a lick?  
4                    What's that called -- what's that  
5                    considered, a lick?  
6                    "A        Like when somebody go rob  
7                    somebody to get some money.  
8                    "Q        Okay.    Did Todd ever want to  
9                    do a lick?  
10                    "A        Yes.  
11                    "Q        Who did he want to do a lick  
12                    with?  
13                    "A        Ace.  
14                    "Q        And he was upset -- Todd was  
15                    upset that Ace hadn't done a lick with  
16                    him?  
17                    "A        Yeah.  
18                    "Q        Okay.    Todd was home the  
19                    night that Deko, Red and Sikia Smith  
20                    came back from the Everman house --  
21                    from the Terra Linda house, right?  
22                    "A        Yes.  
23                    "Q        Todd was upset that there  
24                    was no cocaine, isn't that right?  
25                    "A        Yeah.



1                   "Q     Todd expected money -- or  
2                   expected cocaine to be brought back?  
3                   "A     Yes.  
4                   "Q     Did he tell you that?  
5                   "A     No, but he was mad because  
6                   there wasn't.  
7                   "Q     Did you -- you heard him say  
8                   that though, right?  
9                   "A     Yes.  
10                  "Q     You heard him say, 'Where is  
11                  my cocaine?'  
12                  "A     Yes.  
13                  "Q     Or something to that effect?  
14                  "A     Yes.  
15                  "Q     So Todd was expecting  
16                  something to come back on this?  
17                  "A     Yes.  
18                  "Q     Do you know -- do you have  
19                  any personal knowledge of whether or  
20                  not Todd took somebody by the Terra  
21                  Linda house to show 'em where Matt  
22                  Mowen lived?  
23                  "A     No, I'm not sure about that.  
24                  "Q     Do you know if Todd ever  
25                  drove that white Ford Tempo that you

1                   talked about?

2                   "A       No.

3                   "Q       You don't know?

4                   "A       No, I don't. I don't know.

5                   "Q       Todd is the one that brought

6                   up the fact that there was \$10,000

7                   that Matt Mowen had?

8                   "A       Yes.

9                   "Q       He's the one that mentions

10                  it to everybody?

11                  "A       Yeah.

12                  "Q       He's the one that tells it

13                  to Ace; am I right?

14                  "A       I don't know if he told it

15                  to Ace.

16                  "Q       Ace was present when Todd

17                  talked about the \$10,000, am I

18                  correct?

19                  "A       Not that I know of. I don't

20                  remember seeing Ace.

21                  "Q       You don't remember seeing it

22                  or --

23                  "A       I don't remember seeing Ace

24                  there.

25                  "Q       What time on the 14th do you

1 say that now Sikia Smith, Red and Deko  
2 leave?  
3 "A Like around 8:00 o'clock.  
4 "Q 8:00 o'clock at night?  
5 "A Yeah.  
6 "Q What time do they get back?  
7 "A Like around 3:00.  
8 "Q 3:00 o'clock in the morning?  
9 "A Yeah.  
10 "Q So if somebody says that  
11 they leave later, that's wrong? How  
12 do you know it was 8:00 o'clock?  
13 "A That's what time I believe  
14 it was because I was watching  
15 something on TV.  
16 "Q What were you watching on  
17 TV?  
18 "A Martin.  
19 "Q I'm sorry?  
20 "A Martin, Martin.  
21 "Q Martin. Okay.  
22 "Did you and Todd ever have  
23 any kind of relationship?  
24 "A No.  
25 "Q Let me ask you, your name is

1 Carla Severs?  
2 "A Charla.  
3 "Q Charla Severs?  
4 "A Yes.  
5 "Q Do you also go by the name  
6 of Carla Dyess?  
7 "A No.  
8 "Q You've never used that  
9 before?  
10 "A No.  
11 "Q Carla Sedvers?  
12 "A No.  
13 "Q Kerline Esmaga?  
14 "A Yeah, I used that before.  
15 "Q Carmen Hernandez?  
16 "A I used that before.  
17 "Q You've used that before?  
18 Leijai Davis?  
19 "A I don't remember.  
20 "Q Or Davis Leijai?  
21 "A I don't know.  
22 "Q How about Kashawna Hives?  
23 "A Yes.  
24 "Q You've Used that before.  
25 Kim Davis?

1                   "A     I don't remember.  
2                   "Q     How many aliases do you use?  
3                   "A     I might have used like five  
4                   of 'em. I don't know.  
5                   "Q     Five?  
6                   "A     Yeah.  
7                   "Q     As many as you need?  
8                   "A     In different states --  
9                   "Q     Whatever?  
10                  "A     -- I might use a different  
11                  name.  
12                  "Q     Whatever you need to need to  
13                  do to get by?  
14                  "A     Is That a question?  
15                  "Q     Yes. Whatever name you need  
16                  at the time you use?  
17                  "A     Whatever name I gave them,  
18                  yes.  
19                  "Q     Okay. You have a possession  
20                  of a stolen vehicle charge?  
21                  "A     Yes.  
22                  "Q     Do you know how long you  
23                  could? That's a felony, right?  
24                  "A     I believe so, yes.  
25                  "Q     How long could you serve in

1           prison on that felony, do you know?

2           "A     Not as long as murder -- no,

3           I don't.

4           "Q     How many years?

5           "A     I don't know.

6           "Q     Did you ever speak to

7           your -- any attorney regarding that?

8           "A     No.

9           "Q     Did you ever look up in the

10          law library on how long you could

11          spend in there?

12          "A     No.

13          "Q     And you know it's a felony?

14          "A     Yeah.

15          "Q     Okay. And if you testify

16          today and you stay out of trouble,

17          what happens to that felony?

18          "A     It wasn't if I testified,

19          it's if I grant my subpoenas and stay

20          out of trouble then it would be

21          dismissed.

22          "Q     The subpoena is to come here

23          and testify, right?

24          "A     Yes?

25          "Q     So in order to follow and

1 grant your subpoena, you got to come  
2 to court?

3 "A Yeah, but you're trying to  
4 make it sound different.

5 "Q Did you think you were just  
6 going to come to court and sit in the  
7 back?

8 "A Well, you was trying to make  
9 it sound different than what it really  
10 is.

11 "Q I'm just trying to find the  
12 truth.

13 "A Okay.

14 "Q You're here today because of  
15 a subpoena?

16 "A Yeah.

17 "Q You're here testifying  
18 because you were subpoenaed to testify  
19 in court?

20 "A Yeah.

21 "Q All right. So in order to  
22 grant your subpoena or follow your  
23 subpoena, once you do that and you  
24 stay out of trouble, your felony is  
25 dismissed?

1                   "A     Yeah.

2                   "Q     And you also were let out of  
3                   prison or out of jail on a Material  
4                   Witness Warrant, am I right?

5                   "A     Yeah.

6                   "Q     You were let out because you  
7                   testified on behalf of the State, am I  
8                   right?

9                   "A     I don't know. I was let out  
10                  'cause the Judge didn't feel I was an  
11                  accomplice, so he let me out.

12                  "Q     I'm sorry, I didn't  
13                  understand that?

14                  "A     I was let out 'cause the  
15                  Judge didn't feel I was an accomplice  
16                  and that's how I was let out.

17                  "Q     He did not think you were an  
18                  accomplice?

19                  "A     Yes, the Judge didn't think  
20                  that.

21                  "Q     Isn't it true that he let  
22                  you out that because once you  
23                  testified the bond can be lifted?

24                  "A     No, because when I was  
25                  reading my statement, he said -- he



1           said if I do the deposition that  
2           doesn't mean I get out. If he thinks,  
3           after my deposition, that I'm not an  
4           accomplice, then my release will be  
5           looked at. He said it at the  
6           beginning of the deposition.

7           "Q     In the beginning of the  
8           deposition?

9           "A     Yeah.

10          "Q     In the beginning of the  
11          deposition, I'm the one that raised  
12          the fact that you may have been an  
13          accomplice, isn't that correct?

14          "A     Yes.

15          "Q     But when the District  
16          Attorney said that they have no reason  
17          to believe that you're an accomplice,  
18          the argument's gone, am I right, the  
19          argument was gone at that time?

20          "A     No, not that I believe. I  
21          just know what the Judge said on the  
22          paper.

23          "Q     Let me ask you this,  
24          Miss Severs. If you were to testify  
25          today that Donte had nothing to do

1 with it, do you think that that felony  
2 would be dismissed?

3 "A No.

4 "Q Okay. You had written a  
5 letter previously regarding this case,  
6 do you remember that, so you had a  
7 couple of letters. In one of those  
8 letters you said -- well, strike that.  
9 No further questions, your Honor."

10 **MR. DASKAS:** And then there was further  
11 redirect by the State, Judge.

12 **THE COURT:** All right.

13

14 REDIRECT EXAMINATION

15 **BY MR. DASKAS:**

16 "Q Let me ask you, what was the  
17 deal that was struck on the possession  
18 of a stolen vehicle case? What were  
19 you to do?

20 "A To stay out of trouble and  
21 grant my subpoenas.

22 "Q Okay. If you didn't grant  
23 your subpoena, in other words, if you  
24 didn't come, what would happen in that  
25 case?

1                    "A        I would be -- have to go  
2                    to -- come down to District Court and  
3                    be sentenced for it or whatever.  
4                    "Q        Okay. Face a trial for the  
5                    possession of a stolen vehicle case,  
6                    right?  
7                    "A        Yes.  
8                    "Q        Or if you got in trouble  
9                    what would happen?  
10                   "A        I would have to face a trial  
11                   for it.  
12                   "Q        Did you get in any trouble  
13                   since you made that deal?  
14                   "A        No.  
15                   "Q        Did you have a lawyer on  
16                   that deal?  
17                   "A        No.  
18                   "Q        And how long ago did you  
19                   make that deal?  
20                   "A        Like maybe four or five  
21                   months ago.  
22                   "Q        Okay. And did you -- and  
23                   you honored your subpoena?  
24                   "A        Yeah.  
25                   "Q        So what do you believe is

1 going to happen to that case?

2 "A It's Going to get dismissed.

3 "Q Now if those were the

4 conditions -- was there any other

5 conditions?

6 "A No."

7 **MR. DASKAS:** The next page at line seven.

8 "Q How many conditions were

9 there on the deal that you made?

10 "A Two.

11 "Q Okay. Now you didn't get

12 into any trouble, right, so that

13 condition's met?

14 "A Yes.

15 "Q And you showed up today?

16 "A Yes."

17 **MR. DASKAS:** Page 121 at line six.

18 "Q What did you believe, if you

19 came here today, would happen --

20 "A That I would.

21 "Q -- to your possession of a

22 stolen vehicle case?

23 "A That it would get dismissed.

24 "Q Okay. And did I threaten

25 you in any way about how you were to

1           testify in this case today?

2           "A     No.

3           "Q     Did I tell you what answers  
4           to give?

5           "A     No.

6           "Q     If you came to court and you  
7           said that the Martians did the  
8           murder -- what did you believe would  
9           happen to your possession of a stolen  
10          vehicle case?

11          "A     I would have to go to trial  
12          on it.

13          "Q     Okay. Now let me ask you,  
14          has anyone tried to alter or change  
15          your testimony in any way?

16          "A     No.

17          "Q     When is the first time you  
18          learned about blood being on those  
19          pants?

20          "A     On September 1st at the  
21          Grand Jury.

22          "Q     Was there anything secretive  
23          about you learning about that?

24          "A     No.

25          "Q     Did I pull you aside and

1           whisper to you, 'By the way, you  
2           should know these things'?

3           "A     No.

4           "Q     Did I tell you any facts  
5           about the case?

6           "A     No.

7           "Q     Who was present when you  
8           learned it and how did you learn it?

9           "A     About the pants?

10          "Q     Yes."

11          **THE WITNESS:** I'm sorry. What line do you  
12 want me to start on?

13          **MR. DASKAS:** Page 123 at the very top,  
14 line one, answer.

15          "A     The Grand Jury and District  
16           Attorney.

17          "Q     Now moving to the next area,  
18           you indicated that if there was no --  
19           you used the words if there was no  
20           hard evidence maybe he would get off.

21          "A     Yes.

22          "Q     That was your term?

23          "A     Yes.

24          "Q     In your mind, what's hard  
25           evidence?

1                   "A     Like blood on some pants  
2                   that belong to him.

3                   "Q     What else would be -- I mean  
4                   is there other things that are hard  
5                   evidence?

6                   "A     Like some DNA test or  
7                   something.

8                   "Q     Okay. Is there a  
9                   distinction in -- is there a  
10                  difference in your mind between hard  
11                  evidence and what someone says?

12                  "A     Yeah.

13                  "Q     And what's the difference in  
14                  your mind?

15                  "A     I mean, if they got evidence  
16                  that will show that you was there,  
17                  they got blood or something on it,  
18                  that's like you know you can't -- just  
19                  because of what somebody says don't  
20                  mean it, 'cause it would be like my  
21                  word against his word or whatever.

22                  "Q     Okay? Now did you ever  
23                  discuss that belief with Deko?

24                  "A     About the blood on the  
25                  pants?

1                    "Q     Yes.

2                    "A     Yeah.

3                    "Q     What did Deko tell you?

4                    We'll leave that alone.

5                    "Did you ever discuss hard

6                    evidence with Deko or the subject of

7                    hard evidence with Deko?

8                    "A     I just told him that they

9                    have blood on -- why he didn't tell me

10                   about blood on his pants, because they

11                   showed me at the Grand Jury.

12                   "Q     Do you remember what he said

13                   about the blood on the pants?

14                   "A     He said he forgot -- he

15                   forgot that it was on the pants.

16                   "Q     Now they asked you if Todd

17                   expected some cocaine out of this deal

18                   and you said yes?

19                   "A     Yeah.

20                   "Q     One last area, this idea

21                   about a child. Jacquinisha was it?

22                   "A     Uh-huh.

23                   "Q     All right. When this case

24                   first -- when Donte was first

25                   arrested, did you think you were



1 pregnant?  
2 "A Yeah.  
3 "Q Did Donte know that?  
4 "A Yeah.  
5 "Q And Whose child do you think  
6 it was?  
7 "A Donte.  
8 "Q And who did Donte believe  
9 the child was?  
10 "A Donte's.  
11 "Q And why did Donte believe  
12 that?  
13 "A Because I was having sex  
14 with him.  
15 "Q Okay. And do you know --  
16 did Donte talk to you about how that  
17 made him feel, that you were pregnant?  
18 "A No.  
19 "Q Okay. Did you and Donte  
20 talk about the fact that you were  
21 pregnant?  
22 "A Not really.  
23 "Q Did you want to have Donte's  
24 child?  
25 "A Yeah.

1                   "Q     And did you lose that child?  
2                   "A     Yeah.  
3                   "Q     That pregnancy?  
4                   "A     Yeah.  
5                   "Q     From a miscarriage?  
6                   "A     Yeah.  
7                   "Q     Now, if you lost that child,  
8                   why is it you would have told Donte  
9                   that Jacquinisha was the baby?  
10                  "A     'Cause I thought it would  
11                  make him happy at least.  
12                  "Q     And why did you think it  
13                  would make him happy?  
14                  "A     Because I just thought it  
15                  would.  
16                  "Q     Did you want to still make  
17                  him happy?  
18                  "A     Yeah.  
19                  "Q     Did you want to help him  
20                  then?  
21                  "A     Help Him how?  
22                  "Q     Well, help him with his case  
23                  or make him happy?  
24                  "A     No.  
25                  "Q     Miss Severs, you used the

1 word -- or the words that you think  
2 Bug was at the house that night when  
3 they came back.  
4 "A Yeah.  
5 "Q Are you sure that Bug was at  
6 the house when Deko and Terrell came  
7 back?  
8 "A I said it's what I remember.  
9 Yeah, I think he was there.  
10 "Q You said --  
11 "A I said from what I remember,  
12 I believe he was there.  
13 "Q Okay."  
14 **MR. DASKAS:** That concluded redirect  
15 examination, Judge.  
16 **MS. JACKSON:** Recross.  
17  
18 RECROSS-EXAMINATION  
19 **BY MS. JACKSON:**  
20 "Q This Jacquinisha, you had a  
21 letter that said that she was born  
22 May 8th of '99, am I right?  
23 "A Yeah.  
24 "Q You gave testimony here in  
25 December of '99, am I right?

1                   "A     I don't know.

2                   "Q     It was closer to New Years,

3                   right?

4                   "A     Oh, yeah.

5                   "Q     Okay, it was after

6                   May 9th -- May 8th 1999, right?

7                   "A     Yeah.

8                   "Q     So really you didn't think

9                   that you were pregnant with John

10                  White's baby. In the letter you said

11                  that the baby was already born.

12                  "A     And if it was born in May

13                  '99 it would -- by December it would

14                  have already been born, 'cause May

15                  comes before December.

16                  "Q     Exactly, but then you just

17                  told the District Attorney when you

18                  were testifying you thought you were

19                  pregnant with John's baby.

20                  "A     When he got locked up and he

21                  got locked up in August of '98.

22                  "Q     This is May 9th of '99?

23                  "A     And you carry babies for

24                  nine months.

25                  "Q     That's news.

1                    "So, in fact, I just want to  
2                    make sure I understand this, there's  
3                    no Jacquinisha that was your child  
4                    that was born on May 8th of '99 and  
5                    that's just a lie?

6                    "A        Yeah.

7                    "Q        All right, you talked about  
8                    hard evidence, that evidence being,  
9                    surprisingly, DNA and blood, right?

10                   "A        Yes.

11                   "Q        Okay. You didn't bring up  
12                   any other kind of evidence which you  
13                   could consider hard evidence?

14                   "A        No.

15                   "Q        'Cause there's no  
16                   photographs in here.

17                   "You had said earlier that  
18                   other people had testified at the  
19                   Grand Jury that John White had  
20                   committed the murders.

21                   "A        Yeah.

22                   "Q        Well, you done consider  
23                   numerous other people saying that hard  
24                   evidence?

25                   "A        No.

1                    "Q        No.

2                    "So then if you just threw  
3                    the District Attorney's office and the  
4                    police awful little by talking --  
5                    saying yes, he committed the murders,  
6                    but he's wearing shorts and that way  
7                    you can't find the blood, it's all  
8                    gonna work out in the end?

9                    "A        I don't understand what  
10                    you're trying to say.

11                   "Q        Well, I'm trying to figure  
12                   out -- I still don't understand why is  
13                   it that you could say that Deko did  
14                   the killing but if I tell 'em they  
15                   don't have the blood -- or the pants  
16                   it's gonna to help him out. I'm  
17                   having trouble following that.

18                   "A        I mean, I don't see how,  
19                   because if I said he did it, okay,  
20                   that's one thing, but if have blood on  
21                   the pants and I say they're not his  
22                   pants, then how would they figure out  
23                   it was his pants and he was there?  
24                   That's what I'm trying to say.

25                   "Q        But you also said that other

1 people testified that Deko did it that  
2 day at the Grand Jury?  
3 "A Yeah, crackheads.  
4 "Q Crackheads.  
5 "And you can't trust  
6 crackheads?  
7 "A No.  
8 "Q Ace is a crackhead?  
9 "A Yeah.  
10 "Q As a matter of fact, he  
11 stole some crack cocaine from your  
12 purse at one time, isn't that right?  
13 "A Yeah.  
14 "Q Now you mentioned -- the  
15 District Attorney asked you on  
16 redirect about washing the pants.  
17 When were the pants, if you know,  
18 first discovered by the police, what  
19 date? Do you know?  
20 "A The 17th -- the 18th.  
21 "Q The 18th of August?  
22 "A Yeah.  
23 "Q And that was about four,  
24 five days after the murders?  
25 "A Yeah.

1                   "Q     If Deko would have told you,  
2                   'There's blood on there, you need to  
3                   wash the pants,' the pants would have  
4                   been washed?  
5                   "A     Yeah.  
6                   "Q     But he forgot?  
7                   "A     Yeah, that's what he said.  
8                   "Q     How hard would it have been  
9                   for you to wash those pants?  
10                  "A     It would have been real  
11                  simple.  
12                  "Q     If Deko wear those pants  
13                  after the 14th of August?  
14                  "A     No.  
15                  "Q     No?  
16                  "Did you ever have sexual  
17                  relationships with him while he was  
18                  wearing those pants?  
19                  "A     I only remember -- while he  
20                  was wearing those pants, I don't  
21                  remember.  
22                  "Q     I don't know if it was  
23                  objected to or not, the District  
24                  Attorney asked you that if Martians --  
25                  you'd have said the Martians did it



1           there would have been a problem. If  
2           you would have testified any other way  
3           than you testified back in December of  
4           '99, do you think your deal of having  
5           the case dismissed and being released  
6           from prison would have been honored?

7           "A       No.

8           "Q       No further questions, your  
9           Honor."

10  
11                   FURTHER REDIRECT EXAMINATION

12 **BY MR. DASKAS:**

13           "Q       Why is it that you're  
14           testifying the way that you are today.

15           "A       Because I want to get it  
16           over with. I don't know why the heck  
17           he's putting everybody through this.  
18           We should just get it over with.

19           "Q       Is the truth important to  
20           you today?

21           "A       Yeah.

22           "Q       Why?

23           "A       Because it needs to be over  
24           with and done."

25           **MR. DASKAS:** Judge, that concluded the

1 examination of Charla Severs.

2           **THE COURT:** All right. Thank you.

3           Call your next witness, State.

4           **MR. STANTON:** Dr. Berch Henry.

5           **THE BAILIFF:** Remain standing and face the  
6 clerk.

7           (Oath administered.)

8           **THE WITNESS:** I do.

9           **THE CLERK:** Please be seated. When you're  
10 seated, state your name and spell your name for the  
11 record.

12           **THE WITNESS:** My first name is Berch,  
13 B-E-R-C-H, last name Henry, H-E-N-R-Y.

14

15                           DIRECT EXAMINATION

16 **BY MR. STANTON:**

17           Q     Dr. Henry, how are you employed?

18           A     I'm currently the DNA laboratory manager  
19 for the Las Vegas Metropolitan Police Department  
20 forensic lab.

21           Q     Do you have any specialized training and  
22 experience to hold that position?

23           A     Yes. I have a Ph.D. in what's termed  
24 molecular biology. In other words, I spent quite a  
25 few years in academic studying DNA and some 15 years

1 in forensic DNA experience after that.

2 Q Approximately how many cases have you been  
3 involved in either as the primary analyst or  
4 biologist or in an assisting capacity dealing with  
5 DNA analysis and comparison?

6 A Certainly hundreds.

7 Q And relative to this case, State vs. Donte  
8 Johnson, are you familiar with an individual by the  
9 name of Thomas Wahl?

10 A Yes, I am.

11 Q Who is Thomas Wahl?

12 A Thomas Wahl is my most experienced DNA  
13 analyst. I've known him for the last six-and-a-half  
14 years in my capacity as DNA lab manager at Metro.

15 Q Have you reviewed his testing of DNA in  
16 this case?

17 A Yes, I have.

18 Q Are you familiar, pursuant to your  
19 testimony today, with what Tom Wahl did in this case  
20 in the underlying DNA results in this case?

21 A I believe so, yes.

22 Q Could you, Dr. Henry, explain in an  
23 overall view what DNA is, and how does it come to  
24 you in a forensic capacity? What do you do with it  
25 and what do you look for as far as DNA types?

1           A       Certainly.

2                   DNA really does one thing; it contains  
3 information. It's what makes us what we are. There  
4 are about 25- to 30,000 packets of information that  
5 make us humans, same thing for cats, but they don't  
6 have as many -- dogs, trees -- pretty much all the  
7 way down to viruses. You get your DNA, as we all  
8 know, when an egg and a sperm are fertilized or  
9 fertilized egg. Half comes from mother through the  
10 egg, half comes through sperm through the father, so  
11 DNA can be used to track evidence. It can also be  
12 used in those cases where we need to find out  
13 parentage of a particular person or item of  
14 evidence.

15                   What normally happens to us, we receive  
16 evidence -- it could be sexual, assault, it could be  
17 a homicide or any one of a number of things, and the  
18 evidence that we look for is biological material.  
19 This could be blood, this could be semen, it could  
20 be tissue -- any number of things -- even bones.  
21 What we then do is take that, isolate the DNA, and  
22 then we compare that to a known standard. By a  
23 "known standard," I mean a DNA sample that we know  
24 comes from a particular person. That's the control  
25 sample, and DNA is like most forensics, we compare

1 the DNA pattern from the evidence from the DNA from  
2 a known person, they will either match or not match.  
3 If they don't match, then that person couldn't have  
4 left that material. If they do match, we'll put a  
5 statistic on that which allows us to make a  
6 statement. What was the likelihood of that DNA  
7 coming from a particular person?

8           The parts of DNA you look at are DNA that  
9 we all have, but those DNAs differ among the human  
10 population. What you look at are series of DNA  
11 markers. These are either going to be given number  
12 names or letter names, so you simply go through and  
13 compare these. If all these match, that DNA  
14 originated from a particular person. If they did  
15 not match, that person did not leave that DNA  
16 behind.

17           Q       Dr. Henry, I want to go to the general  
18 description of the types of DNA testing that were  
19 done or known to be available in Clark County  
20 through the crime lab back in August of 1998.

21                   At that time, were there two general types  
22 of DNA testing that was available in Clark County,  
23 and then, secondarily, throughout the United States?

24           A       That's correct.

25           Q       And could you explain the two types of DNA

1 testing?

2       A     Sure. The original part, original test  
3 which was actually the second type of DNA test that  
4 was available to forensics was what's called a "dot  
5 line." Really what it was is a strip of paper that,  
6 under certain conditions, laboratory conditions --  
7 we went through the entire process, you would get a  
8 series of blue dots. These blue dots in this case  
9 were letters. You simply compare the pattern or the  
10 letters from DNA from evidence to the letters of  
11 pattern from a person, and again, they would either  
12 match or not match.

13           The second type is what is termed "STRs"  
14 which is the current method we've been using for a  
15 number of years now. This is the primary method  
16 that's used throughout the United States, in fact,  
17 throughout the world. Again, it's a series of DNA  
18 markers which differ in the population. The only,  
19 pretty much, difference in this case is these are  
20 numbers as opposed to letters, and again, you go  
21 through and compare these. If the numbers match,  
22 you could have left the DNA. If they don't match,  
23 the person didn't leave the DNA.

24       Q     Relative to the match, what you've  
25 described is this series of numbers. Is there also

1 a statistical database that you, as biologists --  
2 molecular biologists use to determine whether or not  
3 there's a genetic match?

4 A That's correct. The database is simply  
5 bean counting. It's -- you take a number of people  
6 and run exactly the techniques we use on evidence,  
7 and we put people in baskets. We look at how rare  
8 and how common each particular number is. What you  
9 can do -- all of these markers happen to be in  
10 different locations on the DNA which allows you to  
11 multiply the numbers, so if you say one of these  
12 markers is found in about ten percent of the  
13 population, a second marker is found in 10 percent  
14 of the population, you can multiply those together;  
15 so, ten percent times ten percent is actually  
16 one percent; so, of those two markers, you've  
17 actually thrown out 99 percent of the population.  
18 What we're doing is starting with everybody, and our  
19 ultimate goal is to get down to one person which  
20 would match the evidence.

21 Q And that statistical database genetically  
22 now is across ethnic lines and genetic lines as  
23 well, correct?

24 A That's correct.

25 Q And to be able to make a match?

1           A       Yes, that's correct.

2           Q       Over your right shoulder, Dr. Henry, is a  
3 series of blow-ups there, and I would ask you to go  
4 to the first one that's facing you, and that should  
5 be Exhibit 203.

6           A       Do I have to stand or should I just hold  
7 this?

8           Q       Are you familiar with what's contained on  
9 Exhibit 203?

10          A       Can everybody see this that needs to see  
11 this? I'm sorry, your Honor.

12                   **THE COURT:** Can you guys see it?

13                   **MR. WHIPPLE:** Yes, your Honor.

14                   **MS. JACKSON:** Yes.

15 **BY MR. STANTON:**

16          Q       Are you familiar with the information  
17 contained in Exhibit 203?

18          A       Yes, I am.

19          Q       Dr. Henry, beginning with the column  
20 furthest to your left that referenced as "locus,"  
21 could you please explain to this jury what is  
22 depicted in this column?

23          A       Certainly. "Locus" certainly means  
24 "location." What you're going to see is a series of  
25 these which are the STRs. They're going to be



1 followed by a series of numbers except for one,  
2 which I'll explain. These are the older methods  
3 which I talked about, the Blue Dot. One of these  
4 actually was an STR method that was done by a  
5 different method, so it always has numbers, but what  
6 I want to point out is you're going to see letters  
7 or numbers. What you simply have to do is look  
8 through here (indicating) and see if they match or  
9 don't match. In this case, however, these are  
10 controlled stains. In other words, these were taken  
11 on autopsy, blood or buccal swabs from known  
12 individuals, and as I understand it, these are the  
13 seven people primarily involved in this particular  
14 case. You see the names up here.

15 Q In the first -- when you said "known" or  
16 "reference samples," there's been previous testimony  
17 that, in this case, the police obtained the known  
18 DNA samples for the first four or the second, third,  
19 fourth and fifth columns of being the victims in  
20 this case -- from them at autopsy; is that your  
21 understanding as well?

22 A That's my understanding, yes.

23 Q And that blood taken from the victims at  
24 autopsy would be a fluid that reference samples of  
25 genetic material could be obtained?

1           A       That's correct. These are chain of  
2 custody. We know exactly where they came from and  
3 whom they came from.

4           Q       Relative to the final three columns on the  
5 far right of Exhibit 203, that is known reference  
6 samples from the three defendants in this case; is  
7 that correct?

8           A       That's correct.

9           Q       And you said -- once again, you used the  
10 term for what type of swab they --

11          A       Eventually, I think they were using  
12 actually blood stains. There's another type that  
13 you can use, which certainly is valid, which are  
14 called "buccal swab." That's a swab with basically  
15 a Q-Tip which is taken on the big, fat inside part  
16 of the cheek. There are a lot of healthy cells, and  
17 they have a lot of DNA, and that's what we use now,  
18 primarily.

19          Q       This is the reference chart of all the  
20 significant individuals in this case?

21          A       Correct.

22          Q       Thank you, Dr. Henry.

23                   If you could take the next exhibit closest  
24 to you which should be 204.

25          A       Is this the correct one?

1 Q Actually, that's 205.

2 A There we are.

3 Q Dr. Henry, once again, as far as the locus  
4 portion of the left-hand column, that is the same  
5 criteria or items that you're looking for as far as  
6 the location of genetic markers; is that correct?

7 A That's correct. They're in the same order  
8 as on the other chart.

9 Q On the next column to your right on the  
10 right of that exhibit is something labeled "Donte  
11 Johnson."

12 Once again, that's the reference sample of  
13 the defendant in this case?

14 A That's correct.

15 Q And the next is a cigarette butt that was  
16 retrieved pursuant to earlier testimony at the Terra  
17 Linda home.

18 Could you explain what the results in  
19 Column No. 3 mean as it relates to identifying who  
20 the donor of that genetic material was?

21 A Okay. What we normally do again is  
22 compare, so DNA is isolated from a reference  
23 standard, in this case, Mr. Johnson. We run the  
24 test that we do, either the old type Blue Dot test  
25 or STR test. We generate a series of numbers, as

1 you can see. Then what happens is at a separate  
2 time, we would isolate DNA from the evidence, in  
3 this case, a cigarette butt. Cigarette butts --  
4 when people smoke, as I mentioned the buccal swab  
5 region, there's a lot of nice, healthy cells in  
6 there. The same thing is true when someone smokes a  
7 cigarette. Your saliva contains cells sloughed off  
8 on the inside of the mouth, so those cells are  
9 deposited on the cigarette filter. They can be  
10 isolated in the cells, and the DNA is isolated from  
11 those, and we can compare. That gives us an  
12 indication that there's a DNA pattern on who had the  
13 cigarette butt in their mouth which may be more than  
14 one person. Some people share cigarettes.

15           What you see in this case is this  
16 particular locus or location which we all have is a  
17 16, 17. If you go to the cigarette butts, you see  
18 the same location, 16, 17. What this means is this  
19 particular individual can have that pattern at that  
20 particular locus or that particular location. If  
21 you simply follow through here in all of these  
22 locations, you can see that these numbers or letters  
23 match. Each situation we have, we put a number on  
24 that. I gave you an example of ten percent times  
25 ten percent. We simply continue to multiply

1 numbers, if they match, until you get a statistic.  
2 In this case, the statistic we use is high enough  
3 for us to make an identity statement, that is, that  
4 this DNA originated from this individual with a  
5 reasonable degree of scientific certainty. The  
6 single exception to that is what is called a  
7 "monozygotic single egg" -- in other words, when the  
8 egg is fertilized, for some reason in certain cases,  
9 we can separate them in two or more individuals.  
10 These are identical siblings. As far as we know,  
11 they have the same DNA. Regular twins, brothers, et  
12 cetera only have about 50 percent of their DNA, so  
13 in this case, we go all the way down, we put it on  
14 the list, and the number we reach is an identical  
15 number.

16 Q When you're talking about the numbers  
17 multiplying, there's, you say, from a reasonable  
18 degree of scientific certainty, that is a genetic  
19 match to the exclusion of all others known in the  
20 population save and except for the one example that  
21 you gave?

22 A That's correct.

23 Q And the final column, "sperm on black  
24 jeans," is the results the same in that case?

25 A That's correct.

1           Q     Dr. Henry, in the middle column beyond the  
2 identifiers that reference this cigarette butt,  
3 there are several numbers that are in excess or  
4 addition to the known reference sample of Donte  
5 Johnson.

6                     Could you explain what those numbers mean  
7 to you?

8           A     Certainly. That happens relatively often  
9 in forensics -- sexual assaults, some types of  
10 evidence. In other words, if two people or more  
11 people are in contact with a particular item, we can  
12 have what's termed a mixed stain. That's two people  
13 deposit their DNA. The case of cigarettes -- as I  
14 mentioned, if one person took a puff and the other  
15 person finished the cigarette off, you could expect  
16 the person that did most of the puffing to leave  
17 most of the DNA, which is normally what you get.  
18 What you see in this case is what we term "major  
19 contributor" and some "minor contributor." In this  
20 case, for instance, the 11, 12 for Mr. Johnson are  
21 the major components of the DNA. We also picked up,  
22 based on our criteria, how to interpret this a 13.  
23 I don't know where the 13 came from; it simply means  
24 there's a mixture of DNAs on this cigarette butt;  
25 the major contributor that person that left most of

1 the DNA would be Mr. Johnson.

2 Q In the major minor component of the DNA  
3 genetic material on that cigarette butt, there's no  
4 way of telling from your testing when that genetic  
5 material was deposited on that cigarette butt?

6 A No; we can't do that.

7 Q There's no way of telling whether or not  
8 that was on there before Donte Johnson's DNA was  
9 deposited on there or if it was after?

10 A That's correct.

11 Q And the testing that you do, Dr. Henry,  
12 there's criteria lab protocol that you use as a  
13 standard to determine what is a major donor or what  
14 is a minor donor in a mixed stain?

15 A That's correct.

16 Q Thank you, Dr. Henry.

17 If you could go to the final exhibit.

18 A I'm sure I can get this one right.

19 Q Exhibit 205.

20 Are you familiar with the contents of this  
21 exhibit?

22 A Yes, I am.

23 Q And I'm assuming the column to the far  
24 left identified as "locus" is the same and  
25 consistent with your previous testimony regarding

1 that portion of DNA testing?

2 A Right. These are the ones that we use,  
3 and eventually, every other laboratory in the  
4 country uses exactly the same markers.

5 Q In the second column that's labeled  
6 "Gorringer," that is one of the reference samples  
7 that is previously noted on the reference chart of  
8 one of the victims in this case?

9 A That's correct.

10 Q Now, in the third and fourth column, these  
11 are several different blood stains that were  
12 obtained from the defendant's black jeans.

13 Could you tell the jury what the results  
14 of all the different blood stains on those jeans as  
15 far as the genetic results?

16 A Sure.

17 Again, we simply take, in this case, blood  
18 from autopsy, isolate the DNA, do our usual  
19 procedure of all the markers and we generate a  
20 pattern. Again, DNA is taken in this case from  
21 blood stains. There were eight of these, I believe,  
22 on a pair of black Calvin Klein jeans. These were  
23 all typed. All of these originated from the same  
24 individual.

25 The reason you see two columns is a very



1 simple reason. If you see right here (indicating),  
2 it says "INC" for "inconclusive." That means one of  
3 two things. That means either that particular locus  
4 or DNA did not come up or it was below level of our  
5 interpretation. We have to have a certain amount of  
6 DNA before we can feel confident in making a call.  
7 In that particular instance, it was called  
8 "inconclusive." All of these matches through all of  
9 these loci except this one, that's why it's in its  
10 own individual column.

11 Q Relative to your statistical analysis in  
12 this case, Dr. Henry, do you have an opinion whether  
13 or not there is a genetic match of the blood stains  
14 being that from Tracey Gorringer?

15 A Yes, they were, to identity.

16 Q Even to the stain that's referenced as  
17 "Bloodstain H" in the far right column?

18 A Yes, that's correct.

19 Q Thank you, Dr. Henry. I'm done with that  
20 reference sample.

21 Dr. Henry, my final set of questions  
22 relate to a portion of the testing in this case  
23 dealing with Item No. 21, a cigarette butt that was  
24 found at the Terra Linda home and additional or  
25 third-party genetic testing.

1           Are you familiar with that aspect of this  
2 case?

3           A     I am familiar, but I thought it was  
4 cigarette butt 22. Might I check my notes?

5           Q     Yes, 22, I believe.

6           A     Yes, it should be Marlboro cigarette item  
7 22.

8           Q     Okay.

9                   Are you familiar with the process and the  
10 procedure about why this material was sent to an  
11 independent genetic testing facility?

12           A     As I understand it from the notes and  
13 discussions with Mr. Wahl, it's our policy, wherever  
14 possible, to leave at least half the material. The  
15 reason we do this is for a couple of reasons. One  
16 is the defense have a right to have things retested.  
17 Secondly is that new methods might come along simply  
18 that would be more informative or we can do  
19 additional tests. At this point, half of the filter  
20 paper around the filter was used up in the first  
21 test. As I understand it in this case, since it was  
22 only half this material left, a separate reference  
23 lab was chosen to do additional testing, the actual  
24 STR method. Those first 13 I showed you with  
25 numbers, that was sent out to a laboratory called

1 "Cellmark Diagnostics," and that same procedure we  
2 used, same loci was performed.

3 Q And Cellmark Diagnostics is in Germantown,  
4 Maryland?

5 A That's correct.

6 Q Are you familiar with that lab?

7 A Very familiar.

8 Q Are they a certified and accredited lab to  
9 form genetic DNA testing?

10 A Yes. They're one of the oldest in the  
11 business.

12 Q Based on the results of Cellmark's DNA,  
13 did they concur with the assessment that your lab  
14 did regarding the genetic material deposited on that  
15 cigarette butt, right?

16 A What we received from them were the STR  
17 patterns, those 13 loci that we talked about. That  
18 was sent back to us. We reviewed those results, and  
19 it was compared with the STRs that was done on a  
20 sample from Mr. Johnson in our laboratory.

21 Q And Dr. Henry, finally, the amount of  
22 material that we're talking about that is deposited,  
23 it's a very minute genetic material that can  
24 possibly be tested; is that correct?

25 A Yes, definitely.

1 Q Depending on what cell structure of the  
2 material it is, it can be as little as the saliva --

3 MS. JACKSON: Your Honor, I'm going to  
4 object to the form. He's testifying. I think that  
5 that would be overly leading even for this type of  
6 proceeding.

7 MR. STANTON: Your Honor, I just want to  
8 get to the essential issue here, and instead of what  
9 I can do in ten questions, I can do it with one.

10 THE COURT: She's objecting, Counsel.

11 MS. JACKSON: I let him testify, like, for  
12 ten minutes.

13 THE COURT: You already made your  
14 objection. All right.

15 Sustained.

16 BY MR. STANTON:

17 Q Dr. Henry, would you be able to obtain  
18 genetic material from licking the back of a stamp?

19 A Potentially, except, of course, no one  
20 licks stamps anymore. We used to be able to do that  
21 when people did.

22 Q But it could be as little as that?

23 A It could be, but here again, it's  
24 variable. Some people have more cells. If you're  
25 one of those people that salivates a lot, you're

1 going to be putting out more cells; so, I'd say in  
2 stamps, you would have a relatively high percentage  
3 of samples that would yield to DNA results, but not  
4 all.

5 Q How about if someone were to hold a  
6 cigarette relative to the sweat or the secretions  
7 from their hand, would that possibly leave genetic  
8 material as well?

9 A Possible. Sweat is not a particularly  
10 good source simply because your skin -- the cells on  
11 your fingertips -- we all have calluses on those and  
12 those cells are dead. They don't have DNA that's  
13 usable for us in our particular methodology, so  
14 sweat, if somebody was in contact with something for  
15 a long time, like a baseball cap, you can get a  
16 pattern. Sweat is an iffy thing.

17 **MR. STANTON:** Pass the witness.

18 **MS. JACKSON:** Thank you, your Honor.

19 We have no questions of Dr. Henry.

20 **THE COURT:** You're excused. We'll take a  
21 five-minute recess.

22 The jury is admonished not to discuss this  
23 case among themselves or with anyone else, read any  
24 newspaper or television reports or listen to any  
25 radio reports or express any opinion.

1           **THE BAILIFF:** All rise.  
2           (Recess taken.)  
3           **THE BAILIFF:** All rise. Court is again in  
4 session. Please be seated and come to order.  
5           (Jury present.)  
6           **THE BAILIFF:** Be seated and come to order.  
7           **THE COURT:** Call your next witness.  
8           **MR. DASKAS:** Judge, the State calls  
9 Dr. Gary Telgenhoff, please.  
10          **THE CLERK:** Please raise your right hand.  
11          (Oath administered.)  
12          **THE WITNESS:** I do.  
13          **THE CLERK:** Please be seated. When you're  
14 seated, state your name and spell your name for the  
15 record.  
16          **THE WITNESS:** My name is Dr. Gary  
17 Telgenhoff. Last name is spelled  
18 T-E-L-G-E-N-H-O-F-F.  
19  
20                    **GARY TELGENHOFF, M.D.,**  
21           being called as a witness on behalf of the  
22 State, was first duly sworn and testified as  
23 follows:  
24           /////

25           /////

1 /////

2 DIRECT EXAMINATION

3 **BY MR. DASKAS:**

4 Q Dr. Telgenhoff, by whom are you employed?

5 A The Clark County Coroner's Office.

6 Q What is your job title?

7 A I'm a forensic pathologist, medical  
8 examiner.

9 Q You're actually a medical doctor?

10 A Yes.

11 Q You mentioned you're a forensic  
12 pathologist.

13 What is "pathology," and then tell us what  
14 is "forensic pathology"?

15 A "Pathology" is a subspecialty of medicine  
16 in which a person studies all manners of disease,  
17 like cancer, flu -- anything known to man pretty  
18 much. Most pathologists work in a hospital and  
19 diagnose tumors, read pap smears, that kind of  
20 thing. "Forensic pathology" is another step beyond  
21 that. You have to be able to first do those things,  
22 and you take another year and study abnormal deaths.

23 Q As a forensic pathologist with the Clark  
24 County Medical Examiner's Office, one of your duties  
25 primarily is to perform autopsies?

1 A Yes.

2 Q What is an autopsy?

3 A An autopsy consists of primarily looking  
4 at the outside of the body for any evidence of  
5 injury or disease process. Also, we take the organs  
6 out of the body, including the brain, and we study  
7 each and every organ involved, and we're also  
8 looking for any evidence of injury or disease  
9 process.

10 Q And is that the primary purpose of an  
11 autopsy, to determine cause and manner of death?

12 A Yes.

13 Q Give us some examples. I mentioned cause  
14 and manner of death. What does that mean to you as  
15 a forensic pathologist, both cause of death and  
16 manner of death.

17 A Cause of death is the proximate cause. If  
18 a person dies of a heart attack, coronary artery  
19 disease would be the cause. If a person dies from a  
20 gunshot wound, the gunshot wound would be the cause.  
21 Manner is a whole different area, and we have five  
22 options from which to pick. Those would include  
23 natural, accident, homicide, suicide or  
24 undetermined.

25 Q Am I correct that there are an infinite



1 number of causes of death but a finite number of  
2 manners of death?

3 A Yes.

4 Q Tell us just a little bit about your  
5 training and education that enables you to form your  
6 duties as a forensic pathologist.

7 A I have a four-year college degree in  
8 biology and chemistry. I have a master's degree in  
9 biology and physiology. I have four years of  
10 medical school. I have another five years of  
11 pathology residency training and an additional one  
12 year of forensic pathology training.

13 Q You have testified as an expert in the  
14 field of forensic pathology?

15 A Yes, many times.

16 Q Does that include the Eighth Judicial  
17 District Courts here in Clark County, Nevada?

18 A Yes.

19 Q You did not perform the autopsies in this  
20 case; am I correct?

21 A That's correct.

22 Q When I say "this case," I mean the four  
23 victims that brings us all here today.

24 A That's correct.

25 Q Who did perform the autopsies?

1           A       Robert Bucklin.

2           Q       Were you familiar with Dr. Bucklin's work?

3           A       Yes. I knew about Dr. Bucklin the first  
4 year that I was at the Clark County Coroner's  
5 Office. He was in the process of retiring, and I  
6 actually replaced him. He's no longer living. He  
7 died a couple of years ago.

8           Q       If I were to represent to you that he has  
9 previously testified that he, being Dr. Bucklin,  
10 performed in excess of 25,000 autopsies, would you  
11 agree with that?

12          A       I read that, and over a 60-year period, I  
13 would say that's about right.

14          Q       At my request, did you review the autopsy  
15 reports and photographs associated with the four  
16 victims in this case?

17          A       Yes.

18          Q       I should ask you, are reports typically  
19 generated or after an autopsy?

20          A       They're done during an autopsy, and I know  
21 that because when I first got to the Clark County  
22 Coroner's Office, I adopted the way that Dr. Bucklin  
23 did it, and he dictated directly into a recorder  
24 while he was looking at the body. That was done at  
25 the time of the examination.

1           Q     You reviewed the autopsy reports  
2 associated with the four victims in this case?  
3           A     I'm sorry?  
4           Q     You reviewed the autopsy reports  
5 associated with each victim in this case?  
6           A     Yes, I did.  
7           Q     As well as photographs?  
8           A     Yes.  
9           Q     Let me ask you, just generally, do you  
10 agree with Dr. Bucklin's findings regarding the  
11 cause and manner of death regarding the four victims  
12 in this case?  
13          A     Yes.  
14          Q     You have copies of the autopsy reports  
15 there?  
16          A     Yes, I do.  
17          Q     Can you tell me who attended the autopsies  
18 of each of the victims in this case?  
19          A     Well, I assume the same officers were on  
20 each --  
21          Q     Yes.  
22          A     -- of the cases.  
23                I'm just reading from the report on  
24 Mr. Biddle. Those detectives present were Hefner,  
25 Thowsen and Buczek as well as Crime Scene Analyst

1 Morton and Norman.

2 Q What is the purpose of having a crime  
3 scene analyst attend an autopsy?

4 A A crime scene analyst is a very  
5 hard-working individual that does a lot of the work  
6 involved in the crime scene in respect to getting  
7 fingerprints, photographs, getting trace evidence  
8 from a body, collecting blood samples at the scene,  
9 and we use them at our facility. We let them go  
10 over the body first to make sure that no trace  
11 evidence or anything is lost, and then after their  
12 expertise, then I do my part.

13 Q In this case, did Crime Scene Analyst  
14 Sheree Norman impound certain evidence associated  
15 with each victim?

16 A I read that she did, but I don't recall  
17 exactly what all she impounded.

18 Q I want to talk to you now first about the  
19 autopsy of an individual identified as Jeffrey  
20 Biddle.

21 You reviewed the reports and photographs  
22 regarding his autopsy?

23 A Yes.

24 Q Would it assist you in explaining your  
25 opinions to show photographs to you and then the

1 members of the jury?

2 A Yes.

3 **MR. DASKAS:** Judge, if I might just let  
4 the members of the court know we're going to display  
5 some autopsy photos for those members who don't want  
6 to be present.

7 **THE COURT:** All right.

8 **BY MR. DASKAS:**

9 Q Dr. Telgenhoff, let me ask you, first of  
10 all, did Dr. Bucklin provide a general description  
11 of Jeff Biddle in his autopsy report?

12 A Yes.

13 Q What is that description, please?

14 A In general, Mr. Biddle, at the time of the  
15 autopsy, weighed 173 pounds and was 5 feet 8 inches  
16 tall.

17 Q Did he provide an apparent age of Jeff  
18 Biddle?

19 A I believe he did -- approximately 20 years  
20 of age.

21 Q Did Dr. Bucklin perform an external  
22 examination of Jeff Biddle?

23 A Yes.

24 **THE COURT:** Hold on a minute.

25 Let me see those photos.

1 (Counsel approached the bench.)

2 **MS. JACKSON:** Judge, may we approach and  
3 take a look at the particular ones he plans to use?

4 **THE COURT:** Yes.

5 (Sidebar conference outside the presence  
6 of the court reporter.)

7 **BY MR. DASKAS:**

8 Q Dr. Telgenhoff, let me display for the  
9 members of the jury what's been admitted as State's  
10 Exhibit 137.

11 If you would, Doctor, please just describe  
12 generally what is depicted in this photograph and  
13 the significant findings from an external  
14 examination.

15 A Well, since I didn't do the case, I can't  
16 identify which particular person this was, but I  
17 assume it's Mr. Biddle.

18 Q Correct.

19 A Obviously, there's a person lying on the  
20 gurney here face down, and it's quite obvious, and  
21 it's also present in Dr. Bucklin's report that  
22 there's an abundant amount of duct tape around the  
23 wrists and hands, as well as the ankles.

24 Q That is documented in Dr. Bucklin's  
25 report?

1           A       Yes.

2           Q       Is there a mention in the report of a  
3 gunshot wound?

4           A       Yes.

5           Q       What is the location of that gunshot  
6 wound?

7           A       The gunshot wound noted on this  
8 individual -- there's only one -- it was on the  
9 right occipital aspect of the scalp which means that  
10 it was in the back of the head just right of center.  
11 If you feel the back of your head where that bump  
12 is, that's right about where we're talking about.

13          Q       Let me display for the members of the  
14 jury, first of all, No. 145.

15                   Can you see the gunshot injury in that  
16 photograph?

17          A       Yes. It's difficult to see because of the  
18 hair and, we typically shave the area where the hair  
19 is. Right here (indicating) you can see there's a  
20 defect, and this area down here (indicating) is  
21 blood that is dried and smeared, and of course on  
22 the clothing, but this is the gunshot wound injury  
23 right here (indicating).

24          Q       Let me display for the members of the jury  
25 Exhibit 146; that's the same portion of the injury

1 with the hair now shaved.

2           A       After we shaved the hair, for obvious  
3 reasons, then you can see the details of the wound.  
4 You can see if there's any indication of range of  
5 fire, how far away the gun might have been and that  
6 kind of thing? Also, you can see if it's actually  
7 an entrance or an exit. This particular wound is  
8 definitely an entrance. It has what we call a  
9 "surrounding abrasion collar." In addition, there's  
10 singeing on the edge of the wound where fire comes  
11 out -- a flame comes out of the end of the barrel.  
12 It's very short, so to get the singeing, you have to  
13 be very close.

14           Q       Let me ask you a couple of questions about  
15 your last comment.

16                   That is an entrance wound you said?

17           A       Yes.

18           Q       Was there a corresponding exit wound?

19           A       No.

20           Q       And you mentioned something about the  
21 ability to determine how close the barrel of the gun  
22 was when this injury was sustained; is that correct?

23           A       Repeat the first part of your question.

24           Q       You mentioned something about your ability  
25 to determine how close the barrel of the gun was at



1 the time this gunshot injury was sustained?

2 A Yes.

3 Q What types of things do you look for?

4 A This requires knowledge of how guns

5 discharge, what comes out of the barrel, what kind

6 of gun we're talking about, and rifles are different

7 than handguns, and handguns are different than

8 shotguns, but assuming we're talking about a

9 handgun, most handguns, if they're right against the

10 skin and it's on the scalp, you typically get a big

11 tear in the skin because the gases get shoved

12 underneath the skin and push the skin out and tear

13 it. That's not present here. Another thing that

14 happens is the flame that I mentioned. Another

15 thing that happens is that gunpowder is burnt and

16 it's turned to soot, so, within a few inches or so,

17 soot usually is apparent either on the skin or in

18 the wound. After that, after about an inch or so,

19 unburned gunpowder particles come out of the barrel

20 and scrape the skin, and this is what we call

21 "stippling" -- those little orange-red dots on the

22 skin around the wound. We don't have that here.

23 That usually occurs out to about two feet. After

24 that, we call it a "distant gunshot," and you don't

25 have any of those features; all you have is a round

1 hole, but with the singeing present but no stippling  
2 present, this gunshot wound, to me, is obviously  
3 about an inch or so away from the skin.

4 Q In other words, the barrel of the gun  
5 would have been about an inch or so away from the  
6 skin at the time the gun was discharged?

7 A That's my opinion, yes.

8 Q And if Dr. Bucklin testified similarly and  
9 if that was contained in his report, you would agree  
10 with that opinion?

11 A Yes, I would.

12 Q Was an internal examination performed on  
13 Jeff Biddle as well?

14 A Yes.

15 Q Describe, if you would, what is an  
16 "internal examination"?

17 A One moment as I --

18 Q Absolutely.

19 A -- thumb through the report.

20 Well, the bullet fragmented, as they often  
21 do when they hit bone, and the fragments went  
22 through various portions of the brain, one course  
23 downward and just beyond the base of the skull; so,  
24 Dr. Bucklin retrieved these various fragments and  
25 gave them to the crime scene analyst.

1           Q     Let me ask what may be an obvious  
2 question, but what causes a bullet to fragment?

3           A     Well, it's lead core. Sometimes bullets  
4 are jacketed. They have like a copper or a lumen  
5 coating on the outside. Usually, it's copper, but  
6 once that -- if it's jacketed at all, that usually  
7 breaks away as a free piece and the inside lead is  
8 heavy but it's soft, so if it hits anything hard, it  
9 tends to bust up into pieces.

10          Q     During the internal examination of Jeff  
11 Biddle, were the bullet fragments recovered?

12          A     Yes.

13          Q     Let me display what's been admitted as  
14 State's Exhibit 135.

15                Tell me, if you would, what is depicted in  
16 Exhibit 135?

17          A     I haven't seen those photos before, of  
18 course -- I take that back. I did see them in some  
19 photographs. Of course, I wasn't there, but this is  
20 very consistent with what Dr. Bucklin described in  
21 his report. These are fragments of a lead  
22 projectile.

23          Q     And also depicted on that exhibit is the  
24 general location, at least from which those  
25 fragments were recovered?

1           A       Yes. In this particular photograph on the  
2 left side there's a group of three fragments which  
3 he retrieved from the base of the skull or the head.  
4 Let me take that back -- he retrieved from the  
5 inside of the head. The one on the right he  
6 retrieved from the neck area, the base of the skull  
7 that I described.

8           Q       Does Dr. Bucklin describe in his report,  
9 at least generally, the trajectory of that bullet?

10          A       Yes.

11          Q       What is, generally speaking, the  
12 trajectory the this bullet traveled?

13          A       Of course it's back to front. It went in  
14 the back, slightly left to right and downward.

15          Q       Would the trajectory be consistent with  
16 the victim having been face down on the ground with  
17 someone standing over the victim an inch away and  
18 firing that gun?

19          A       Yes.

20          Q       Did Dr. Bucklin reach an opinion regarding  
21 the cause of Jeff Biddle's death?

22          A       Yes.

23          Q       What was that opinion?

24          A       Gunshot wound to the head.

25          Q       And did Dr. Bucklin reach an opinion

1 regarding the manner of Jeff Biddle's death?

2 A Yes.

3 Q How was that?

4 A Homicide.

5 Q How do we define "homicide"?

6 A The way we use it is a very general way,  
7 the death of one at the hands of another. This is  
8 probably the -- we don't address murder, per se; we  
9 address homicide which is one taking the life of  
10 another.

11 Q Do you agree with Dr. Bucklin's findings  
12 regarding both the cause and manner of death of Jeff  
13 Biddle?

14 A Yes.

15 Q Based on your experience, your expertise,  
16 how long would you expect someone to survive after  
17 having sustained this type of gunshot wound?

18 A Not very long -- a couple seconds to  
19 minutes, and it depends on how we're describing  
20 death. Unconsciousness would probably be instant.

21 Q Let me move on now to the next victim,  
22 Tracey Gorringer.

23 Did you review the autopsy reports and  
24 photographs associated with the autopsy of Tracey  
25 Gorringer?

1           A     Yes.

2           Q     Is there a general description of height,  
3 weight and age of Tracey Gorringer?

4           A     Yes.

5           Q     What is it?

6           A     The height was described as being  
7 68 inches, and at the time of the autopsy, the  
8 weight of the body was 158 pounds.

9           Q     Let me display for the members of the jury  
10 Exhibit 148.

11                     Can you please describe what's depicted in  
12 that photograph?

13           A     It looks very similar to the last photo we  
14 looked at, and having not done the case myself, I  
15 can't identify this particular body, but I assume  
16 it's Tracey Gorringer.

17           Q     Correct.

18           A     Very similar findings. We have hands and  
19 wrists bound pretty secure with duct tape. I can't  
20 really see that well down at the ankles, but I  
21 remember the description is it being there.

22           Q     At page 2 of the doctor's report --  
23 Dr. Bucklin's report, he states that the tape has  
24 produced pallor, P-A-L-L-O-R.

25                     What is "pallor"?

1           A     Can you tell me which line that's on?

2           Q     Absolutely.

3           **MR. DASKAS:** May I approach the witness,

4 Judge?

5           **THE COURT:** Yes.

6           **MR. DASKAS:** Thank you.

7           **THE WITNESS:** Okay. The ankles show

8 restriction marks due to duct tape described that

9 duct tape restrictions have reduced pallor in the

10 areas of the wrist. "Pallor" is simply blanching.

11 When you push on your skin, you can see the blood

12 retreats from the area. In a dead person, it tends

13 to stay.

14 **BY MR. DASKAS:**

15           Q     Does that suggest anything to you about

16 how tightly that duct tape was wrapped around the

17 victim's wrists and ankles?

18           A     It indicates that it's tight.

19           Q     Now, I assume that Dr. Bucklin performed

20 an external examination on Tracey Gorringer?

21           A     Yes.

22           Q     And what were the significant external

23 findings?

24           A     Well, there was -- in addition to the duct

25 tape findings, there was a gunshot wound also in the

1 back of the head in the same region; however, this  
2 one was more centered, central rather than on the  
3 right.

4 Q Let me display for the members of the jury  
5 Exhibit 151.

6 Can you please describe what is depicted  
7 in that photograph?

8 A Yes. In this picture, we see another  
9 entrance wound in the back of the head. You'll  
10 notice it's very similar to the last one, although  
11 we don't gauge caliber by the size of the wound.  
12 You can see that they're very similar in shape and  
13 size. Also, we have abrasion collar around the  
14 wound which indicates it's an entrance. There's  
15 some black singeing on the edges which indicates  
16 that it's close. There are some areas around here  
17 (indicating) where the hair isn't quite shaved well,  
18 so it looks like there's other marks here, but there  
19 is no stippling here. So, once again, we have a  
20 range that's very close, within an inch or so.

21 Q You say about an inch or so?

22 A Yes.

23 Q And again, you're referring to how close  
24 the barrel of the gun was placed to the victim's  
25 head at the time the gun was discharged?



1           A     Yes.

2           Q     This was an entrance wound?

3           A     Yes.

4           Q     Was there a corresponding exit wound?

5           A     No.

6           Q     Was an internal examination performed and

7 were bullet fragments recovered from Tracey

8 Gorringer?

9           A     Yes, as I recall. I need to look at the

10 report once again to refresh memory here.

11          Q     I think if you turn to page 4 under

12 "Description of Injuries."

13          A     Yes; I found it.

14                It went into the brain after going through

15 the skull but just below the area known as the

16 cerebellum, which is the very back bottom part of

17 the brain. It went somewhat rightward, and three

18 metal fragments were recovered from the right front

19 of the brain up in this area (indicating).

20          Q     Was the direction of the bullet from back

21 to front just like with the first victim?

22          A     Yes.

23          Q     And did the crime scene analyst, at least

24 as far as you can tell, recover and impound those

25 bullet fragments?

1           A     Yes.

2           Q     Let me display for the members of the jury  
3 Exhibit 147.

4                     Are those the three fragments you  
5 referenced in Dr. Bucklin's report?

6           A     Yes. He mentioned recovering a base of a  
7 bullet, and you can see that here (indicating). You  
8 can see how flattened out the bullet gets when it  
9 hits bone. This (indicating) -- he didn't  
10 particularly describe this, but it looks to me like  
11 it's a piece of jacketing. That might be aluminum  
12 jacketing. It's Silver color; it's not a typical  
13 copper jacket.

14          Q     The distance from which the gun was placed  
15 to the victim's head was very similar to Jeff  
16 Biddle; is that correct?

17          A     Yes, nearly identical.

18          Q     Did Dr. Bucklin reach an opinion regarding  
19 the cause of Tracey Gorringer's death?

20          A     Yes.

21          Q     What was that opinion?

22          A     Gunshot wound to the head.

23          Q     Did he reach an opinion regarding the  
24 manner of death?

25          A     Yes.

1 Q What was that opinion?

2 A Homicide.

3 Q Do you agree with those findings?

4 A Yes.

5 Q Let me ask you the same question.

6 Are the injuries and the trajectory of the

7 bullet or the fragments consistent with Tracey

8 Gorringer having been face down on the ground with

9 someone standing over him holding a gun about an

10 inch from his head and then firing the gun?

11 A Yes.

12 Q Let me move on now to the third victim,

13 Matt Mowen.

14 You reviewed his autopsy report and

15 photographs from that autopsy?

16 A Yes.

17 Q Did Dr. Bucklin provide a general

18 description of height, weight and apparent age?

19 A Yes.

20 Q What was that?

21 A The height was 69 inches, and at the time

22 of the autopsy, the weight was 189 pounds. I need

23 to check the age. About 20 years of age is what he

24 states.

25 Q I take it an external examination was

1 performed by Dr. Bucklin on Matthew Mowen?

2 A Yes.

3 Q What were the significant external  
4 findings?

5 A Again, the decedent was bound with duct  
6 tape. All three photos look pretty much the same.

7 **MR. DASKAS:** For the record, I've  
8 displayed for the members of the jury Exhibit 130,  
9 your Honor.

10 **THE WITNESS:** Here again, I can see the  
11 same almost exact tying of the duct tape around the  
12 hands and the wrists, also around the ankles. This  
13 is the way the decedents were received, the way I  
14 understand it, is face down like this.

15 **BY MR. DASKAS:**

16 Q Does Dr. Bucklin describe a gunshot injury  
17 on Matthew Mowen?

18 A Yes.

19 Q What was that description, generally  
20 speaking?

21 A This particular shot was in the neck just  
22 below the area we've been talking about right about  
23 the nape of the neck or right where the head meets  
24 the neck -- right in the midline.

25 Q Let me display for the members of the jury

1 Exhibit 134.

2 Is the gunshot wounds visible in that  
3 photograph?

4 A Yes. This is hard to get orientation on,  
5 I know, but this is the right shoulder  
6 (indicating) -- the back of the right shoulder.  
7 This would be the left shoulder over here  
8 (indicating), and looking at the back of the  
9 person's head and the back of their neck. Right up  
10 here right in the middle (indicating), the midline  
11 and right about the base of the head there, there's  
12 an obvious round gunshot wound of entry.

13 Q You say that's an entrance wound as  
14 well -- an entrance wound?

15 A Yes, absolutely.

16 Q Was there a corresponding exit wound?

17 A No.

18 Q And again, same question, did Dr. Bucklin  
19 determine how close the barrel of the gun was when  
20 Matthew Mowen sustained this injury?

21 A I think he described it as being somewhat  
22 farther away but not more than a fraction of an inch  
23 or so, the way I recall. This is an entrance  
24 (indicating), there is a larger area of singeing,  
25 and it appears to be soot disposition there

1 (indicating).

2 Q Would you agree with Dr. Bucklin's opinion  
3 regarding how close the barrel of the gun was to  
4 Matthew Mowen's head when that injury was sustained?

5 A General, yes.

6 Q It was about the same distance as was Jeff  
7 Biddle and Tracey Gorringer's injuries?

8 A This might have been a little farther  
9 away.

10 Q Was an internal examination performed  
11 which revealed the trajectory of the bullet on  
12 Matthew Mowen?

13 A Yes.

14 Q What was the trajectory of that bullet?

15 A The trajectory was basically back to  
16 front, and it went through the cervical spine or the  
17 top of the neck area and involved the upper aspect  
18 of the spinal cord. When this happens in such a  
19 traumatic way, it tends to put concussion on the  
20 brain stem which is just above it, and I would  
21 imagine the person was instantly unconscious and  
22 basically instantly dead.

23 Q Were bullet fragments recovered?

24 A I recall that they were.

25 Q Let me display for the members of the jury

1 Exhibit 127.

2 What is depicted in that photograph?

3 A On this photo, I see what I would describe  
4 as "jacketing" from the bullet, and this most likely  
5 is jacketing plus some of the core (indicating), but  
6 that's just on my view here today. He describes a  
7 couple of fragments that he recovered.

8 Q Did Dr. Bucklin reach an opinion regarding  
9 the cause of death of Matthew Mowen?

10 A Yes.

11 Q What was that opinion?

12 A The opinion is gunshot wound to the neck.

13 Q Did he reach an opinion regarding the  
14 manner of death of Matthew Mowen?

15 A Yes.

16 Q What is that opinion?

17 A Homicide.

18 Q Do you agree with those two opinions?

19 A Yes.

20 Q Same question -- are the injuries and the  
21 trajectory of the bullet on Matthew Mowen consistent  
22 with someone having fired a gunshot at close range  
23 while Matthew Mowen was face down on the ground?

24 A Yes.

25 Q Let me move now to the fourth autopsy,

1 Peter Talamentez.

2 Did you review the autopsy report and  
3 photographs associated with his autopsy?

4 A Yes.

5 Q Is there a general description of height,  
6 weight and age?

7 A General description was 105 pounds,  
8 69 inches and 17 years of age.

9 Q An external examination was done by  
10 Dr. Bucklin, correct?

11 A Yes.

12 Q What were the significant findings?

13 A Once again, there was a gunshot wound, and  
14 I'd like to review the report, once again, to get  
15 the exact details.

16 Q If that would refresh your recollection.

17 **MR. DASKAS:** For the record, I'm  
18 displaying for the members of the jury Exhibit  
19 No. 116.

20 **THE WITNESS:** Okay. This entrance wound  
21 was on the back of the head again, but it was  
22 somewhat leftward. Try to imagine this is the  
23 decedent's left, not our left, so over here behind  
24 the left ear in that area but in the back of the  
25 head. Also, you can see from this photograph that



1 we have a very similar situation as the other three  
2 cases, the same binding with duct tape in the same  
3 type and also around the ankles.

4 **BY MR. DASKAS:**

5 Q You just described the gunshot wound.

6 Let me display Exhibit No. 125.

7 Can you tell me what is depicted in that  
8 photograph?

9 A It's hard to say what's depicted in that  
10 photograph. There's a bunch of drying blood down  
11 here. This is the back of the decedent's head  
12 (indicating). I don't really -- I don't readily see  
13 a gunshot wound on this particular photograph.

14 Q Let me point here to an area behind the  
15 victim's left ear (indicating).

16 Do you see something that appears to be a  
17 gunshot wound in that location (indicating)?

18 A Possibly, but again, the lighting on the  
19 photograph isn't that good, but that's where he  
20 describes it as being.

21 Q My next question is, is that consistent  
22 with the description given by Dr. Bucklin in his  
23 report?

24 A Yes.

25 Q Does he describe that as an entrance or an

1 exit wound?

2 A He describes it as an entrance.

3 Q Would you agree with that description?

4 A From the way he described it in the  
5 report, yes.

6 Q There was no corresponding exit wound,  
7 correct?

8 A Correct.

9 Q And does Dr. Bucklin render an opinion  
10 regarding how close the barrel of the gun was at the  
11 time the victim sustained this injury?

12 A He mentioned that there's charring at the  
13 borders but no stippling, and again, that's a very  
14 similar description to all the others that we've  
15 talked about, and I don't doubt that it's probably  
16 within the same range.

17 Q About an inch or so?

18 A Yes.

19 Q Does Dr. Bucklin describe any other  
20 injuries to Peter Talamentez in the autopsy report?

21 A Yes. He mentioned something about a  
22 laceration behind the left ear, and also, I believe  
23 there's an abrasion on the nose.

24 Q Let me ask you, first of all, about the  
25 laceration behind the left ear. I'm going to point

1 to another area on Exhibit 125, what I would  
2 describe as closer to the center of the head versus  
3 the injury behind the left ear.

4 Do you understand that?

5 A Yes.

6 Q Does Dr. Bucklin describe both of those as  
7 separate injuries in his autopsy report?

8 A Yes, he did, and I can see why, because  
9 they're widely separated.

10 Q Does Dr. Bucklin give a description  
11 regarding the cause of the laceration on Peter  
12 Talamentez's head?

13 A He describes it as a "laceration" which  
14 means it's not a cut; it's a tearing or a ripping of  
15 the skin due to blunt force. If a person were to be  
16 struck with something or if they fall down and hit  
17 their head on the cement, say, for example; their  
18 scalp may be bleeding but that doesn't mean they  
19 have a cut they have a laceration. It's a smashed  
20 area of the skin that's torn apart and bleeding.

21 Q You mentioned a laceration would be caused  
22 by blunt force trauma.

23 What do you mean by "blunt force trauma"?

24 A It means anything blunt, anything other  
25 than a sharp edge like a knife.

1           Q     Anything other than something like a  
2 knife?

3           A     Yes, or broken glass or something like  
4 that.

5           Q     What about the handle of a gun, for  
6 example? If someone were pistol whipped, could that  
7 result in a laceration like this?

8           A     Absolutely.

9           Q     Is this, in fact, being consistent with  
10 being pistol whipped?

11          A     That was Dr. Bucklin's impression, and I  
12 don't disagree with it.

13          Q     You mentioned an injury to Peter  
14 Talamentez's nose.

15          A     He mentions it.

16          Q     Let me display for the members of the jury  
17 Exhibit 120.

18                Is that injury depicted in this  
19 photograph?

20          A     Yes. If you look at the face and here is  
21 the nose (indicating), you can see there's what we  
22 call "abrasion" here between the eyebrows  
23 (indicating) and also goes down the center of the  
24 nose. It's a scrape. An abrasion is a scrape.

25          Q     If Dr. Bucklin rendered an opinion that

1 the laceration to the head and the scrape to the  
2 nose occurred around the time of the victim's death,  
3 would you agree with that opinion?

4 A Yes.

5 Q Can either of those injuries, the  
6 laceration or scrape to the nose, have signs of  
7 healing?

8 A Signs of -- I'm sorry.

9 Q Signs of healing?

10 A No, not according to Dr. Bucklin.

11 Q Were the bullet fragments recovered from  
12 Peter Talamentez during an internal examination?

13 A Yes. There is -- I believe he describes  
14 it as a "large caliber." Again, I need to see the  
15 report here.

16 Q While you're doing that, let me display  
17 for the members of the jury Exhibit 113.

18 A He describes bullet fragments recovered  
19 from -- recovered close to the skull at the entrance  
20 wound and in the right frontal lobe tip, in other  
21 words, the very front of the brain. And again, we  
22 see similar fragments. Some of this, to me, is  
23 obviously aluminum or at least a light metallic  
24 jacketing, and this is the lead core.

25 Q I don't recall if I asked you this. If I

1 did, I apologize, but I'm going to ask it again.

2 Is there a description of the trajectory  
3 of the bullet or bullet fragments recovered from  
4 Peter Talamentez?

5 A He described it as left to right, upward  
6 and does not describe any other deviation, as I  
7 recall.

8 Q Whereas the other three victims were  
9 described, that is, the trajectory was back to  
10 front; Peter Talamentez was described from left to  
11 right; is that correct?

12 A I'm not sure I understand the question.

13 Q I apologize.

14 The other three victims that you described  
15 so far, the trajectory was from back to front?

16 A Yes. That was the primary angle, yes.

17 Q I think you just described the trajectory  
18 of the bullet from Peter Talamentez from left to  
19 right?

20 A That's how he lift it, yes.

21 Q Would the injuries and the trajectory of  
22 the bullet recovered from Peter Talamentez be  
23 consistent with Peter Talamentez having been face  
24 down on his right side and someone having fired a  
25 gun about an inch away into his skull?

1           A       Yes, it's consistent with that.

2           Q       Did Dr. Bucklin reach an opinion regarding

3 the cause of death of Peter Talamentez?

4           A       Yes.

5           Q       What was that?

6           A       Gunshot wound to the head.

7           Q       And did he reach an opinion regarding the

8 manner of death of Peter Talamentez?

9           A       Yes.

10          Q       What was that opinion?

11          A       Homicide.

12          Q       Do you agree with those two opinions?

13          A       Yes.

14          Q       How long would you expect Peter Talamentez

15 would have survived after having sustained this

16 injury?

17          A       Again, survival is an interesting question

18 in itself. A person can be unconscious immediately

19 but yet, not legally dead for some minutes; so, it's

20 hard to say. It depends on what you're putting your

21 emphasis on. He would be dead within minutes, I

22 would think.

23          Q       Let me jump back just for a moment to the

24 autopsy of Tracey Gorringer.

25                   Do you still have that autopsy report

1 available?

2 A Yes.

3 Q At page 2, I believe, of Dr. Bucklin's  
4 report, he mentions what he describes as very marked  
5 hemorrhage in the right upper eyelid?

6 A Yes.

7 Q He described it at trial as blackening  
8 around the eyelid.

9 What does that represent to you or suggest  
10 to you?

11 A I see it in many gunshot wounds, I see it  
12 in traffic accidents and all kinds of accidents  
13 where -- or homicide where the very fragile bones  
14 right above the eyes, above the eyeball, get  
15 fractured, and the blood from that area seeps down  
16 through the skin into the eyelids and gives the  
17 person the "raccoon eyes" some people call it.  
18 Dr. Bucklin suggests that that indicates a time  
19 frame. I'm not sure I agree with that, but that,  
20 just to me, indicates that that area of the skull  
21 was fractured.

22 Q And that's consistent with the gunshot  
23 injury that Tracey Gorringer sustained?

24 A Yes.

25 Q What are "defensive wounds"?



1           A       Defensive wounds can look different  
2 depending on what a person is being attacked with or  
3 the person being attacked. If a person is being  
4 confronted by a person with a knife, the thing you  
5 would assume a person would do is put their arms up  
6 in this fashion (indicating), and they tend to get  
7 slashes and cuts on these areas of the body that  
8 indicates the person is trying to defend themselves,  
9 at least for a period of time. If it's blunt force  
10 where a person is punching you or hitting you or  
11 with a bat, maybe you would expect bruises, and  
12 that's blunt force based on these areas of the body.

13           Q       Based on your review of the autopsy  
14 reports and all four victims in this case, did any  
15 of them have any defensive wounds whatsoever?

16           A       No.

17           Q       Finally, are toxicology reports commonly  
18 generated around the time autopsy are done?

19           A       We take fluids at the time of autopsy,  
20 they're sent to a lab in town, and it takes a number  
21 of weeks to get those back.

22           Q       What types of things is the lab looking  
23 for when you submit the blood work, for example, to  
24 the lab?

25           A       There's a list of drugs that they screen

1 for. Most of them are common drugs of abuse --  
2 marijuana, cocaine, methamphetamine, Ecstasy, a lot  
3 of the abused prescribed drugs like Valium or  
4 Oxycontin, those kind of things.

5 Q You don't have all of the toxicology  
6 reports for each victim in this case?

7 A That's correct. I notice I have a couple,  
8 but I don't have all of them.

9 Q If I were to represent to you that all  
10 four of the victims had methamphetamine, amphetamine  
11 and cocaine in their systems, you wouldn't disagree  
12 with me, would you?

13 A No. I would say that two of them  
14 definitely do; there's no reason the others didn't  
15 if that's what the report says.

16 Q If I were to represent to you that Matthew  
17 Mowen had some alcohol in his system but the others  
18 did not, you wouldn't disagree with that  
19 representation?

20 A I wouldn't disagree with it.

21 Q If Dr. Bucklin opined that the levels of  
22 drugs in the victim's system were recreational  
23 amounts, would you agree with that?

24 A Yes, and a couple of these somewhat  
25 higher.

1           Q     Were any of the levels of drugs, however,  
2 life threatening?

3           A     That's a very difficult question to  
4 answer, because I have signed out cases with these  
5 levels having died from drug abuse. However, there  
6 are many people also that do just fine on these  
7 levels; so, it totally depends on the individual,  
8 the state of their heart. Given that these people  
9 are very young, I would not expect much at this  
10 level to necessarily kill them.

11          Q     With regard to all four of these victims,  
12 what were their causes of death?

13          A     The cause of death is gunshot wounds.

14               **MR. DASKAS:** Thank you, Doctor.

15               We'll pass the witness, Judge.

16               **MS. JACKSON:** Court's indulgence.

17               We have no questions of Dr. Telgenhoff  
18 this afternoon, your Honor. Thank you so much.

19               Thank you, doctor.

20               **THE COURT:** All right.

21               You're excused.

22               **THE WITNESS:** I'm dismissed, sir?

23               **THE COURT:** Yes.

24               **THE WITNESS:** Okay. Thank you.

25               **THE COURT:** State, your next witness.

1           **MR. STANTON:** Your Honor, the State has no  
2 additional witnesses.

3           The final item from the State at this  
4 portion of the proceeding was to move to admit  
5 Exhibit 247 which has previously been shown to  
6 defense counsel. This is a certified copy of the  
7 verdict forms in State of Nevada vs. Donte Johnson  
8 by the original jury.

9           **MR. WHIPPLE:** It is correct, your Honor,  
10 they have provided it to me.

11           **THE COURT:** Any objections?

12           **MR. WHIPPLE:** None, your Honor.

13           **THE COURT:** All right. It will be  
14 admitted.

15           (State's Exhibit 247 was admitted into  
16 evidence.)

17           **MR. DASKAS:** Judge, with the exception of  
18 those witnesses that we would call in the second  
19 phase of this hearing, we will rest.

20           **THE COURT:** All right.  
21 Defense Counsel.

22           **MS. JACKSON:** Thank you, your Honor.

23           Your Honor, on behalf of Mr. Johnson we  
24 would add nothing to the State's presentation of the  
25 first part of what happened and transpired. We

1 would request permission to proceed with the  
2 mitigation portion of the penalty phase.

3 **THE COURT:** Proceed.

4 **MS. JACKSON:** Thank you, your Honor.

5

6 DEFENSE'S CASE-IN-MITIGATION

7 **MS. JACKSON:** The first witness on behalf  
8 of Mr. Johnson would be Moises Zamora.

9 **THE BAILIFF:** Remain standing and face the  
10 clerk.

11 **THE CLERK:** Raise your hand.

12 (Oath administered.)

13 **THE WITNESS:** I do.

14 **THE CLERK:** Please be seated. When you're  
15 seated, state your name and spell your name.

16 **THE WITNESS:** My name is Moises Zamora,  
17 last name is Z-A-M-O-R-A, first name is M-O-I-S-E-S.

18

19 MOISES ZAMORA,

20 being called as a witness on behalf of the  
21 Defendant, was first duly sworn and testified as  
22 follows:

23

24 DIRECT EXAMINATION

25 / / / / /

1 **BY MR. WHIPPLE:**  
2 Q Hi, Mr. Zamora.  
3 Is it okay if I call you Moises?  
4 A That would be fine.  
5 Q Moises, where do you live?  
6 A Los Angeles, California.  
7 Q How long have you lived there?  
8 A Twenty-seven years -- all my life.  
9 Q Where do you currently work?  
10 A I work for a company by the name of Beach  
11 Financial, which is a payday loan.  
12 Q And how long have you worked there?  
13 A Five years now in June.  
14 Q Now, I want to talk a few minutes about  
15 your family, if I can.  
16 Who are you married to?  
17 A Johnnisha Zamora now, which is Donte's  
18 sister.  
19 Q Okay.  
20 Do you recognize Donte here in the  
21 courtroom today?  
22 A Yes, I do.  
23 Q And what name do you know him by?  
24 A John.  
25 Q Is it John White?

1           A     Yes, John White.

2           Q     That's the name that he's used with you

3 growing up when he spent time with you in

4 California?

5           A     It's the only name that I knew him by at

6 that time.

7           Q     Now, how many children do you have?

8           A     Umm, now three -- three of my own.

9           Q     And you have those -- you share those with

10 your wife, Johnnisha?

11          A     Correct.

12          Q     When did you meet Johnnisha?

13          A     I met her in the earlier parts of February

14 of 1997.

15          Q     And may I ask, where did you meet her?

16          A     It was in the neighborhood where we grew

17 up.

18          Q     Tell me about -- how long did you date

19 before you became married?

20          A     We dated for close to five years before we

21 got married.

22          Q     And tell me -- what were some of your

23 thoughts that you had before you started a life with

24 Johnnisha?

25          A     As far as in general with her?

1 Q Yes.

2 A Nothing much. I thought she was a great  
3 person, you know. Her personality was great. I  
4 kind of thought a little bit about our future and  
5 where our future would be with the issues of our  
6 difference in race.

7 Q When did you first learn of Donte Johnson  
8 or John White?

9 A I learned of him -- it was right around  
10 May of '97.

11 Q It was right after you met Johnnisha?

12 A Yes, a few months after.

13 Q Did you have any concerns about the older  
14 brother?

15 A Ah, yeah, that was one of the concerns.

16 Q And what was that concern?

17 A Umm, just the fact that that was her only  
18 brother, and I know me over my sisters, I'm, like,  
19 very protective. I wanted to make sure they end up  
20 with the right person and are not involved with any  
21 type of, you know, bad people and stuff like that.

22 Q Would it be fair to say that that was a  
23 concern of John White's as well?

24 A I could see that being possible, yes.

25 Q Now, you mentioned your heritage.



1           Tell me a little bit of your heritage, if  
2 you would, please.

3           A     My mother is white and my father is  
4 Mexican.

5           Q     So, it's fair to say you're half Hispanic?

6           A     Yes.

7           Q     Now, with your difference in heritage from  
8 Mr. John White, was that a concern for you?

9           A     Very much.

10          Q     And why is that?

11          A     Umm, you know, in South Central, in LA,  
12 sometimes it's -- the mix between Hispanics and  
13 blacks is not all great. So, me being involved with  
14 his, what would be his little sister, would be a  
15 concern to me being the fact that, you know, growing  
16 up, I was Hispanic in the community. So, it became  
17 a little concern. I was worried at first.

18          Q     Tell me how it is that Donte Johnson or  
19 John White -- how did he treat you?

20          A     When I first met John at the time, he was  
21 visiting, and the first time I met him --

22                **MR. DASKAS:** Objection. I apologize  
23 Mr. Zamora.

24                Can we get some foundation regarding when  
25 he met the defendant, please? I apologize.

1 **BY MR. WHIPPLE:**

2 Q You already gave us 1997 when you first  
3 met Johnnisha.

4 When was it you first met John White or  
5 Donte Johnson?

6 A It was around May of '97 when he was  
7 visiting.

8 Q How did he treat you?

9 A For the most part, not any different than  
10 any other person would have treated me.

11 Q Did he make any comments about your  
12 heritage or your background being different from his  
13 own?

14 A No.

15 Q Did he ever treat you any differently  
16 because your heritage or background was different  
17 than his own?

18 A No.

19 Q Do you feel accepted as a brother of Donte  
20 Johnson, John White today?

21 A Yeah, very much.

22 Q When did you feel that acceptance occur?

23 A It was pretty rapidly. I mean, I  
24 actually -- I was surprised by the fact that, like  
25 you said, it never became an issue, it was -- he

1 just talked to me like he knew me for years past.

2 Q And did you -- did you live together at  
3 some point?

4 A Yes. I believe it was in '98, which was  
5 almost a year later. He was in town and was  
6 visiting us and stayed with us for approximately  
7 three to four weeks.

8 Q Describe to us, if you would, your  
9 relationship with Donte Johnson, John White.

10 A Living together was almost -- two men in  
11 the house talking, watching TV or kind of talking  
12 about life.

13 Q Did you have -- did you find that you had  
14 similar interests?

15 A Yes.

16 Q Did you enjoy talking to John White?

17 A Very much.

18 Q And why is that?

19 A He's got a great personality. We're about  
20 the same age, so he could relate to my life growing  
21 up and his life growing up and, you know, it wasn't  
22 that big -- it wasn't that odd to talk to him --  
23 very open.

24 Q Today, how do you feel about Donte  
25 Johnson, John White?

1           A       I love him like a family member.

2           Q       Now, you mentioned earlier that you have

3 children of your own?

4           A       Correct.

5           Q       And again, how many children of your own

6 do you have?

7           A       I have three.

8           Q       And you share those with Johnnisha, his

9 sister?

10          A       Correct.

11          Q       You've also taken in some children, a

12 child?

13          A       Yes, one.

14               **MR. WHIPPLE:** May I approach at this time?

15 **BY MR. WHIPPLE:**

16          Q       I'm showing you what's been marked as

17 Defense Proposed Exhibit KK, double-K.

18               Who is in this picture?

19          A       In this picture, this is Anijah

20 (indicating), and this is Allen (indicating).

21               **MR. WHIPPLE:** I move to admit Defense

22 Proposed Exhibit KK.

23               **MR. DASKAS:** Judge, may we approach,

24 please?

25               **THE COURT:** Yes.

1 (Sidebar conference outside the presence  
2 of the court reporter.)

3 **BY MR. WHIPPLE:**

4 Q Moises, while I'm up here, let me show you  
5 a few more photographs. This is Defense Proposed  
6 Exhibits Q, R and S.

7 Can you look at those photographs, and do  
8 you recognize the folks in those photographs?

9 A Yes.

10 **MR. WHIPPLE:** I move to admit Defense  
11 Exhibits Q, R and S.

12 **THE COURT:** Objections?

13 **MR. DASKAS:** We have no objection, Judge.

14 **THE COURT:** All right. Admitted.

15 **MR. WHIPPLE:** Thank you, your Honor.

16 (Defense Exhibits Q, R and S were admitted  
17 into evidence.)

18 **BY MR. WHIPPLE:**

19 Q Moises, if you would, please, just explain  
20 to these folks who are in these photographs.

21 A From bottom?

22 Q Sure.

23 A The little girl, that's our daughter  
24 Milan, and on the left is myself. In the middle  
25 behind my daughter is our son Mateo, and to the

1 right of him or to the right of me is my wife  
2 Johnnisha, and behind us is her mother and  
3 stepfather, Eunice and Ricky.

4 Q This is your wife Johnnisha (indicating)?

5 A Correct.

6 Q Those are your children (indicating)?

7 A Yes, two of our three.

8 Q This is Donte's sister as well  
9 (indicating)?

10 A Yes.

11 Q And his mother (indicating)?

12 A Yes.

13 Q I'm showing you Defense Exhibit R.  
14 Who is that?

15 A That's me and my son (indicating).

16 Q What's your son's name?

17 A That's Mateo, the middle child.

18 Q And Defense Exhibit S?

19 A That's me and my wife's stepfather and  
20 mother.

21 Q So, that would be the mother of Donte  
22 Johnson, John White?

23 A Yes.

24 Q Now, I have another photograph for you  
25 here.

1                   You mentioned you had another child in  
2 your home at this point?

3           A       Yes.

4           Q       And who is that?

5           A       Allen, the little boy to the right.

6           Q       Who is his father?

7           A       John White.

8           Q       And how long has he lived in your  
9 household?

10          A       Two-and-a-half years.

11          Q       And if you would, describe your  
12 relationship with Allen.

13          A       I'm his legal guardian.

14          Q       And who is his father?

15          A       John White is his father.

16          Q       And does he retain a relationship with his  
17 father to this day?

18          A       Yeah, they write.

19          Q       How does Allen act when he gets  
20 communications from his father?

21          A       He's confused sometimes.

22          Q       How important is it to Allen to get these  
23 communications or to be able to communicate with his  
24 father?

25          A       I think it's very important.

1 Q Why is that?

2 A Every kid needs a dad.

3 **MR. WHIPPLE:** Court's indulgence.

4 Nothing further.

5 Thank you, Moises.

6 **THE COURT:** State?

7

8 CROSS-EXAMINATION

9 **BY MR. DASKAS:**

10 Q Good afternoon, Mr. Zamora, is it?

11 A Yes. Thank you. Good afternoon.

12 Q You grew up your entire life in

13 Los Angeles?

14 A Yes.

15 Q South Central Los Angeles?

16 A Yes.

17 Q And is that the same area where the  
18 defendant was raised?

19 A Blocks -- blocks -- a couple blocks  
20 different.

21 Q Incidentally, you weren't asked to  
22 identify John White in court, but it's the gentleman  
23 seated to my right here?

24 A Yes.

25 Q That's the person you know as John White?



1           A       Yes.

2           Q       You never knew Mr. Donte Johnson?

3           A       Not before all this.

4           Q       How about Deko?

5           A       No.

6           Q       You work for Beach Financial, you said?

7           A       Yes.

8           Q       What do you do for that company?

9           A       I'm assistant manager.

10          Q       How long have you held that position?

11          A       Almost five years in June.

12          Q       You mentioned that you are part Hispanic?

13          A       Yes.

14          Q       There's been testimony about the person

15 you knew as John White making a reference to killing

16 someone because that person was Hispanic and he

17 didn't like Hispanics.

18                I take it that would be a surprise to you?

19          A       Very much.

20          Q       That's not the John White that you know?

21          A       No.

22          Q       But you didn't know Donte Johnson, did

23 you?

24          A       Not the character name, no.

25                **MR. DASKAS:** Thank you, sir, for your

1 time.

2 Nothing else.

3 **THE COURT:** Redirect?

4 **MR. WHIPPLE:** Nothing further, your Honor.

5 Thank you.

6 Nothing further.

7 **THE COURT:** You're excused, sir. Thank

8 you.

9 **THE WITNESS:** Thank you, sir.

10 **MS. JACKSON:** Our next witness would be

11 Mr. Arthur Cain.

12 The record will reflect I'm going to show

13 defense (sic) counsel what's been marked for

14 identification Defendant's Proposed double-L.

15 **THE CLERK:** Raise your right hand.

16 **MR. STANTON:** For the record, your Honor,

17 we're not defense counsel, we're the prosecution.

18 **THE COURT:** Hold on a minute. First

19 things first.

20 Let's get the witness sworn in first.

21 (Oath administered.)

22 **THE WITNESS:** I do.

23 **THE CLERK:** Please be seated, and then

24 state your name and spell your name.

25 **THE WITNESS:** My name Arthur Cain,

1 C-A-I-N.

2 **THE COURT:** What is that you're looking at  
3 over there?

4 **MS. JACKSON:** This is --

5 **MR. DASKAS:** I think it's a family tree.

6 **MS. JACKSON:** It's a family tree, your  
7 Honor.

8 **THE COURT:** What's the number on it? Has  
9 it been marked?

10 **MS. JACKSON:** It's double-L. We move for  
11 its admission.

12 **MR. STANTON:** No objection, your Honor.

13 **THE COURT:** All right.

14 Admitted.

15 (Defense Exhibit LL was admitted into  
16 evidence.)

17

18 **ARTHUR CAIN,**

19 being called as a witness on behalf of the  
20 Defendant, was first duly sworn and testified as  
21 follows:

22

23 **DIRECT EXAMINATION**

24 **BY MS. JACKSON:**

25 Q Good afternoon, sir.

1           A     Good afternoon.

2           Q     Do you see anyone here in the courtroom

3 that's related to you -- in the front part of the

4 courtroom that's related to you?

5           A     Yes, I do.

6           Q     Who do you see?

7           A     Johnny White.

8           Q     Johnny White.

9                 What's his relationship to you, sir?

10          A     I'm his uncle.

11          Q     You're his uncle?

12          A     Yes.

13          Q     Are you his father's brother or his

14 mother's brother?

15          A     I'm his mother's brother.

16          Q     What's his mother's name?

17          A     Eunice.

18          Q     Eunice?

19          A     Yes.

20          Q     What is your mother's name?

21          A     Jane.

22          Q     I'm going to show you --

23                 **MS. JACKSON:** Your Honor, I'm going to

24 move for --

25     /   /   /   /   /

1 **BY MS. JACKSON:**

2 Q I'm going to show you a series of  
3 photographs that's been marked for identification  
4 and have been shown to the prosecution -- V, W, Y,  
5 X, T and U.

6 Take a moment, familiarize yourself with  
7 those photographs starting from top to the bottom.  
8 Keep them in order, sir, if we could, please.

9 (Witness reviewing photographs.)

10 **BY MS. JACKSON:**

11 Q Do you recognize the person depicted in  
12 these exhibits, or persons?

13 A Yes.

14 **MS. JACKSON:** Your Honor I move for the  
15 admission of the previously listed exhibits.

16 **MR. STANTON:** No objection, your Honor.

17 **THE COURT:** Admitted.

18 (Defense Exhibits T, U, V, W, X and Y were  
19 admitted into evidence.)

20 **BY MS. JACKSON:**

21 Q I'm going to show you what's been admitted  
22 as U.

23 Who is that?

24 A That's my mother, Jane.

25 Q Jane.

1                   Is there a name that the younger children  
2 call her?

3           A       Yes.

4           Q       What is that?

5           A       Big Mama.

6           Q       Big Mama.   Okay.

7                   I want you to come over here with me,  
8 Mr. Cain; if you would just walk with me this way.  
9 Take a moment, if you would, please.

10                   **MS. JACKSON:** This is kind of close. Just  
11 pull it back a little bit.

12 **BY MS. JACKSON:**

13           Q       We have prepared a family tree, and I also  
14 have some strips of tape.

15                   The grandchildren call your mother, Jane,  
16 "Big Mama"?

17           A       Yeah.

18           Q       Take a strip of tape and place this up  
19 where we have her name right up here at the top.

20                   (Witness complies.)

21 **BY MS. JACKSON:**

22           Q       Now, your mother had how many children,  
23 sir?

24           A       Seven.

25           Q       She had seven children.

1 I'm handing you X.  
2 Do you recognize X?  
3 A Yes.  
4 Q Who is in X?  
5 A That's me.  
6 Q Okay.  
7 Take a strip of tape and place that right  
8 above your name.  
9 (Witness complies.)  
10 **BY MS. JACKSON:**  
11 Q Handing you what's been admitted into  
12 evidence as Defendant's T, who is that?  
13 A That's Faye.  
14 Q That's Faye?  
15 A Yes.  
16 Q Handing you Y -- who is depicted in Y --  
17 the sibling? For the moment, we're just going to  
18 talk about the children, the sibling of yours that's  
19 in there.  
20 A That's my young sister Lolita and my  
21 nephew Cornelius.  
22 Q Who else is in there, Mr. Cain?  
23 A Leticia and --  
24 Q Jessica?  
25 A That's Jessica.

1 Q That's Jessica.  
2 Put it right here (indicating), sir.  
3 (Witness complies.)  
4 **BY MS. JACKSON:**  
5 Q Put it up high so we don't cover up any  
6 other names.  
7 W -- who is in W, sir?  
8 A That's Schaumetta.  
9 Q That's Schaumetta?  
10 A Schaumetta.  
11 Q She's the first born?  
12 A She's the first born.  
13 Q Let's give her the first born spot over  
14 there, please.  
15 And V -- who is that?  
16 A That's Deborah.  
17 Q That's Deborah?  
18 A Yeah.  
19 Q She's next to the youngest sibling?  
20 A Yeah. The Lee baby.  
21 Q The Lee baby you say?  
22 A Yeah.  
23 Q Okay.  
24 So, we don't have a picture -- actually,  
25 we do have a picture of Pam. Hang on a minute,



1 Mr. Cain.

2 Do you recognize the person in double-B as

3 in boy? We need to turn this way until it's

4 admitted so the jury can't see it.

5 A That's Pam.

6 Q That's Pam?

7 A Yeah.

8 Q Who is Pam?

9 A That's my sister underneath me.

10 Q Okay.

11 Let's put her in her spot there.

12 **MS. JACKSON:** I move to admit BB.

13 **MR. STANTON:** No objection, your Honor.

14 **THE COURT:** Admitted.

15 **MS. JACKSON:** Thank you.

16 (Defense Exhibit BB was admitted into

17 evidence.)

18 **BY MS. JACKSON:**

19 Q Now, we have here Big Mama at the top,

20 this is your mother and your oldest sister

21 (indicating)?

22 A Yes.

23 Q This is you (indicating)?

24 A Yes.

25 Q This is Pam (indicating)?

1           A     Pam.  
2           Q     This is Eunice (indicating)?  
3           A     Eunice.  
4           Q     We'll fill her in later.  
5                 Faye, Deborah and Lolita (indicating)?  
6           A     Yeah.  
7           Q     So, all together, your mother had, what,  
8 seven children?  
9           A     Yes.  
10          Q     Okay.  
11                 You may take your chair for just a moment.  
12                 Looking at this exhibit here, your family  
13 tree, it appears that you are older than Eunice.  
14          A     Yes.  
15          Q     How much older are you than Eunice, sir?  
16          A     Four years.  
17          Q     About four years?  
18          A     Yeah.  
19          Q     Okay.  
20                 You grew up, obviously, with Eunice?  
21          A     Yeah.  
22          Q     Did your mother raise all seven of these  
23 children?  
24          A     Yes.  
25          Q     Was there a father present in the home,

1 sir?

2 A No, not at the time.

3 Q Not at the time. All right.

4 Now, Eunice -- did Eunice have some

5 difficulty that made her different that stood out

6 right away?

7 A Yes.

8 Q What were they?

9 A Well, you know, like, she's kind of, you

10 know, slow.

11 Q By "slow," do you mean to say -- in

12 school, was she in special ed classes?

13 A Yeah, she was in special classes and

14 stuff.

15 Q Does she look different?

16 A Yeah. People used to talk about her, the

17 way she looked.

18 Q Did people call her names?

19 A Called her all kind of names.

20 Q Names that were not nice?

21 A That's right.

22 Q Dumb?

23 A Yeah -- retarded, stupid.

24 Q Also, when she expressed herself, was it

25 easy for people to understand what she was saying?

1           A     Yeah, in a way, in a way.

2           Q     Did she have any difficulty speaking?

3           A     Yeah, she do.

4           Q     As a result of her disability, if I can

5 call it that, of her being slow?

6           A     Uh-huh.

7           Q     Did that cause her any difficulty as she

8 entered adolescence and being a young woman in terms

9 of attracting males?

10          A     Yeah.

11          Q     What type of difficulties did it cause

12 her, Arthur?

13          A     Repeat that again.

14          Q     Did the boys try to take advantage of her?

15          A     Because they knew she was slow.

16          Q     Did there come a time when your sister

17 Eunice had children?

18          A     Yeah, when she got married.

19          Q     Who did she marry?

20          A     Johnny White.

21          Q     Now, when you say "John White," you

22 referred to this man (indicating) as Johnny White?

23          A     Yeah.

24          Q     This is your nephew?

25          A     Yes.

1 Q The Johnny White you're talking about now?  
2 A Senior.  
3 Q Johnny White, Sr. Let's refer to him as  
4 "Senior."  
5 A Yeah.  
6 Q You knew him?  
7 A Yes.  
8 Q Do you have any idea how old your sister  
9 was when she met Mr. White?  
10 A Ooh, wee. No, I don't have no idea.  
11 Q Okay.  
12 Were you around them during the time that  
13 they got together, sir?  
14 A Yeah.  
15 Q Did they have a good relationship?  
16 A So-so, up and down.  
17 Q Up and down?  
18 A Yeah.  
19 Q Let's talk about the downs.  
20 You were speaking with me yesterday about  
21 the occasion where you were present and Mr. White  
22 was threatening your sister.  
23 A Yeah, disrespecting her.  
24 Q What do you mean "disrespecting her"?  
25 A Well, he would be calling her all kind of

1 names and talking about what he gon' do, you know.

2 Q What he would do -- in terms of physical  
3 violence?

4 A Yeah. He was talking about physical  
5 violence, but he can't do that around me.

6 Q As a matter of fact, did you, in fact,  
7 intervene and stop him on occasion from doing that  
8 in front of you?

9 A That's right.

10 Q Did there come a time that you became  
11 aware, when you were not around, that he, in fact,  
12 beat her?

13 A He might have.

14 Q Did there come a time, Arthur, when your  
15 sister began to use alcohol?

16 A Yeah.

17 Q Okay.

18 Now, she had another condition besides  
19 being slow related to her lungs?

20 A Yeah.

21 Q What was that about, do you know?

22 A Drugs.

23 Q Before the drugs, though.

24 A Uh-huh.

25 Q Isn't it true that she had a problem with

1 her lungs from birth?

2 A Oh, yeah, from birth.

3 Q As a result of that condition, was she

4 supposed to smoke, even just cigarettes?

5 A No, she wasn't supposed to smoke nothing,

6 period.

7 Q She began to smoke?

8 A Yeah, she began to smoke.

9 Q Did she begin to drink?

10 A Drink.

11 Q How did that affect her health?

12 A It affected her real bad. She had to have

13 asthma. She had to be on the asthma thing too.

14 Q So, she was already having problems?

15 A Yeah, she was already having problems.

16 Q With her health and being slow?

17 A Yeah.

18 Q How did the alcohol affect her?

19 A More problems.

20 Q More problems.

21 Did there come a time when she began to

22 use drugs?

23 A Yes.

24 Q About -- was John born yet?

25 A No, I don't think so. No, he wasn't born

1 yet.

2 Q Alrighty.

3 Did her drug use continue -- John is her

4 first child?

5 A Yeah, the first one.

6 Q Did her drug use continue after John's

7 birth?

8 A After John's birth.

9 Q Did you ever see her when -- what was the

10 drug that she would use at first, if you know?

11 A Cocaine.

12 Q Okay.

13 And do you know how that was ingested into

14 her body -- toot it, snort it, shoot it?

15 A Smoke it.

16 Q Smoke it.

17 So, again, it affected her?

18 A Her lung.

19 Q Her already undeveloped lungs?

20 A Yes.

21 Q Based upon what you observed, did there

22 come a time when Eunice was having trouble taking

23 care of her babies?

24 A No, she did not have too much trouble

25 taking care of them.



1 Q She had to have some trouble; they wound  
2 up at your mom's house.

3 A She got them took because they were  
4 staying in the wrong place.

5 Q You said she got them taken away?

6 A Taken away.

7 Q Okay.

8 After they were taken away, where did they  
9 come to live?

10 A With my grandmother.

11 Q With their grandmother?

12 A Yeah.

13 Q They came to live with Big Mama?

14 A Um-hmm.

15 Q This is your mother?

16 A Yeah.

17 Q "Big Mama," that's what the kids call her?

18 A That's what they call her, "Big Mama."

19 Q The children went to stay there after they  
20 were taken away from your sister?

21 A Yeah. They went with my mother.

22 Q Were you living in that house when the  
23 children went to stay with Big Mama?

24 A No. It was too many in there. I was  
25 ever' now and then coming through.

1 Q When you would come --  
2 **MR. STANTON:** Excuse me, your Honor.  
3 Sorry, Miss Jackson.  
4 Could I have the Court's indulgence for a  
5 second, please?  
6 **MS. JACKSON:** Can the jurors to my right  
7 see if I have this here? Can you see this  
8 (indicating).  
9 **MR. STANTON:** I don't know if the jurors  
10 here (indicating) --  
11 **MS. JACKSON:** On this side -- you can't  
12 see?  
13 Let's take this down for the time being.  
14 Thank you so much.  
15 How about now? Is this interfering at all  
16 (indicating)?  
17 Thank you, Counsel.  
18 **BY MS. JACKSON:**  
19 Q When you would go over -- you said you  
20 would come through every now and then?  
21 A Yeah, every now and then.  
22 Q How many children did she have when you  
23 would come through?  
24 A Ooh, wee.  
25 Q You said "ooh, wee"?

1           A     Yeah. They had a lot of 'em.  
2           Q     Does that mean a lot?  
3           A     She had a lot of 'em, a whole lot of 'em.  
4           Q     Now, when you would leave -- this is when  
5 she stayed -- when Big Mama stayed over on East 43rd  
6 Street?  
7           A     Forty-third Street.  
8           Q     When the times you -- when you were not  
9 there, were you still in the general neighborhood of  
10 East 43rd?  
11          A     Yeah, I would be in the neighborhood.  
12          Q     You were still pretty much able to keep --  
13          A     Yeah.  
14          Q     Who was helping her take care of all of  
15 those children?  
16          A     Well, we had a stepfather. He was helping  
17 her.  
18          Q     What was his name?  
19          A     Samuel Edwards.  
20          Q     Okay.  
21                Did you ever observe him interact with the  
22 children?  
23          A     He's pretty good.  
24          Q     He did what he could?  
25          A     Yes, he did.

1 Q She did what she could?  
2 A Uh-huh.  
3 Q All right.  
4 Did you ever see a particular, the  
5 stepfather -- which would actually be the  
6 stepgrandfather of these children -- did you ever  
7 see him in particular interact with John?  
8 A No.  
9 Q Do you remember anything in particular  
10 about John during that time that stood out, or he  
11 was just one --  
12 A One of the kids.  
13 Q -- of the ooh wee numbers that were  
14 running around?  
15 A That was it.  
16 Q Putting on the overhead Defendant's in  
17 evidence double-B, who are the people in that  
18 photograph?  
19 A That's Pamela and --  
20 Q KeKe -- Keonna?  
21 A That is Keonna (indicating).  
22 Q Yes, it is.  
23 Now, Pam is this one (indicating)?  
24 A My second sister.  
25 Q Pam is your second sister?