

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Case No. 83796

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DONTE JOHNSON,  
Petitioner,

Electronically Filed  
May 27 2022 06:36 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

v.

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

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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 9 of 50

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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

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<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

CLARK - CROSS

1 THE COURT: Folks, you notice that most of the time  
2 in the trial the direct examination, the first questions that  
3 are asked, the cross-examination relates directly to what --  
4 to what was asked on the direct examination. This is the  
5 first witness in the trial where we're doing things a little  
6 differently and you notice what Mr. Figler is now getting into  
7 isn't what Mr. Clark testifies about when he was first  
8 examined by Mr. Guymon. The reason for that is simple, just  
9 in case you're wondering what's going on. He's their witness  
10 and he was subpoenaed out of the state of California to be  
11 part of the defense case as well. Tomorrow is going to be the  
12 defense case. Rather than having Mr. Clark come back and be  
13 very strict about these rules, the State is asking what they  
14 want today and then cross-examination by Mr. Figler and Mr.  
15 Figler is also getting into what he would have asked tomorrow,  
16 which is this stuff that he's on right now.

17 Go ahead, Mr. Figler.

18 MR. FIGLER: Thank you, Judge.

19 BY MR. FIGLER:

20 Q So, you were -- you were asked by the defense to  
21 come out here to assist our defense case with regard to John  
22 White, is that accurate?

23 A Yes.

24 Q And you have no problem doing that, correct?

25 A No.

CLARK - CROSS

1 Q Okay. Now, you were telling me about an incident at  
2 this facility in 1995 involving a group you identified as  
3 Crips?

4 A Yes.

5 Q Which Crips was that?

6 A Grape Street.

7 Q And what happened, sir?

8 A I beg your pardon?

9 Q What happened that day?

10 A Oh, one of the -- one of them members had been  
11 arrested for a possible law violation and when the law  
12 violation was dismissed he wasn't released from custody  
13 because of a -- because he was on parole and once a person  
14 that's on parole is arrested they cannot be released before  
15 their -- before their case is heard by the parole board. So,  
16 the members of the -- of that particular gang wanted -- wanted  
17 us to release their person from custody and we refused so they  
18 protested. And they brought about -- close to two hundred  
19 kids to the building and surrounded it.

20 Q And police dressed in SWAT or riot gear responded to  
21 the scene?

22 A Eventually, yeah.

23 Q Now, did you have any fears that the officers might  
24 -- those SWAT type officers might try to come in and do  
25 something with the kids under your charge?

II-94

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CLARK - CROSS

1           A     Well, I asked the police department to be on standby  
2 because I thought had they -- had they come out in -- for a  
3 riot there would have -- there would have been some kids  
4 killed because you had a large number of one gang in another  
5 gang's territory, so that could have caused a lot of problems.

6           Q     Okay. You were also concerned about the police  
7 interacting with these kids who -- many of whom you probably  
8 knew, is that correct?

9           A     I know a lot of them, yeah.

10          Q     Now, the participants that you're involved with -- I  
11 assume you're not the only parole officer that's working in  
12 your office, correct?

13          A     No, I'm not.

14          Q     It's -- you have sixty of your own and you'd say  
15 it's a -- it's an extraordinarily large case load of people  
16 that your agency is there to deal with?

17          A     In '95 we had -- we had a large population.

18          Q     And a lot of those individuals came from different  
19 gangs and things like that, is that true?

20          A     Yes, it is.

21          Q     Now, I want to focus your attention on John White  
22 here, okay? Now, John was someone who was assigned to you,  
23 right?

24          A     Yes.

25          Q     Okay. So you had the ability to interaction with

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1 him, I think he came out on a -- pretty much a day to day  
2 basis?

3 A Yes.

4 Q Now, when he enrolled in the day program at your  
5 office, you know he didn't have an automobile, correct?

6 A Yes.

7 Q And he had to walk there, correct?

8 A He didn't have to walk he'd catch the bus or get a  
9 ride from other people.

10 Q But you knew that he had to cross through, on a  
11 typical basis, other gang's territories to get to your office,  
12 isn't that correct?

13 A Yes.

14 Q And would the number of six or seven different gangs  
15 probably be consistent with your recollection of how many  
16 gangs he had to pass through their territory to get to the  
17 youth facility?

18 A Yes.

19 Q Okay. So, would you agree that getting to the  
20 program, just getting to your program that you have, would  
21 require some degree of commitment and vigilance on the part of  
22 the individual?

23 A Yes.

24 Q Okay. Now, we also -- we talked about, I think,  
25 very briefly that if you're identified as belonging to a

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1 different group or a different set or a gang or something like  
2 that, that that could be a problem for you if you wind up in  
3 the wrong neighborhood, correct?

4 A Yes.

5 Q And part of that problem is extreme violence on that  
6 individual?

7 A Yes, that could be one of the outcomes.

8 Q And a lot of these gangs carry guns, is that  
9 correct?

10 A Yes.

11 Q Okay. Now, can you name some of the gangs whose  
12 territory that John had to cross in order to reach the office?  
13 Or, if I were to name some for you that might refresh your  
14 memory?

15 A No, I can name -- I can name them.

16 Q Tell us some of the gangs that he would have to  
17 cross through to get to your day program?

18 A Main Street Crip territory, East Coast Crips, well,  
19 Six Deuces East Coast Crips, Kitchen Crips, Avalon Garden  
20 Crips, Eight-Seven Family Bloods, Florencia Thirteen --

21 Q Bounty Hunters?

22 A Well, he wouldn't have to cross the Bounty Hunter  
23 territory to get to the office.

24 Q Okay.

25 A The Grape Street, Front Street, Hat Gang, yeah,

II-97

CLARK - CROSS

1 about those.

2 Q Okay. Now those, as far as racial makeup, are they  
3 made up of one racial group or are these different ones that  
4 you've mentioned?

5 A Those that I named, with the exception of Florencia,  
6 were predominantly Black gangs.

7 Q Okay. Now, are there other Latino gangs in this  
8 area, that sort of thing?

9 A There are a few, yes.

10 Q Okay. And so those are ones that you didn't even  
11 name?

12 A Yes.

13 Q Okay. Now, let's -- I'm going to use an expression  
14 that members of our jury here may not be familiar with, it's a  
15 word -- the word is "home boy," you're familiar with that?

16 A Yes.

17 Q And what's that mean?

18 A Friend.

19 Q Okay. Now, isn't it true that John didn't have any  
20 home boys or friends in your program when he was going there  
21 to the program?

22 A I don't recall him having any, no.

23 Q It's true though that on any given day when he would  
24 come in there, he could find himself in the company of a  
25 number of members of what might be considered on the street as



CLARK - CROSS

1 enemies or enemy gang sets or something like that?

2 A Yes.

3 Q Okay. Now, there was a school that was housed at  
4 the CYA office?

5 A Yes.

6 Q And it's true that John was one of the first people  
7 to enroll in that school?

8 A Yes.

9 Q And that there was other programs outside the office  
10 as well that you made reference to?

11 A Yes.

12 Q And it's true that John voluntarily entered into  
13 numerous programs, isn't that correct?

14 A Yes, he entered into the Youth Fair Chance Program,  
15 yes.

16 Q And that was voluntarily?

17 A Yes.

18 Q Okay. Now, there are a lot of rules for  
19 participants in the school in the day programs, correct?

20 A Yes.

21 Q And one of those is to not wear your colors or  
22 colors that are associated with any type of gang activity  
23 while in the program, correct?

24 A That's a rule for parole.

25 Q Okay. And John, he adhered to that rule, didn't he?

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1 A Yes.

2 Q Now, a lot of what John got in trouble for was  
3 ultimately no showing to this? That was his primary  
4 violation, isn't that correct?

5 A Yes.

6 Q Okay. He never actually did commit any actual  
7 violence, striking or hitting any staff members to your  
8 knowledge?

9 A No.

10 Q Other members of the group that were there in the  
11 school, anything like that?

12 A No.

13 Q Okay. In fact, there was that comment about one  
14 punch, isn't it true that that was sort of a joke, for lack of  
15 a better word, within your office? That if anybody got into  
16 it with John that John would be knocked out in one punch?

17 A No. As made reference to how John stated he would  
18 handle his problems when somebody got in his way or confronted  
19 him.

20 Q Okay. But you never actually saw him do anything  
21 like that?

22 A No.

23 Q A lot of braggadocio?

24 A Yes.

25 Q Okay. Hype, that sort of thing?

CLARK - CROSS

1 A Yeah.

2 Q And is that uncommon for kids to basically say more  
3 than they are in this environment?

4 A It's not uncommon for 'em to say that.

5 Q What I'm saying is that just, with your observations  
6 of kids on the street and kids interact with you that there's  
7 a good deal of puffing themselves up for respect or any number  
8 of different reasons. Is that your experience?

9 A Yes.

10 Q Okay. So they may say that they were involved in  
11 things that actually turned out not to be true just so they  
12 could get that respect?

13 A Yes.

14 Q And that's not uncommon at all, is it?

15 A Not uncommon at all.

16 Q Now, you interacted with John quite a bit. I'm sure  
17 that since, you know, you're a paid professional, you try to  
18 remain neutral but let me ask you this question, did you like  
19 John in your interactions with him? Did you have liking for  
20 John?

21 A Yes.

22 Q And did you believe that John really wanted to do  
23 right?

24 A Yes.

25 Q Okay. Would you agree with me that in this

CLARK - CROSS

1 environment that there is a certain, and I'm sure it's  
2 disturbing to you, but a certain degree of hopelessness that  
3 sort of settles in on a lot of the kids in the neighborhood,  
4 would you agree with that?

5 A Yes.

6 Q Okay.

7 A I guess, yeah.

8 Q And it was your impression of John that he really  
9 did want to do right or try to do right?

10 A Yes, during the period of time that I was able to  
11 see him.

12 Q Okay. Now, do you think and, in fact, you've  
13 indicated before that there was a great deal of -- at this  
14 time these other peers and older gang members or things like  
15 that around, and you'd say generally they do have an  
16 influence, in general, on younger or smaller or something like  
17 that kids?

18 A Yes.

19 Q Okay. Now, after John was missing from the program,  
20 he stopped coming in, he was the one that called you, correct?

21 A Yes.

22 Q Okay. And so you don't think that anyone was  
23 holding a -- any kind of force over him to make him call you?  
24 You know he called you voluntarily, right?

25 A I would assume he did, yes.

CLARK - CROSS

1 Q Okay. And he was asking you about if he could come  
2 back to the program what would happen to him, correct?

3 A Correct.

4 Q So, if he's asking you about the consequences could  
5 you figure out from his tone that he was interested in  
6 actually trying to come back to this program?

7 A That was my impression when he called me.

8 Q But you had to be truthful with him, didn't you,  
9 that he was going to be arrested and go into the adult prison?

10 A I told him he was going to be arrested and he had to  
11 go before the board.

12 Q Okay. And that probably scared him, don't you  
13 think?

14 MR. GUYMON: Objection, calls for speculation.

15 THE COURT: Sustained.

16 MR. FIGLER: Okay.

17 MR. SCISCENTO: Court's indulgence for one moment,  
18 Your Honor.

19 BY MR. FIGLER:

20 Q Mr. Clark, I'm sure that as a professional you're  
21 proud of what you do but you only have limited resources,  
22 isn't that correct?

23 A Yes.

24 Q And there is a big caseload in -- in even just your  
25 office, isn't that correct?

CLARK - CROSS

1           A     That was true in '95, yes.

2           Q     Okay. Now, you know, or do you that at some point  
3 in the history of California there were more programs and  
4 ultimately were around in the '80's and '90's, isn't that  
5 true?

6           A     Yes.

7           Q     Why don't you tell the jury about the level of  
8 commitment that California gave previous and compare that to  
9 what it ultimately turned into?

10          A     Well, in the early -- in the '70's and early '80's  
11 there was like a lot of -- a number of team posts, almost a  
12 team post facility in just about every community. As a matter  
13 of fact, our parole office used to be a parole center, a youth  
14 center, where kids could come and, you know, participate in  
15 all kinds of activities. Excuse me. There were -- where the  
16 parks were available and there was adequate staffing for  
17 activities like Little League and Pop Warner Football and  
18 those kind of activities that could be done in the community.  
19 And then when, I'm sorry -- when, I guess we had some budget  
20 cuts and the parks lost funding and so they had to cut back on  
21 staff and without staff they couldn't run the activities. And  
22 then the team posts closed and it was like one serving like  
23 seven or eight communities. And then the Boy's Clubs closed,  
24 most of them, so the number of activities were -- dwindled  
25 some.

II-104

CLARK - CROSS

1 Q So at the time that John here was a teenager going  
2 through these problems, you would say that a lot of things  
3 that might have at one time been available, really weren't  
4 available anymore because of things like budget shortfalls and  
5 that sort of thing?

6 A Yes.

7 MR. FIGLER: Court's indulgence.

8 BY MR. FIGLER:

9 Q Now, let me ask you about your knowledge of the  
10 programs that were available for the -- for the younger kids,  
11 like in the mid-'80's and so the, you know, the little tots,  
12 the five, six, seven, eight-year-olds. Was there a lot  
13 around? I mean if a kid found himself in a -- in a really bad  
14 situation was there really a lot, after these budget  
15 shortfalls and whatnot, to really take care of them?

16 A Well, for the -- when you say younger kids, you mean  
17 like tiny tots?

18 Q Well, like seven, eight years old, nine years old?

19 A Well, there's still programs available for those,  
20 they're like Head Start programs. The problem is they are --  
21 the distance, you know. They're located in the community but  
22 unless the family is aware of them then it's hard to put  
23 people in them. But we still have Head Start programs and  
24 Healthy Start programs. We also still have -- if you belong  
25 -- if you're -- if -- this is the problem as I see it. If

II-105

CLARK - CROSS

1 you're a kid that's in trouble then we can find a program for  
2 you. Yeah. But, if you're not in trouble then there's no  
3 diversionary program so to speak.

4 Q So if you're a kid on the bubble and there's just --  
5 they don't treat you as compassionately, for lack of a better  
6 word, than kids that -- well, they know they're in trouble so  
7 they have to deal with them, right?

8 A Yes, exactly.

9 Q Okay.

10 A Whereas the other ones they don't have to.

11 Q Now, you talked a lot about if you have a strong  
12 family or family involvement, an awareness of these programs,  
13 your family can help you get to these programs or support you  
14 through those programs, correct?

15 A Yes.

16 Q Now, there is a problem with drug abuse in that  
17 community, isn't that true?

18 A Yes.

19 Q And a lot of people who have drug addictions --  
20 first of all, have you seen personally the ravages of that  
21 community with regard to drugs?

22 A Yes.

23 Q Can you describe some of that to the jury, what you  
24 personally observed?

25 A Yeah, I could. I've seen homes where there's no

II-106



CLARK - CROSS

1 doors and no food, filthy. I've seen needles, needles  
2 everywhere, parks that have needles everywhere. Kids can't go  
3 out because of the needles that might -- they might get stuck  
4 with. Dilapidated conditions, that's basically how to -- the  
5 best way to describe it is, 'cause a lot of dilapidated  
6 conditions.

7 Q Okay. And often times some of these single families  
8 that we were talking about or single parent families or no  
9 parent families, they could be pretty large, large families,  
10 lot of kids?

11 A Yes. Yeah, there can be a lot of kids.

12 Q Sometimes there might be eight, ten, more kids just  
13 in one small room, that sort of thing?

14 A I've only seen that on a few cases. Basically you  
15 have maybe two or three kids or maybe four, you know. You  
16 know, young kids, dirty.

17 Q So when you have upwards of six, eight, ten that's  
18 even more problematic as far as you're concerned with the drug  
19 people and their own children, correct? You'd say that's a  
20 worse situation to have --

21 A I would say that's a worse situation and that would  
22 call for intervention by the Department of Children Services,  
23 so.

24 Q Now, what about the ability of people who are  
25 addicted or involved in drugs to really perform some of these

II-107

CLARK - REDIRECT

1 services that you're talking about. Is it -- is it diminished  
2 or am I just asking you a common sense question?

3 A I didn't understand your question.

4 Q Well, if a mother or the person or the caretaker of  
5 the small children is ravaged by the drugs, that would pretty  
6 much diminish their ability to help those kids in your  
7 experiences?

8 A Yeah.

9 Q You kind of chuckled, that goes without saying,  
10 isn't that true?

11 A Yes.

12 Q Okay. Now, you knew about John's mom?

13 A Yes.

14 Q Okay. Does she fit into that profile?

15 A I never met her but from what I read and what I  
16 recall, yeah.

17 Q Okay.

18 MR. FIGLER: Court's indulgence. Pass the witness,  
19 Your Honor.

20 THE COURT: Mr. Guymon, redirect and in your other  
21 function because of the status of this witness, cross.

22 MR. GUYMON: Thank you.

23 REDIRECT EXAMINATION

24 BY MR. GUYMON:

25 Q Mr. Clark, there is no information that you have

CLARK - REDIRECT

1 that indicates that Donte Johnson's grandmother was using  
2 drugs, is there?

3 A No, sir.

4 Q And there's no indication that Donte Johnson's  
5 grandmother's house didn't have a door on it, is there?

6 A No, sir.

7 Q There is no indication that his grandmother didn't  
8 have food on her shelves, is there?

9 A No, sir.

10 Q There is no indication that Donte Johnson, who lived  
11 at his grandmother's house had needles on the floor where  
12 Donte Johnson could step on, is there?

13 A No, sir.

14 Q Donte Johnson was given a chance to succeed in the  
15 program, wasn't he?

16 A Yes, sir.

17 Q Donte Johnson could make choices when he was at  
18 school, couldn't he?

19 A Yes, sir.

20 Q He could chose -- choose to attend in a timely  
21 fashion?

22 A Yes, sir.

23 Q He could choose to learn from what was offered to  
24 him?

25 A Yes, sir.

CLARK - REDIRECT

1 Q You're proud of the programs there at the Watts'  
2 campus, aren't you?

3 A Yes, sir.

4 Q And one can succeed if they choose to succeed with  
5 the help of professionals such as yourself?

6 A Yes, sir.

7 Q And in fact, there are competent teachers who take  
8 an interest in students and attempt to alter their lives?

9 A Yes, sir.

10 Q Students can choose to benefit from that?

11 A Yes, sir.

12 Q They can benefit from your guidance, couldn't they?

13 A Yes, sir.

14 Q Could Donte Johnson benefit from your guidance?

15 A Yes, sir.

16 Q You are one that could be an example to him, aren't  
17 you?

18 A Yes, sir.

19 Q A male figure that grew up in the area and that has  
20 succeeded?

21 A I didn't grow up in the area, but yes.

22 Q Okay. Nonetheless, he could look to you as an  
23 example?

24 A Yes, sir.

25 Q And in fact, other gang members can make choices,

CLARK - REDIRECT

1 can they not?  
2 A Yes, sir.  
3 Q In fact, many of the gang members that you deal with  
4 everyday make choices?  
5 A Yes, sir.  
6 Q They make choices to succeed?  
7 A Yes, sir.  
8 Q Make choices to change their lives?  
9 A Yes, sir.  
10 Q Make choices to get jobs?  
11 A Yes, sir.  
12 Q And to live productive lives?  
13 A Yes, sir.  
14 Q That is their choice?  
15 A Yes, sir.  
16 Q Donte Johnson had the ability to do that, didn't he?  
17 A Yes, sir.  
18 Q And in fact, he had a mind where he could learn?  
19 A Yes, sir.  
20 Q He could be taught?  
21 A Yes, sir.  
22 Q He knew right from wrong?  
23 A Yes, sir.  
24 Q And you know he knew that?  
25 A Yes, sir.

II-111

CLARK - REDIRECT

1 Q He chose to drop out of that program?  
2 A Yes, sir.  
3 Q He chose to be late?  
4 A Yes, sir.  
5 Q He chose to fail in the help that was given him?  
6 A Yes, sir.  
7 Q He chose to become a parole at large?  
8 A Yes, sir.  
9 Q You indicated that there were some powerful gangs in  
10 the area?  
11 A Yes, sir.  
12 Q Isn't it -- and in fact, you indicated that an  
13 opposing gang, a gang that was opposite his was in that area?  
14 A Yes, sir.  
15 Q That his gang and the other gang members didn't get  
16 along?  
17 A Yes, sir.  
18 Q And they ask you about gangs first, I did not speak  
19 to you about it, did I?  
20 A Right. Yes, sir.  
21 Q Okay. His gang was the Six Deuce Brims [phonetic]?  
22 A Yes, sir.  
23 Q A particularly violent gang in the area, isn't that  
24 true?  
25 A They were violent.

CLARK - REDIRECT

1 Q And it is -- we talked about gang members and you  
2 used the word respect. It is true that gang members get  
3 respect by the crimes they commit often times, isn't that  
4 true?

5 A Often times that's true.

6 Q That you gain your stripes or move up in gang life  
7 by committing heinous crimes?

8 A Yes, sir.

9 Q Not every gang member commits a quadruple homicide,  
10 do they?

11 MR. FIGLER: Objection, Your Honor.

12 THE COURT: What is the basis of the objection?

13 MR. FIGLER: Well, you know, what Your Honor, I'll  
14 bring out a lot of this on my recross, redirect but I think  
15 that he's asking this particular witness to talk about things  
16 that extend beyond the scope of his -- we're not talking about  
17 that particular event and I don't have that detail. And I  
18 don't think --

19 THE COURT: I'll sustain it on the basis it's  
20 argumentative.

21 MR. FIGLER: Thank you, Judge.

22 THE COURT: Move on to your next area.

23 BY MR. GUYMON:

24 Q Gang members are human beings?

25 A Yes, sir.

CLARK - RECROSS

1 Q That also can make choices?

2 A Yes, sir.

3 Q You are not suggesting that anyone forced Donte  
4 Johnson to make the choices he made in this case, are you?

5 A No sir, I'm not.

6 Q You're not suggesting that anyone forced him to make  
7 his choices on August 14th, 1998, are you, sir?

8 MR. FIGLER: Again, Your Honor, the same objection.

9 THE COURT: Sustained.

10 BY MR. GUYMON:

11 Q And with regards to his participation in the  
12 program, you're not suggesting that others forced him to leave  
13 the school and the program?

14 A No, sir.

15 Q And to become a parolee at large?

16 A No, sir.

17 Q You know personally about people that have succeeded  
18 under your program and at your direction?

19 A Yes, sir.

20 MR. GUYMON: I have no other questions.

21 THE COURT: Mr. Figler.

22 MR. FIGLER: Thank you, Judge.

23 RECROSS EXAMINATION

24 BY MR. FIGLER:

25 Q Let's talk about choices a little bit, Mr. Clark.



CLARK - RECROSS

1 Sometimes these kids are faced with the choice between a rock  
2 and a hard place, isn't that correct?

3 A Yes.

4 Q And it's a very difficult decision making process,  
5 isn't that correct?

6 A It can be.

7 Q Okay. Family support is one of the greatest factors  
8 in allowing the success of these individuals, isn't that  
9 correct?

10 A Yes, sir.

11 Q You emphasize that to the individuals, isn't that  
12 correct?

13 A Yes, I do.

14 Q Now, there's some questions posed to you in very  
15 rapid fire by the prosecutor and I want to follow up on them.  
16 About anyone forcing John to do anything or making him choose  
17 to do something. Would you agree that young children who  
18 don't have a family structure are somewhat impressionable?

19 A Yes, I would.

20 Q And would you agree that these older gang members  
21 prey on the younger kids because they have the ability to  
22 influence them?

23 A Yes.

24 Q They get the respect from these little kids who  
25 don't know any better, isn't that correct?

CLARK - RECROSS

1 A Yes.

2 Q Okay. Now, when someone moves up, as Mr. Guymon  
3 says, the gangs just don't come out of nowhere, it's a self-  
4 perpetuating horror, isn't it?

5 A That's how it seems.

6 Q Yeah, it -- no matter how hard you try the problem  
7 just doesn't go away, isn't that correct?

8 A Hasn't gone away yet.

9 Q But it's also true that if someone is socialized  
10 very young into this type of support group, the gang life,  
11 when they were just an impressionable kid, this is the only  
12 values that they were taught during their formative years,  
13 isn't that correct?

14 A I would say so, yes.

15 Q And that's a -- that's a huge problem with our  
16 society, isn't that true?

17 A Yes.

18 Q Do you think that John is someone who could come to  
19 understand the error of his ways someday?

20 MR. GUYMON: Objection, calls for speculation --

21 MR. FIGLER: Based on your observation.

22 MR. GUYMON: -- future, nor is he a physic, Judge.

23 THE COURT: Sustained.

24 BY MR. FIGLER:

25 Q You interacted with him during these times and with

1 these programs?

2 A Yes.

3 Q He really wanted to try to better himself?

4 MR. GUYMON: Asked and answered.

5 THE COURT: Overruled.

6 THE WITNESS: Yes.

7 BY MR. FIGLER:

8 Q And he was -- do you have any doubt at all that if  
9 there wasn't a warrant out for him that he would try to come  
10 back in and try again?

11 MR. GUYMON: Objection, calls for speculation.

12 THE COURT: Sustained.

13 BY MR. FIGLER:

14 Q Now, there's some questions about John's  
15 grandmother's house. You know that John's grandma had lots  
16 and lots and lots of kids to deal with, correct?

17 A That's -- yes, that's my understanding.

18 Q And you know that all her daughters had real bad  
19 problems with the drugs and that's why grandma was taking care  
20 of all these little kids, isn't that correct?

21 A I didn't know that for a fact.

22 Q Okay. Now, do you know about his early upbringing  
23 in the -- in the one room garage or shack?

24 A No.

25 Q Okay. Do you know about his mom's drug habits at

CLARK - RECROSS

1 that time?

2 A No.

3 Q Do you know about the carefree usage of hard drugs,  
4 like crack and those things in front of the little children?

5 A No.

6 Q Okay. Would you agree that in your experience --  
7 exposure to those type of things can be detrimental from a  
8 first -- first from a formative child?

9 A Yes.

10 Q Now, when you take all these things cumulatively,  
11 would you not agree that when people, after having been  
12 exposed to all this during their formative years are facing  
13 choices, that those choices are probably a lot more difficult  
14 than the choices that I or you might be facing?

15 A Yes, I would agree.

16 Q And that's really hard to get into these kids that  
17 you're in charge of because of the horrors that they may have  
18 witnessed or seen, isn't that correct?

19 A Yes.

20 Q A lot of these kids have seen violence in the  
21 streets, isn't that true?

22 A Yes.

23 Q A lot of these kids -- in fact, it would probably be  
24 the norm instead of the exception that a lot of these kids  
25 have seen people shot right in front of them, isn't that true

CLARK - RECROSS

1 in this neighborhood?

2 A I would say a large percentage of them have.

3 Q Or have friends or family members who have been shot  
4 or killed by the time they're not even ten years old, isn't  
5 that true?

6 A At some point in their lives, they've been exposed  
7 to somebody in their family or in their immediate vicinity  
8 that has been a victim of some kind of violence.

9 Q Okay. Now, a lot of the members of the jury here,  
10 I'm sure, haven't been to that area and so we're counting on  
11 you to kind of paint the picture for them. You work there,  
12 you tirelessly devote your time there. This is not a place  
13 that you'd want to raise a family?

14 A No, it's not.

15 Q In fact, you place -- you wish that places like  
16 this, like the neighborhoods we're talking about, weren't like  
17 the way that they are, isn't that true?

18 A This is true.

19 Q And if they were better in the -- in terms of the  
20 money that might be there or programs or parks or anything for  
21 the kids that your job might necessarily be eliminated or at  
22 least reduced, huh?

23 A It might be changed.

24 Q Might be changed. For the better, right?

25 A Yes.

CLARK - FURTHER REDIRECT/FURTHER RECROSS

1 MR. FIGLER: I'll pass the witness, Your Honor.

2 THE COURT: Anything further, Mr. Guymon?

3 MR. GUYMON: One last thing.

4 FURTHER REDIRECT EXAMINATION

5 BY MR. GUYMON:

6 Q Agent Young -- or, I'm sorry, Clark. I apologize.  
7 There was an additional condition for Donte Johnson when he  
8 came to you on parole and that was that he was to have no gang  
9 affiliation, is that correct?

10 A Yes.

11 Q And he received counseling about gang involvement,  
12 did he not?

13 A Yes.

14 Q And you had discussions with him about his gang  
15 involvements, did you not?

16 A Yes.

17 Q You attempted to remedy or help him so that he would  
18 not continue to participate in gang involvement, did you not?

19 A Yes.

20 MR. GUYMON: I have no other questions. Thanks,  
21 Judge.

22 FURTHER RECROSS EXAMINATION

23 BY MR. FIGLER:

24 Q Did John White choose to be born into the life that  
25 he was ultimately subjected to?

CLARK - FURTHER RECROSS

1 MR. GUYMON: Judge, I'm going to object. It calls  
2 for speculation.

3 THE COURT: I'll sustain it.

4 BY MR. FIGLER:

5 Q You, yourself, saw a shooting right in front of your  
6 very office, isn't that true, sir?

7 MR. GUYMON: Objection, goes beyond the scope of  
8 my --

9 THE COURT: It does but I'll permit it.

10 THE WITNESS: Yes.

11 BY MR. FIGLER:

12 Q Kids that are twelve, thirteen, fourteen, these are  
13 the kids that you deal with?

14 A No.

15 MR. GUYMON: Asked and answered, Judge.

16 THE COURT: He also answered it, no.

17 BY MR. FIGLER:

18 Q And they're a little older?

19 A The youngest kid we've dealt with has been fifteen  
20 and we keep them until their twenty-first birthday.

21 Q Okay. And you call them kids because that's what  
22 they are, they're kids, right?

23 A I call them kids because I'm older than all of them,  
24 but, yes.

25 Q And there's even younger kids that you're aware of

CLARK - FURTHER RECROSS

1 in these neighborhoods who are having very similar problems  
2 that -- what we've all been talking about today, isn't that  
3 true?

4 A Yes.

5 Q Those kids don't deserve that, do they?

6 A No.

7 MR. FIGLER: Pass, Your Honor.

8 MR. GUYMON: Nothing else, Judge.

9 THE COURT: Anything further, Mr. Guymon?

10 MR. GUYMON: No, Your Honor.

11 THE COURT: Thank you -- thank you, sir. You're  
12 excused. Called your next witness, please.

13 MR. GUYMON: Officer Ritchie.

14 THE COURT: Just for your information, folks, this  
15 is going to be a fairly short witness, then we'll take that  
16 second recess, briefly. And then we're going to hear from the  
17 last four witnesses from the prosecution who'll probably be  
18 ten to fifteen minutes each, so we're running on time.

19 IAN RITCHIE, PLAINTIFF'S WITNESS, IS SWORN

20 THE CLERK: Please be seated. State and spell your  
21 name for the record, please.

22 THE WITNESS: Ian Ritchie, I-A-N R-I-T-C-H-I-E.

23 MR. GUYMON: Judge, counsel has asked to approach.

24 (Off-record bench conference)

25 THE COURT: Go ahead.



RITCHIE - DIRECT

DIRECT EXAMINATION

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BY MR. GUYMON:

Q And Officer Ritchie, can you tell me who you're employed with?

A Las Vegas Metropolitan Police Department, Detention Services Division.

Q And very briefly, what are your responsibilities there at the Clark County Detention Center?

A Presently I'm assigned to the training staff. I'm responsible for the training of all new recruits, future officers of the Detention Center.

Q And being housed over there in the Clark County Detention Center or working there, do you have contact with the inmates from time to time?

A Yes, sir.

Q Are you familiar with an inmate by the name of Donte Johnson?

A Yes, sir.

Q Is he in court today?

A Yes, sir.

Q Will you point to him and describe an article of clothing that he's wearing in court today?

A Has the gray shirt on.

MR. GUYMON: The record --

//

II-123

RITCHIE - DIRECT

1 BY MR. GUYMON:

2 Q What color shirt?

3 A Gray, tan.

4 MR. GUYMON: The record reflect the identification  
5 of the defendant, Your Honor.

6 THE COURT: It will.

7 BY MR. GUYMON:

8 Q And tell me, when did you first have contact, in  
9 other words, when did you meet Donte Johnson?

10 A I first met him when he walked in the doors of the  
11 Detention Center, I was one of the initial ones to book him  
12 in.

13 Q For the arrest of the quadruple homicide, that being  
14 August 17th, 1998?

15 A I believe that was the date, yes, sir.

16 Q Okay. And have you had subsequent contact with him  
17 other than just that very day when he was booked?

18 A Personally, yes, one -- one other personal contact.

19 Q Okay. I want to talk about that. Let me first of  
20 all, before I talk about that contact though, are there rules  
21 and regulations that each inmate must live by or follow?

22 A Yes, sir.

23 Q And who writes those rules?

24 A The staff operations bureau. Each inmate is issued  
25 a blue handbook and they're required to read and abide by

RITCHIE - DIRECT

1 those rules at all times.

2 Q Okay. Is it important that inmates follow the rules  
3 of the Clark County Detention Center?

4 A Yes, sir.

5 Q And why?

6 A Without the rules it could create some chaos.

7 Q Now, when an inmate violates a rules over at the  
8 Clark County Detention Center, is a report actually written  
9 documenting that violation?

10 A Generally, yes, sir.

11 Q And as an officer, do you become familiar with those  
12 inmates that violate rules?

13 A Yes, sir.

14 Q In this particular case has Donte Johnson violated  
15 any of the rules there at the Clark County Detention Center?

16 A Yes, sir.

17 Q And have those violations been documented in the  
18 form of reports?

19 A Yes, sir.

20 Q And in -- have you familiarized yourself with all of  
21 the reports?

22 A Not all of them. In front of me I have  
23 approximately twenty-one reports, I know there's about twenty-  
24 one to twenty-five on record.

25 Q And tell me of this, are you familiar with that

RITCHIE - DIRECT

1 which has been documented in the twenty-one reports that you  
2 have before you?

3 A Yes, sir.

4 Q Okay. And are those reports kept, say, in a room or  
5 in a file where all the officers there at the Clark County  
6 Detention Center can review those reports in order to  
7 familiarize themselves with the type of person that is housed  
8 in any given location at the Clark County Detention Center?

9 A Yes, they are on file in the computer system.

10 Q Okay. Tell me of the twenty-one reports are one of  
11 those reports actually your report?

12 A Yes, sir.

13 Q That documents a violation?

14 A Yes, sir.

15 Q Okay. Can you describe the violation that you  
16 personally observed and then I'll just quickly run through  
17 some of the others?

18 A I believe it was for disrespect last year some -- or  
19 the year before.

20 Q Okay. And give me a date when you had contact with  
21 Donte Johnson that you noted as being disrespectful and why?

22 A May I refer to the report?

23 Q Please.

24 A Okay.

25 MR. FIGLER: And a date, please?

II-126

AA02034

RITCHIE - DIRECT

1 THE WITNESS: Yes, sir. Dated September 30th, 1998,  
2 approximately 10:25 a.m.

3 BY MR. GUYMON:

4 Q So Donte Johnson had been there about forty-five  
5 days at the point in time that you documented this report?

6 A Yes, sir.

7 Q Okay. And tell me what your observations were?

8 A At that time he was under a CAB, which we call  
9 conduct adjustment report, which means he had been in trouble  
10 before and he was locked down in his room. Describe the  
11 incident?

12 Q Please.

13 A Okay. All the inmates are tagged on the control  
14 room as to who's on lock down. I called all the inmates on  
15 lock down to come out and get their chow, their lunch. They  
16 came out; Mr. Johnson came out to get his lunch. His  
17 roommate, Inmate Hudson -- I asked Mr. Hudson if he was on  
18 lock down, he just turned to me and said, "no". At that time,  
19 Mr. Johnson turned to me and said, "no, mother fucker, he's  
20 not on lock down". At that time I told him he lost his next  
21 free time. He began to be belligerent so I had him gather up  
22 his linen, and all his belongings, took him across the hall to  
23 maximum disciplinary.

24 Q Now at the time are you in uniform?

25 A Yes, sir.

RITCHIE - DIRECT

1 Q So you're able to be identified as an authority  
2 figure there in the jail?

3 A Yes, sir.

4 Q Now, why would turning and saying, "no, mother  
5 fucker, he's not on lock down", why would that be a violation?

6 A It's disrespect to a staff member.

7 Q And what concern, if any, does that cause a staff  
8 member, such as yourself, when an inmate disrespects an  
9 authority person?

10 A Basically, it breaks down authority in the module.  
11 The officer has a certain amount of authority bestowed upon  
12 them, when inmates disrespect them flagrantly in front of  
13 other inmates, they're trying to break that officer down.

14 Q Tell me, just in general, the twenty-one reports,  
15 are there other similar reports associated with disrespect of  
16 authority there in the Clark County Detention Center where  
17 Donte Johnson's housed?

18 A I believe most of them are -- consist of that.

19 Q Okay. Contained within the reports are there  
20 threats to officers?

21 A No.

22 Q I take it just --

23 A Not to my knowledge.

24 Q -- just disrespect then to other officers?

25 A Yes, sir.

RITCHIE - CROSS

1 Q Okay. And authority personnel? Now, it is true, is  
2 it not, that Donte Johnson has not, during his stay at the  
3 Clark County Detention Center, has not struck an officer, is  
4 that correct?

5 A No, he has not.

6 Q He's not done bodily harm to an official there in  
7 the jail?

8 A No, sir.

9 Q Not been in any say fights with officers or other  
10 inmates?

11 A None that we know of.

12 Q Okay. But nonetheless, twenty-one violations that  
13 you are aware of?

14 A Yes.

15 Q Associated with rules there in the Clark County  
16 Detention Center?

17 A Yes, sir.

18 MR. GUYMON: I'd pass the witness.

19 CROSS-EXAMINATION

20 BY MR. FIGLER:

21 Q As a corrections officer, you take all violations  
22 very seriously, isn't that true, sir?

23 A Yes, sir.

24 Q In fact, he basically used profanity to you and he  
25 had to pay the penalty for that type of disrespect, isn't that

RITCHIE - CROSS

1 correct?

2 A Yes, sir.

3 Q You put him in a maximum lock down situation,  
4 correct?

5 A Not for that offense. He was already, like I said  
6 before, CAB'd, which is a lock down --

7 Q Well, let me ask you this.

8 A Yes.

9 Q So they're accumulative. Everything, every rule  
10 violation no matter how major or minor, is going to follow an  
11 inmate around for their entire stay within your facility,  
12 correct?

13 A Yes, sir.

14 Q And so accumulatively you are going to be able to  
15 look at other write ups in determining what punishment to give  
16 a particular inmate for not following a rule, is that correct?

17 A Certain informal rule violations require a twenty-  
18 four hour lock down where other formal rule violations is a  
19 conduct adjustment report to where they are rehoused in  
20 maximum disciplinary.

21 Q Okay. And I'm sure it's no pleasure being anywhere  
22 in that county facility, but maximum lock down is even more of  
23 a constricted area?

24 A Yes.

25 Q Okay. Now, in this particular case, you also have



RITCHIE - CROSS

1 the ability to take away any free time that he may  
2 particularly have, based on him using this profane word in  
3 your presence and maybe the presence of other people, correct?

4 A Yes, sir.

5 Q And that's a judgment call on the part of the CO,  
6 the corrections officer, correct?

7 A It's a standard practice, yes sir.

8 Q Okay. Now, the corrections officer always has the  
9 ability to determine whether or not they feel they've been  
10 disrespected, correct?

11 A Yes, sir.

12 Q Now you would agree that that's subjective. If I  
13 said something to you or I said something to someone else, the  
14 two people may have a different opinion whether or not I'm  
15 disrespecting them, isn't that correct?

16 A To a degree, not to this degree though.

17 Q Okay. Well, I'm not asking about this, I'm asking  
18 general.

19 A I understand.

20 Q However, if I take swing at you, there's no getting  
21 around that I took a swing at you, right?

22 A Correct.

23 Q And if I push you or lay hands on you, there's no  
24 getting around that, that's objective, correct?

25 A Correct.

RITCHIE - CROSS

1 Q And you stated on direct that John White has never  
2 done anything like that, that you've never seen or heard of  
3 him touching an officer or punching an officer or hitting an  
4 officer, anything like that?

5 A No, sir.

6 Q Most certainly, if he had there would have been a  
7 write up about that, correct?

8 A He would have been re-booked, yes sir.

9 Q Okay. Charge him with a new offense, correct?

10 A Correct.

11 Q Now, within these twenty-one -- how many rules would  
12 you say that there are in your facility in ballpark number?

13 A Ballpark number, formal rule violations which could  
14 have you rehoused into maximum disciplinary, there are between  
15 fifty and fifty-five.

16 Q Okay.

17 A Informal rule violations between twenty to thirty.

18 Q Okay. And then within that there's gray area where  
19 there's some subjective intent, like what you just said, I was  
20 disrespected in this particular way and there's an infinite  
21 ways that you feel that you could be disrespected, correct?

22 A Not in that way.

23 Q Okay.

24 A That was direct.

25 Q In general they could call you a profane thing, they

RITCHIE - CROSS

1 could give you a certain look that you didn't like, all these  
2 things could qualify to you as being disrespect, correct?

3 A Which it is, yes, sir.

4 Q Okay. Now, also if you take juice out of the juice  
5 jug, that could be a violation, isn't that correct?

6 A Yes, sir.

7 Q Okay. And in fact, John White took some Kool-Aid  
8 that he wasn't supposed to take during chow time and he was  
9 written up and put in lock down for twenty-four hours for  
10 that, isn't that true?

11 A Is this the September 1st?

12 Q That's correct.

13 A He was locked down in his cell for twenty-four  
14 hours, yes, sir.

15 Q Okay. And in fact, the officer at that time told  
16 him he was cutting John a break with that light sentence,  
17 isn't that correct?

18 A Yes, sir.

19 Q Okay. And in fact, there's other food violations in  
20 here, too. Keeping soup in your room, that was a violation,  
21 right?

22 A I believe it was the passing of soup.

23 Q Oh, giving someone else soup?

24 A After directed not to do so.

25 Q Okay. And that's another one of these twenty-one

RITCHIE - REDIRECT

1 write ups?

2 A Disobeying, yes.

3 Q Disobeying. So you guys are equipped to deal with  
4 all that disobeying in there, correct?

5 A Are we equipped to deal with?

6 Q You do --

7 A We deal with it.

8 Q Okay. You write people up and you impose  
9 punishments on them, correct?

10 A Yes, sir.

11 Q Now, you've observed inmates who have crossed that  
12 line and have struck inmate -- inmates or officers in your  
13 line of work, isn't that correct?

14 A Yes, sir.

15 Q People just really out of control that you  
16 continually are disciplining with re-booking, giving new  
17 charges to, all that stuff, correct?

18 A Yes, sir.

19 Q John White's not one of those people at all, is he?

20 A No.

21 MR. FIGLER: Pass, Your Honor.

22 THE COURT: Anything further?

23 REDIRECT EXAMINATION

24 BY MR. GUYMON:

25 Q The disrespecting an officer, however, which was the

RITCHIE - REDIRECT

1 majority of 'em, deals with the safety of officers, does it  
2 not?

3 A Correct.

4 Q Whereas the disobeying of rules does not address  
5 safety violations?

6 A Disobeying a rule violation?

7 Q Right.

8 A Disrespecting an officer is a rule violation, yes,  
9 sir.

10 Q Okay. And disrespecting an officer goes right to  
11 the safety of officers?

12 A Yes.

13 MR. GUYMON: I have no other questions.

14 MR. FIGLER: No questions.

15 THE COURT: Thank you, sir. You're excused.

16 THE WITNESS: Okay.

17 THE CLERK: During this recess you're admonished not  
18 to talk or converse among yourselves or with anyone else on  
19 any subject connected with this trial; or read watch or listen  
20 to any report of or any commentary on the trial or any person  
21 connected with this trial by any medium of information  
22 including, without limitation, newspaper, television, and  
23 radio; or form or express any opinion on any subject connected  
24 with the penalty until the case is finally submitted to you.

25 THE COURT: Be in recess until ten minutes of 5:00.

TALAMANTEZ - DIRECT

1 Can I see counsel briefly in chambers.

2 (Court recessed at 4:35 p.m. until 4:50 p.m.)

3 (Jury is present)

4 THE COURT: Call your next witness, please.

5 MR. DASKAS: Juanita Talamantez.

6 JUANITA TALAMANTEZ, PLAINTIFF'S WITNESS, IS SWORN

7 THE CLERK: Please be seated.

8 THE WITNESS: Thank you.

9 THE CLERK: State your name for the record, please.

10 THE WITNESS: My name is Juanita Talamantez.

11 DIRECT EXAMINATION

12 BY MR. DASKAS:

13 Q Ma'am, you're the mother of Peter Talamantez, is  
14 that correct?

15 A Yes.

16 Q Can you tell us how old was your son at the time of  
17 his death?

18 A Seventeen.

19 Q You brought with you to court today a photo of your  
20 son, is that right?

21 A Yes, I did.

22 Q Let me hand you what we've marked as State's  
23 Proposed Exhibit 241. Tell me, who's in that photograph?

24 A It's me and Pete and my other son, Daniel.

25 Q Is Peter also in that photograph?

TALAMANTEZ - DIRECT

1 A Yes, he is.

2 Q Is he the person on the left side?

3 A In the black shirt.

4 MR. DASKAS: I move for the admission of 241, Your  
5 Honor.

6 MR. FIGLER: No objection.

7 THE COURT: Received.

8 (Plaintiff's Exhibit No. 241 admitted)

9 BY MR. DASKAS:

10 Q Juanita, can you tell me if there's a reason you  
11 selected that particular photograph of your son, Peter?

12 A It's my favorite. We spent time here in Las Vegas a  
13 couple of years ago and we just had such a good time and the  
14 smile is just so beautiful.

15 Q I think you mentioned that Peter's brother is also  
16 in that picture?

17 A Yes.

18 Q Other than Daniel, did Peter have any other brothers  
19 or sisters?

20 A Yes, I have an older son who's twenty-six.

21 Q Can you tell us the effect or the impact that the  
22 death of Peter has had on you and his siblings and his father?

23 A It's been a nonstop twenty-two month long roller  
24 coaster ride. We've gone up and down and up and down. I have  
25 two grown adult children who cry for their brother, who cry

TALAMANTEZ - DIRECT

1 like babies because they miss him so much. And for myself,  
2 there's no words that can explain what this has done to me.  
3 It's taken away seventeen years of my life and it just -- it  
4 just doesn't stop. It doesn't stop.

5 Q Can you tell us, if you know, what some of Peter's  
6 aspirations -- what some of Peter's dreams were?

7 A He wanted to do electronics. He was real interested  
8 in electronics and he was very good at it. But I know that  
9 most of all, he just wanted to see -- he wanted to see  
10 tomorrow. He wanted to be alive, that's what Pete wanted to  
11 do, be alive. And now he's not.

12 Q When was the last time you saw Peter prior to his  
13 murder?

14 A In May of -- of the year he died. He came to my  
15 house and we spent a beautiful day together. But he called me  
16 all the time on the phone. Always called me.

17 Q And was May of 1998 the last time you saw your son,  
18 Peter, alive?

19 A Yes.

20 MR. DASKAS: I'll pass the witness, Your Honor.

21 THE COURT: Cross?

22 MR. FIGLER: No questions.

23 THE COURT: Thank you, ma'am. You're excused.

24 Call your next witness please.

25 MR. DASKAS: Sandy Vio [phonetic].



VIO - DIRECT

1 SANDY VIO, PLAINTIFF'S WITNESS, IS SWORN

2 THE CLERK: Please be seated. State your name for  
3 the record, please.

4 THE WITNESS: My name is Sandy Vio.

5 DIRECT EXAMINATION

6 BY MR. DASKAS:

7 Q Ma'am, you're the mother of Tracey Gorringer, is that  
8 right?

9 A That's right.

10 Q You, too, brought a particular photograph to court  
11 today of your son?

12 A Yes, I did.

13 Q Let me hand you what we've marked as State's Exhibit  
14 243 and ask you what's depicted in that particular photograph?

15 A We had a family photo taken in June of '98 and this  
16 is the photo that I've brought to court today.

17 Q Where in the photograph is Tracey -- your son,  
18 Tracey pictured?

19 A Tracey's in the back row on the far right.

20 Q Is there a particular reason that you selected this  
21 photograph to share with the members of the jury?

22 A I wanted to see what was taken away from us, and  
23 what he had, and what type of a family he was from.

24 MR. DASKAS: Judge, I move for the admission of 243.

25 MR. FIGLER: No objection, Your Honor.

VIO - DIRECT

1 THE COURT: Received.

2 (Plaintiff's Exhibit No. 243 admitted)

3 BY MR. DASKAS:

4 Q There's been some testimony in this case that one of  
5 your other sons, Nick, lived at the Terra Linda home, is that  
6 true?

7 A That's right. Nick was the one that was friends  
8 with Matt. I think both boys, Nick and Tracey, knew Jeff from  
9 Idaho. It was Nick who originally got into the house with  
10 Matt and Jeff and one of the other boys moved out and so  
11 Tracey moved in. He had just moved to town in late May of  
12 '98, so he hadn't been here very long.

13 Q How has Tracey's death affected your son, Nick?

14 A Nick really can't get on with his life. He doesn't  
15 know what to do. He lost his three best friends in that house  
16 and I think he feels guilty that he wasn't there because he  
17 thinks if he was there --

18 MR. FIGLER: Your Honor --

19 THE WITNESS: -- he could have done something.

20 MR. FIGLER: -- on this I think it goes beyond the  
21 scope --

22 THE COURT: Overruled.

23 BY MR. DASKAS:

24 Q What's the age difference in Tracey and Nick?

25 A Tracey was my middle son. I have an older boy and

VIO - DIRECT

1 then there was Tracey and then Nick, and they're all two and a  
2 half years apart. I was a single parent, I raised my children  
3 alone for sixteen years, moving them around so we weren't just  
4 from one hometown. I went wherever my work was.

5 Q Tell me the impact, the effect that your son's death  
6 has had on the other siblings, other than Nick?

7 A Spencer had moved to Vegas in about February of '98  
8 and that's kind of why Tracey moved here, too, so that we  
9 could be together as a family again. After this happens,  
10 Spencer moved back to Idaho and today is the first time he's  
11 been back since. Needless to say, I don't see him very often.  
12 When I do go to Idaho, I go to where my son is buried and cry.  
13 I just was remarried in '96 and I was just establishing a  
14 relationship with my new family. My husband has four children  
15 who live with us, those are the four other ones in the -- in  
16 the photo. I think to build a relationship with stepchildren  
17 is a challenge and since this has happened, it totally  
18 destroyed what I did have. I'm trying to build it back up,  
19 but it's so hard. I feel so bad.

20 Q And what were some of your son Tracey's aspirations  
21 or his dreams or goals in life?

22 A Tracey was an excellent chef. He started cooking  
23 crepes when we -- he was ten years old. We called him Che-  
24 Tray [phonetic]. When he was in high school, he worked at a  
25 restaurant for approximately five years. The manager at the

II-141

AA02049

VIO - DIRECT

1 restaurant told me he was very responsible, reliable, he could  
2 call on him to do anything he wanted. Tracey would, you know,  
3 willingly oblige. He was very courteous. He always had a  
4 smile on his face. He was very dependable. My husband told  
5 me when I -- when I told him that I needed to give a victim  
6 impact statement, my husband said, the one thing about Tracey  
7 was it wasn't how long you knew him but that you did know him.  
8 I had another friend that wrote, Tracey had such an endearing  
9 nature about him.

10 He came to Vegas to try to discover what he wanted  
11 to do. I know we had talked about him going into the Culinary  
12 Union or the Electricians Union. He was kind of at a  
13 crossroads in his life.

14 Q You've told us about the impact Tracey's death has  
15 had on your husband and his siblings, what effect has it had  
16 on your life?

17 A It's destroyed my life. You wake up every day and  
18 you think, did it really happen? You know, how could this  
19 happen to my son who was the peace maker, who everybody loved,  
20 who everybody cared for? It makes it hard to concentrate. It  
21 makes it hard to take everyday.

22 Q How old was Tracey when he was murdered?

23 A Tracey was twenty. He was born in March of '78.

24 MR. DASKAS: I have nothing else, Judge.

25 MR. FIGLER: No questions, Your Honor.

II-142

BIDDLE - DIRECT

1 THE COURT: Thank you.

2 THE WITNESS: Thank you.

3 THE COURT: Ma'am, you're excused. Call your next  
4 witness.

5 MR. FIGLER: Can we approach?

6 THE COURT: Yes.

7 (Off-record bench conference)

8 THE COURT: Okay. Call your next witness, please.

9 MR. DASKAS: Marie Biddle.

10 MARIE BIDDLE, PLAINTIFF'S WITNESS, IS SWORN

11 THE CLERK: Please be seated. State your name for  
12 the record, please.

13 THE WITNESS: Marie Biddle, B as in boy, I-D-D-L-E.

14 DIRECT EXAMINATION

15 BY MR. DASKAS:

16 Q You're the mother of Jeffrey --

17 A Jeff.

18 Q -- Biddle, is that correct?

19 A Uh-huh. Yes.

20 Q How old was Jeffrey when he was murdered?

21 A Nineteen.

22 Q Jeffrey have other brothers or sisters?

23 A He has an older brother.

24 Q And how much older is the older brother?

25 A Twenty-two months.

BIDDLE - DIRECT

1 Q Close in age?

2 A Very close.

3 Q Have you observed the effect that this has had on  
4 Jeff's older brother, Jeff's murder?

5 A Yes.

6 Q Can you explain the effect it's had on his older  
7 brother?

8 A It's coming out in anger. He doesn't want to come  
9 home anymore. Doesn't want to talk about it. He wonders why  
10 I'm putting myself through this pain of going to these three  
11 trials and I tell him that I was always there for Jeff and the  
12 other families are here for their children and I feel that I  
13 should be here for Jeff, too. And my husband, he was here.  
14 He can't stand to be here and so that's how he deals with it.  
15 And I don't know how long it will take Greg to settle down or  
16 whatever. He's trying to go to school and it's just very  
17 difficult. It hurts me very badly that he isn't coming home  
18 as often as I'd like him to and he lives about -- just ten  
19 minutes away from us, but I don't think he can stand to see  
20 Jeff's room at our house, right beside his, and all of Jeff's  
21 clothes. I have -- I still have to deal with Jeff's clothes.  
22 I have them in bags and trying to deal with St. Jude's Ranch  
23 for Children on that. And Nick has taken a couple of Jeff's  
24 things. Nick and Jeff always wore each other's clothes when  
25 they'd go out and it's -- it's a very, very bad situation and

BIDDLE - DIRECT

1 it just -- it's just eating away at me.

2 Q Let me show you what's been marked as State's  
3 Exhibit 242.

4 A Yes.

5 Q And tell me who is depicted in that photograph?

6 A It's Jeff and I on my birthday a couple years ago.  
7 And Jeff is a very warm, loving person. He was so handsome  
8 and it just -- he had just such a sparkle about him, it just  
9 made you feel good to look at him. And we were very close to  
10 each other and I always hugged him like this so tightly, and  
11 I'd tell him I loved him. And he would always say I love you  
12 too moms.

13 Q Is there a reason why you selected this photograph  
14 to show to the jury?

15 A It was -- it was a very loving picture, and I wanted  
16 them to see what a nice young man he was.

17 MR. DASKAS: Move for the admission of 242, Judge.

18 MR. FIGLER: No objection, Judge.

19 THE COURT: Received.

20 (Plaintiff's Exhibit No. 242 admitted)

21 BY MR. DASKAS:

22 Q You mentioned that Nick and Jeff would sometimes  
23 wear each other's clothes, were you referring to Nick  
24 Gorringer?

25 A Yes.

BIDDLE - DIRECT

1 Q Tracey's brother?

2 A Yes, Tracey's brother. Jeff was friends with Nick,  
3 and they were at our house a lot, and they would barbecue.  
4 Jeff lived with us for awhile, he had been in Idaho for a  
5 bit and then he came to Las Vegas to live with us, and then  
6 they --

7 Q Did Jeff have a lot of young friends?

8 A Yes, he did.

9 Q Can you share with us some of Jeff's friends'  
10 thoughts that have been conveyed to you since his death, or  
11 even at the time of his funeral?

12 MR. FIGLER: Judge, I think that exceeds.

13 THE COURT: Exceeds what?

14 MR. FIGLER: The scope of Payne.

15 THE COURT: Overruled.

16 THE WITNESS: They're a wonderful group of kids, and  
17 they come and hug me like Jeff did, and they tell me they love  
18 me. They are so upset they don't know what to do with  
19 themselves. And they offer to help me in any way at all that  
20 they possibly can. And they come to see me sometimes. And in  
21 the wintertime when it snows his friends in Idaho, I've been  
22 told they shovel a path to his grave, and he keeps -- they try  
23 to keep his -- the snow off his grave because they love him so  
24 much. And I talk to different people, and I was just there  
25 for Memorial Day and the lady that are from the florists that



BIDDLE - DIRECT

1 does the flowers, she tells me that when she goes over there,  
2 there's five and six kids at a time just sitting on Jeff's  
3 grave. And they're just really having a very difficult time,  
4 and Jeff just had -- he had just had so many friends and no  
5 enemies. And everybody loved him. He always shared  
6 everything he had with his friends. And he'd give them his  
7 clothes, sometimes his food. Sometimes I'd find out he hadn't  
8 eaten for three days because he gave away everything he had.  
9 And he loved all his friends no matter what they had or what  
10 they didn't have.

11 BY MR. DASKAS:

12 Q You mentioned that your husband, Jeff's father, has  
13 not attended this trial, is that correct?

14 A Right.

15 Q Has the loss of Jeff been particularly hard on your  
16 husband, his father?

17 A He can't stand it. And when this -- when this first  
18 happened he would sit out in the patio and he'd cry. He'd  
19 come in the house and go to the bathroom and lay on the floor  
20 and cry his heart out. And it's taking a really bad toll.  
21 And it's just extremely stressful. He said when he thinks  
22 about Jeff he would -- he could just throw up, you know, he is  
23 so sick about it.

24 Q Is that one of the reasons he's not here today?

25 A Right. He thinks if he -- if he doesn't get to

MOWEN - DIRECT

1 close to it he can deal with it and somehow get past it, but  
2 it's not working, it's just not happening for him.

3 MR. DASKAS: I have nothing else, Judge.

4 MR. FIGLER: No questions, Judge.

5 THE COURT: Thank you, ma'am, you're excused.

6 Call your next witness please.

7 MR. DASKAS: Cindy Mowen.

8 CINDY MOWEN, PLAINTIFF'S WITNESS, IS SWORN

9 THE CLERK: Be seated. State your name for the  
10 record please.

11 THE WITNESS: Cindy Mowen, M-O-W-E-N.

12 DIRECT EXAMINATION

13 BY MR. DASKAS:

14 Q You're Matt Mowen's mother, correct?

15 A Yes, I am, always will be.

16 Q Let me show you State's Exhibit 244. Tell me what's  
17 in that photograph?

18 A That's my big guy giving me a big hug. It was --  
19 and a big kiss on the cheek. It was one of the days that he  
20 was getting ready to go to one of his many proms and Sadie's  
21 dances and homecoming things that he went to. And his great  
22 uncle was in town that day, and he said to me, go over and  
23 stand beside that handsome looking gentleman, so I did. And  
24 just as I stood there Matthew reached around and grabbed me  
25 and gave me a big hug and kiss on the cheek, he was always

MOWEN - DIRECT

1 doing things like that. It's one of my favorite pictures. I  
2 miss those hugs so much.

3 MR. DASKAS: Judge, I'd move for the admission of  
4 244.

5 MR. FIGLER: No objection, Judge.

6 THE COURT: Received.

7 (Plaintiff's Exhibit No. 244 admitted)

8 BY MR. DASKAS:

9 Q Do you have any sons other than Matt?

10 A No, Matthew was my only son. My only son.

11 Q Do you have any other children, however?

12 A Yes, I have a daughter, a beautiful seventeen year  
13 old. She was fifteen and a half at the time that this  
14 happened. She went from a very innocent, young fifteen year  
15 old little girl to a thirty year old adult now. To talk to  
16 this child, she's lost her childhood. She's grown up into a  
17 young woman. She's lost her best friend.

18 Q Were there things that she looked forward to,  
19 growing up and having an older brother to share with?

20 A She shared everything with Matt. She's lost her  
21 main confident person that she could talk to. There's always  
22 things that kids won't share with their parents, boyfriends,  
23 problems in school, whatever, she always shared all of these  
24 things with him. One of her biggest pains is that he wasn't  
25 there when she turned sixteen to get her license and drive her

MOWEN - DIRECT

1 first car, that was a big thing. Because of course when he  
2 got his license the first one he took for a ride was Jennifer.  
3 When he moved out of the house the first one he brought to the  
4 apartment to show where he lived was Jennifer. They were  
5 very, very close. He won't be there for her graduation from  
6 school, and he won't be there for her wedding, he won't be  
7 there for her first child. There's all these things that she  
8 looked forward to, to have with her only brother. And she now  
9 will not have those things.

10 Q Your husband's name is David, is that correct?

11 A Yes, it is.

12 Q Matt obviously was David's only son?

13 A Yes. Yes.

14 Q Can you attempt to describe to this jury, or explain  
15 to the jury the effect that Matt's death has had on your  
16 husband?

17 A Oh, it's devastating my husband. Is a very strong  
18 individual, but he was extremely strong before this, he would  
19 stand tall, and you could see it in him, the pride that he had  
20 in his son. And now when I hug my husband his shoulders are  
21 slumped. It has just beaten him down. It's just taken the  
22 life right out of him. This weekend is father's day of  
23 course, and this one is going to be so hard because the last  
24 one that my husband had with his son, his son called him and  
25 said, dad, let's go out for dinner, came by the house, picked

MOWEN - DIRECT

1 him out, took him down, they had steak and lobster, and had a  
2 wonderful evening, it was a male bonding thing. And I'm so  
3 glad he had that. But this weekend again we face that,  
4 another holiday without your child.

5 MR. FIGLER: Your Honor, we'd move --

6 MR. DASKAS: I'll move on, Judge.

7 BY MR. DASKAS:

8 Q We talked about the effect this has had on your  
9 daughter --

10 A Mm-hmm.

11 Q -- and on your husband, what effect has Matt's death  
12 had on you personally?

13 A On me personally, I go to a little safe spot when I  
14 have my breakdowns, which I have breakdowns probably once a  
15 month now. They were daily at first, and then it got to be  
16 less and less. But when I have these breakdowns I go to this  
17 favorite spot that I had. During visitation services, the  
18 family visitation, I had a half hour alone with my son, my  
19 husband had to take the family back home. I had this half  
20 hour where I could touch him and I could talk to him and I  
21 could spend time with him. And when I have these breakdowns I  
22 go back to that spot. My arms ache so bad, I find myself  
23 rocking and just holding my arms, my arms hurt so bad for my  
24 child. They hurt so bad. I've had a terrible time working,  
25 you can't concentrate on work. I have gone through so much

II-151

MOWEN - DIRECT

1 therapy and so much medication that I could even sit here and  
2 talk. It has destroyed my life. It's destroying my parents.  
3 My father has aged to the point I probably won't see him  
4 again. It's devastating my relationships with my friends.  
5 They're all going through graduation ceremonies and weddings  
6 and such now. I'm here.

7 Q Matt's murder happened on August 14th, 1998, why was  
8 Matt in town on that particular day?

9 A Matt had been on tour following the band across the  
10 country, I had had some surgeries in late '97, early '98, and  
11 in July of '98 they determined I was going to have to have  
12 another major surgery. And he called all the time from the  
13 road, it was always collect, but he always called us. And we  
14 told him I had to have this surgery, and his first words were  
15 I'm coming back. He wanted to be here for me when I went  
16 through this surgery. I picked him up at the airport on  
17 August 5th. I also paid his last month's rent at that house,  
18 I should have just taken him home with me at that time because  
19 he was coming home to take care of me, I was scheduled for  
20 surgery the next month. And then he was going off to school  
21 as soon as I got done. So I had this tremendous guilt that I  
22 paid the last month's rent and that the child got off of the  
23 tour and came home to take care of me. That's the kind of kid  
24 he was though, anything for his mom. He loved me very much.

25 Q If you could say anything to Matt, what would you

II-152

1 tell him?

2 MR. FIGLER: Your Honor, that goes beyond --

3 THE WITNESS: I talk to Matt all the time.

4 MR. FIGLER: Your Honor.

5 THE COURT: Sustained.

6 BY MR. DASKAS:

7 Q If you know, what were some of Matt's character  
8 traits, his aspirations, and what contribution do you think  
9 your son would have made in society if he had the opportunity  
10 to grow old?

11 A Oh, he made contributions to society at his young  
12 age. It was shown to us over the years, he was such a loving  
13 and giving person. In fact, at his funeral one of the young  
14 men gave his eulogy and said that Matt was the best host that  
15 he'd ever seen. If there was four people somewhere and there  
16 was only three of something, Matt would be the one that would  
17 give up and let everyone else have it.

18 The only thing that a parent wants for their  
19 children is to know that they've touched somebody in the  
20 world, that they've made a difference. And I know Matthew did  
21 that. It was shown to us after he was killed, it was shown to  
22 us before he was killed. He was a very loving, loving person.  
23 Would do anything for anyone.

24 Q Any other thoughts about your son that you'd like to  
25 share with the jury?

MOWEN - DIRECT

1           A       Just that he was a tremendous young man, he really  
2 was, strong, smart, he had great goals in life. I keep  
3 looking for him on the streets when I see different people to  
4 measure them up to see if they're the same size so I could go  
5 crawl in their arms and get a hug. I constantly hug his  
6 friends looking for that feel, and I can't find it, I'll never  
7 find it again. Never.

8           MR. DASKAS: Nothing else, Judge.

9           MR. FIGLER: No questions, Judge.

10          THE COURT: Thank you, ma'am, you may take your seat  
11 again.

12          The State rest?

13          MR. DASKAS: Yes, Your Honor.

14          THE CLERK: During this recess you're admonished not  
15 to talk or converse among yourselves or with anyone else on  
16 any subject connected with this trial, or read, watch or  
17 listen to any report of or commentary on the trial, or any  
18 person connected with this trial by any medium of information  
19 including, without limitation, newspaper, television and  
20 radio; or form or express any opinion on any subject connected  
21 with the penalty until the case is finally submitted to you.

22          THE COURT: Okay. Folks, as you may remember when  
23 we talked right after the verdict, tomorrow's schedule is the  
24 same as last Wednesday's, which is meaning that we're going to  
25 start, if everybody is assembled, at 8:00 a.m. If you'd



1 report to Stony no later than somewhere between ten and five  
2 minutes of 8:00, we're going to go right at 8 o'clock. I have  
3 no calendar in front of it which I did have today. So we'll  
4 see you tomorrow at 8:00.

5 I'm still hopeful we're going to have the defense  
6 evidence and arguments of counsel, and your decision -- your  
7 deliberations tomorrow, but we'll play it by ear and we'll  
8 see.

9 Have a nice evening. We'll remain in session  
10 outside your presence.

11 (Jury recessed)

12 THE COURT: And, Mr. Figler, I know it's difficult  
13 to make objections while the mothers are testifying, and  
14 frankly, in trying to hear what you were saying, it wasn't  
15 clear to me, although I felt it was clear what my duty was, I  
16 wasn't sure what your objection was, except for the last one  
17 which I sustained. What, for the record, is it?

18 MR. FIGLER: Well, Your Honor, of course I didn't  
19 want to object at all, but we all know that the allowance of  
20 victim impact has really taken an evolution through the years,  
21 and Payne versus Tennessee, P-A-Y-N-E, prescribes some of that  
22 and so does the Nevada Revised Statute. The last thing in the  
23 world I want to do is interrupt, but you know I have to.

24 THE COURT: And what is the objection?

25 MR. FIGLER: The objection is that whenever victims'

1 get into information of people who are not statutory listed as  
2 victims, that runs afoul of the limitations that the Nevada  
3 Legislature want to place on the very tenuous use of victim  
4 impact during a penalty phase anyway. So that was just simply  
5 the objection.

6 And the only time I objected was when I felt that  
7 these individuals were going beyond their own family impact,  
8 the people listed in the statute and going into other people  
9 outside of the type of information. In other words, those  
10 people certainly wouldn't be allowed to testify.

11 THE COURT: I didn't realize, maybe you're right  
12 that the -- that it's been litigated that that is an exclusive  
13 list of who may testify.

14 MR. FIGLER: The NRS is very specific, but I --

15 THE COURT: No, no, it says who is those who are in  
16 a position of victim, but I don't know that it precludes, and  
17 there is one case of course in front of a judge rather than a  
18 jury, that says it's still discretionary with the Court.

19 MR. FIGLER: I think you've made --

20 THE COURT: My understanding --

21 MR. FIGLER: I'm sorry.

22 THE COURT: -- of Payne is that it allows a glimpse  
23 of the loss that is suffered, and that would include to me  
24 friends and certainly the father, who the last witness wanted  
25 to talk about, in terms of confining the glimpse, as I think

1 Payne envisions, but I guess that will play out over a period  
2 of decades.

3 I did limit the number of people speaking to one per  
4 family. I did, from the proffered numerous pictures that the  
5 State wished to show to the four ladies who testified here  
6 this afternoon, I did restrict the number of pictures. But my  
7 understanding of the law as it is now is that you can show who  
8 was lost. And I think the impact it would have on somebody's  
9 friends is something that is lost, as with other family  
10 members. And the way I read the law that's permissible.

11 When it was asked what she would say to him, I  
12 envisioned this would be the kind of answer that would go  
13 beyond what Payne envisioned. So the law -- I just wanted the  
14 record to reflect your objections, that's my understanding how  
15 it should be.

16 MR. FIGLER: Thanks, Judge, and you know that I just  
17 have to make my record and I don't want to argue.

18 THE COURT: I understand what you got to do.

19 MR. DASKAS: And, Judge --

20 THE COURT: You want to add anything to that?

21 MR. DASKAS: Well, if I might. The statute, the  
22 NRS, the case law specifically permits statements regarding  
23 the loss of the victim to society, that obviously includes  
24 friends, family and relatives, and that's what we elicited,  
25 Judge.

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THE COURT: Yeah. Okay.

MR. FIGLER: Okay.

THE COURT: Off the record.

(Court adjourned at 5:22 p.m., until the following day,  
June 14, 2000)

\* \* \* \* \*

INDEX

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
<u>PLAINTIFF'S WITNESSES</u>				
Charles Burgess	2	6	10	11
Charla Severs	12	25	--	--
Bryan Johnson	29	33	--	--
Roy Chandler	36	48	--	--
Kim Kern	54	62	--	--
Craig Clark	63	85	108/120	114/120
Ian Ritchie	123	129	--	--
Juanita Talamantez	136	--	--	--
Sandy Vio	139	--	--	--
Marie Biddle	143	--	--	--
Cindy Mowen	148	--	--	--

EXHIBITS

<u>DESCRIPTION:</u>	<u>ADMITTED</u>
---------------------	-----------------

PLAINTIFF'S EXHIBITS

202-211	Photos of scene and location of body of Darnell Johnson	38
218-219	Photos of clothing on Darnell Johnson's body	47
235-240	Photos of auto registered to Veronica Daniels	48
241	Photograph of Peter Talamantez	137
242	Photograph of Jeff Biddle	145
243	Photograph of Tracey Gorringer	140
244	Photograph of Matt Mowen	149

DEFENDANT'S EXHIBITS

None

CERTIFICATION

I (WE) CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

SHIRLEY B. PARRAGUIRRE, CLERK

\* \* \* \* \*

BY *Carole D'Aloia*

CAROLE D'ALOIA

DEPUTY

STATE OF NEVADA

Plaintiff

vs.

DONTE JOHNSON,  
aka John Lee White

Defendant

CASE NO. C153154

DEPT. V  
DOCKET "H"

Transcript of  
Proceedings

BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

JURY TRIAL - PENALTY PHASE - DAY 2 - P.M. SESSION  
WEDNESDAY, JUNE 14, 2000  
VOLUME III

APPEARANCES:

FOR THE PLAINTIFF:

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1 LAS VEGAS, NEVADA, WEDNESDAY, JUNE 14, 2000, 8:12 A.M.  
2 (Jury is present)  
3 THE COURT: Call your first witness, please.  
4 MR. FIGLER: Your Honor, can I ask for a five-minute  
5 continuance before we call the first witness?  
6 THE COURT: It's gonna be five minutes?  
7 MR. FIGLER: Five minutes.  
8 THE COURT: And have the jury go back out yet again.  
9 Let me have the admonition.  
10 MR. FIGLER: I could -- I could leave, Your Honor.  
11 THE COURT: What?  
12 MR. FIGLER: I could go outside, if you don't want  
13 to --  
14 THE COURT: Oh, so you got a witness to call?  
15 MR. FIGLER: I have a witness -- No, no. What I'm  
16 saying is that I can go out for five minutes and you don't  
17 have to unsettle the jury.  
18 THE COURT: No, I mean, I don't want them just  
19 sitting there.  
20 During this recess you're admonished not to talk or  
21 converse among yourselves or with anyone else on any subject  
22 connected with this trial, read, watch or listen to any report  
23 of or commentary on the trial, or any person connected with  
24 it, by any medium of information, including, without  
25 limitation, newspaper, television and radio, or to form or



1 express any opinion on any subject connected with the trial  
2 until it's finally submitted to you.

3 Mr. Figler represents five minutes and we hope  
4 that's what it will be.

5 (Jury recessed at 8:13 a.m.)

6 THE COURT: Okay, the jury's outside the room. Did  
7 you want to put something on the record, Mr. Figler?

8 MR. FIGLER: Yes, Judge. I can represent to the  
9 Court that myself and Mr. Sciscento and our investigative  
10 staff were together with the victim's family working on  
11 various matters on this case until well past midnight last  
12 night.

13 THE COURT: What's well past midnight? As an  
14 officer of the Court, I assume you're gonna tell me the truth,  
15 not being under oath. How late?

16 MR. FIGLER: I got back home at 12:40, so well --  
17 minutes past midnight.

18 THE COURT: I don't know where you live, Mr. Figler.  
19 What time did you and your staff stop working?

20 MR. FIGLER: I can represent to the Court that I was  
21 with John here 'til about 11:15 and then went back over to the  
22 office and continued working on various jury instructions in  
23 preparation for today.

24 The main problem that we've had is --

25 THE COURT: The question I asked you was you

1 asserted well past midnight. All I asked you was a simple  
2 question.

3 MR. FIGLER: Between 12:00 and 1:00 o'clock, Your  
4 Honor, is when I finally got home.

5 THE COURT: Well, 12:01 is between 12:00 and 1:00.  
6 Can you do better than that?

7 MR. FIGLER: About 12:40, Your Honor.

8 THE COURT: Thank you. Go ahead.

9 MR. FIGLER: And I'm not sure how late I left our  
10 investigator working, but she was with the family and Mr.  
11 Sciscento as well. The thing is that the family, they're not  
12 -- they don't know about flying, they've never flown, so they  
13 had to bus in. This is all --

14 THE COURT: They arrived Sunday, right?

15 MR. FIGLER: No, Your Honor, they didn't. They  
16 arrived on --

17 MR. SCISCENTO: Monday night.

18 MR. FIGLER: Monday, Monday night?

19 MR. SCISCENTO: Monday night.

20 MR. FIGLER: Monday night. We started going over  
21 things with them then and we've been preparing as much as we  
22 can. The thing is that we asked the Court in chambers for a  
23 one-hour continuance to be able to review the dailies, because  
24 they're just prepared --

25 THE COURT: What does the dailies have to do with

1 your side of the case, which you knew was going to be today,  
2 about, oh, 3:00 o'clock on Friday?

3 MR. FIGLER: You know, Your Honor, when I went back  
4 to the office yesterday is when we had to digest what was  
5 going on, what case was presented by the prosecution. This is  
6 the time when you do strategy and this sort of thing. We got  
7 back there after 5:00, 5:30. Mr. Kohn stayed 'til 8:00  
8 o'clock with us. While we were going through that material,  
9 we had to keep pushing off the family.

10 THE COURT: What do you need this extra 45 minutes  
11 to an hour to do, Mr. Figler, that you haven't done,  
12 regardless of whether you're blame-worthy for doing it or not?  
13 What do you need it for?

14 MR. FIGLER: We need to craft our closing, we need  
15 to review the daily, we need to see what Mr. Craig actually  
16 said, we need to do additional strategy with regard to, when  
17 we're talking about instructions, because of the instructions  
18 that are presented to us and, most importantly, we need to  
19 just sit down with our witnesses and go over a lot of the  
20 pictures to make sure -- for the smooth and efficient  
21 procedure in Court, that we've got the right witness for the  
22 right picture that's gonna come in and the right piece of  
23 information. We haven't arranged for a video camera to come  
24 in.

25 THE COURT: Yeah, I don't want to waste a lot of

1 extra time, Dayvid, lecturing you, but I tried cases too and I  
2 usually got up at 4:00 in the morning and, if I needed to talk  
3 to a witness who was gonna start at 8:00, I talked to them at  
4 6:00, but this is a death case. Whether you did it the way I  
5 would do it, I told you and Joe and Gary and Bob that the jury  
6 shouldn't be inconvenienced, that if you needed additional  
7 time, or hearings outside the presence of the jury, you got my  
8 home number, call me before a second -- certain hour. We got  
9 all these people down here and now, at 8:10, you waltz in and  
10 say you need another hour.

11 Tell the jury there's some things that we've got to  
12 do. 9:30. Thank you.

13 (Court recessed at 8:25 a.m. until 9:28 a.m.)

14 (Jury is present)

15 THE COURT: Folks, I want to just make a little  
16 comment. Obviously, had I known yesterday evening that we  
17 were going to come in and then go out for an hour and a half,  
18 I wouldn't have had you come down here before 8:00 o'clock,  
19 nor, frankly, would I have been down here before 9:00 o'clock,  
20 but these are very serious matters and we try to do the best  
21 we can in terms of planning the schedule. And in these cases,  
22 where the stakes are so high, we don't always make the  
23 appropriate or correct guess as to how the schedule's gonna go  
24 and I apologize.

25 As I said, these are serious matters and it was

CAIN - DIRECT

1 unanticipated and necessary and I'm sorry for the  
2 inconvenience and hope it doesn't in any way interfere with  
3 your mood for seeing the rest of this done as fairly as  
4 possible.

5 Who's your first witness, Mr. Figler, first witness  
6 for the day?

7 MR. FIGLER: Eunice Cain, Your Honor.

8 THE CLERK: Please remain standing and raise your  
9 right hand.

10 EUNICE CAIN, DEFENDANT'S WITNESS, IS SWORN

11 THE CLERK: Please have a seat.

12 And state your full name and spell your last name  
13 for the record.

14 THE WITNESS: My name is Eunice Cain. My last name  
15 is spelled C-A-I-N.

16 DIRECT EXAMINATION

17 BY MR. FIGLER:

18 Q Good morning, Ms. Cain.

19 A Good morning.

20 Q Are you related to somebody that's in this courtroom  
21 right now?

22 A Yes, I am.

23 Q And who is that person?

24 A John Lee White, Jr.

25 Q Okay. And can you point him out for us so everyone

III-7

CAIN - DIRECT

1 knows who we're talking about?

2 A Yes. He's sitting to the right.

3 Q Okay. And how are you related to him?

4 A I'm his mother.

5 Q You're his natural mother? You gave birth to him?

6 A Yes, I gave birth to him.

7 Q Okay. Ms. Cain, I want to start from the beginning  
8 and perhaps you could tell the jurors how or when you met  
9 John's father.

10 A I met John's father like when I was at the age of  
11 17, that's when I met his father, younger, maybe a little  
12 younger than that.

13 Q Okay. And John White was --

14 A He was very abusive to me and --

15 Q Well, let me -- let me hold you up for a second.

16 A Uh-huh.

17 Q So you're saying John White, who is senior, was John  
18 White's father?

19 A Yeah, John's father, yeah.

20 Q Okay. And you're saying he was some years older  
21 than you?

22 A Yes, he was ten years older than me.

23 Q Now tell me about -- You did marry him, correct?

24 A Yes, I did.

25 Q Tell me about the process of when you were going to

CAIN - DIRECT

1 marry him or what you were gonna do when you were gonna marry  
2 him. When did you first talk about marriage with him?

3 A When I was -- I was trying to marry him, get married  
4 to him at a younger age, but it did not happen because I had  
5 to wait until I turned 18. And after then, after I turned 18,  
6 they let -- they were gonna let me marry him.

7 And he was a good guy. He was good to me and was  
8 taking care of me until after I got married to him and then,  
9 after I got married to him, he became abusive to me, you know,  
10 and my children used to sit and see him have at me then, jump  
11 on me and stuff, you know, and I think -- I was thinking that  
12 that could have had a lot to do with my son, because my son  
13 seen a whole lot of things, bad things, happen to me.

14 Q Let me hold you up there.

15 A Uh-huh.

16 Q How many children did you have with John White?

17 A Three.

18 Q Okay. And where were you living during the first  
19 few years of your marriage?

20 A I stayed on 52nd and Compton. From there I moved --

21 Q You were in Compton, California?

22 A Yeah.

23 Q Okay.

24 A Compton Avenue.

25 Q Oh, okay. And how long were you there?

CAIN - DIRECT

1           A     I would say about -- maybe about five years or  
2 something like that.

3           Q     Okay. Now you say that after --

4           A     I couldn't say --

5           Q     I'm sorry, I don't want to interrupt you.

6                     After you got married to John's father you said he  
7 became abusive to you?

8           A     Yeah.

9           Q     Can you explain what you mean by that?

10          A     Well, he used to jump on me, you know, we started  
11 fighting after I got with him, and my son, my kids, used to  
12 see it, you know.

13          Q     So you're saying your children were there when the  
14 abuse was going on?

15          A     Yeah.

16          Q     Okay.

17          A     Yeah. And so after then I separated from him, I  
18 left him. I had to get away from him due to the fact that he  
19 was doing harm in front of my children and it was very  
20 upsetting to them, you know.

21          Q     Okay, now --

22          A     And my --

23          Q     I'm sorry.

24                     Was there a time when you moved away from that first  
25 location on -- I think you said 52nd and moved to a different



CAIN - DIRECT

1 place?

2 A Yes.

3 Q Okay, why did you move to a bigger place -- or a  
4 different place?

5 A That's because I only had one child and then I had  
6 two more children after I moved. I needed a bigger place.

7 Q Okay. Now tell me what it was like and what your --  
8 how your children would react when your husband was being  
9 abusive to you. For instance, what would John do?

10 A Johnnie, well, he would always try to help me by  
11 either --

12 MR. GUYMON: Judge, could I get a foundation for the  
13 time period we're talking about, the age?

14 BY MR. FIGLER:

15 Q About how old -- You're gonna tell me about an  
16 instance or something like that. Let me ask you this. About  
17 how old is John when you're talking about right now?

18 A He probably was no more than about six, five or six,  
19 something like that.

20 Q So about 1982, 1983?

21 A Yeah.

22 Q When he's five or six?

23 A Yeah.

24 Q Okay. So what would John hear -- do when your  
25 husband was being abusive to you? How would he react?

CAIN - DIRECT

1           A     Well, at one time he was trying to -- I had went  
2 back to him and he tried to throw me out of the Frontier Hotel  
3 and, my son, he ran for help for me and by him opening the  
4 door and going there for me I ran out behind him. And I got  
5 him and we both went to my mother's and I got help. I called  
6 the policemen there and they took me back to get my other two  
7 kids. And after they -- after I got my two kids, they took  
8 him to jail.

9                     And then on another statement that I had, that I was  
10 saying, that when we was staying in the projects I always  
11 wanted to move from there with my kids when they was little.  
12 You know, I didn't want 'em to grow up over there. And he was  
13 abusive to me there also, you know, and so I finally -- Well,  
14 I was more or less made to like move from there because he  
15 kept harassing me while I was there, you know, so I moved from  
16 there with my children due to the fact he came through my  
17 window with a homemade cocktail.

18           Q     Let me slow you down for a second. Let me tell you,  
19 'cause I forgot to do this, I want to show you a picture --

20           A     Uh-huh.

21           Q     -- that's been marked as Proposed Defense Exhibit B.

22           A     Uh-huh.

23                     MR. FIGLER: And I'm showing it to counsel.

24 BY MR. FIGLER:

25           Q     Do you recognize who's in this picture?

III-12

CAIN - DIRECT

1 A Yes, I do. That's my baby.

2 Q That's your baby, John White?

3 A Yes.

4 Q And this is what he looked like when he was --

5 A When he was born, yes.

6 Q Okay.

7 MR. FIGLER: Your Honor, I'd move for the admission  
8 of Defense Proposed Exhibit B.

9 MR. GUYMON: Submitted, Your Honor.

10 THE COURT: Admitted.

11 (Defendant's Exhibit B admitted)

12 BY MR. FIGLER:

13 Q That's your baby there?

14 A Yes, it is.

15 Q Okay. So now, Ms. Cain, we were talking about your  
16 husband and did you say he was physically abusive to you too?  
17 Would he hit you or anything like that?

18 A Yeah, also, yeah, 'til he left a scar and like then  
19 knocking out both of my teeth that I don't have now.

20 Q I'm sorry, he knocked out your teeth?

21 A Yes, he did.

22 Q Okay. When John saw your husband beating on you,  
23 you indicated that sometimes he would leave the house to go  
24 get help.

25 A Yeah, he would.

III-13

CAIN - DIRECT

1 Q Is there any time he stayed there?

2 A Yes, yes, when he could not get to the door or  
3 something, he did. He always tried to help his mom though.

4 Q Okay. And what would he physically do if he stayed  
5 in the house?

6 A He would try and pick up something -- He was very  
7 short. He was so little. You know, he was a short kid, you  
8 know, and he was a very -- he was a very smart kid, you know,  
9 very smart when it came to knowing right from wrong and to  
10 help when he see that I needed help, you know.

11 Q Okay. Now did he physically do anything? Did he  
12 try to stop your husband or anything like that?

13 A No. He would just always try to get help, you know.

14 Q Now you were talking about an instance, after your  
15 husband had left, and he came in through the window. Why  
16 don't you tell the jury about that.

17 A Yes, he had -- he had -- Me and him had separated  
18 after he had knocked my teeth out. He came back to the house  
19 and he -- I was standing over the stove cooking and he came  
20 down through the -- got up through the vent. We had like  
21 little vents and he came through there with a cocktail, which  
22 was homemade by him.

23 Q Okay, let me stop you there. What do you mean when  
24 you say a cocktail?

25 A It was a bomb, but it was homemade. It was made --

CAIN - DIRECT

1 It looked like a bottle.

2 Q Have you heard -- Like a Molotov?

3 A Yeah, yeah, that's what it --

4 Q Is that --

5 A Yeah, that's what --

6 Q Okay, so your husband, when you were separated, came  
7 in through this vent and he's got this bottle way up in there?

8 A Yeah. Then he come and he said that if I didn't --  
9 He said that if I have sex with him he would leave me alone,  
10 he wouldn't bother me and my kids no more. He said that he  
11 would go and then leave me alone, so I did. And after I did  
12 that, that night he was -- well, he was talking about blowing  
13 -- if I didn't, what he would do is take me and my kids' life,  
14 so what I did is I had sex with him and after then I left  
15 there, the next day. I sold all my stuff and I took my kids  
16 and moved with my mom from there.

17 Q Okay. Now were your children home when all of this  
18 was going on?

19 A Yes, they were. They were sleeping, except for  
20 John. My girls were asleep, but John was woke.

21 Q Okay, so John saw this go on?

22 A Yeah.

23 Q Now you had two other children. What were their  
24 names, besides John, the two girls, the names of your two  
25 other children?

CAIN - DIRECT

1           A     Johnnisha, Johnnisha White, Johnnisha Denise White  
2 and Eunnisha Faye White.

3           Q     Okay. Now how was your husband to say Eunnisha?

4           A     Johnnisha's his kid.

5           Q     Johnnisha --

6           A     But Eunnisha -- Eunnisha he would always say it was  
7 not his baby, which was his baby, you know. All three of my  
8 children are his, but he would always hurt me into saying that  
9 that was not his baby and she looks just like him. You know,  
10 all three of my children were his. I didn't know no other men  
11 but him at that time.

12          Q     Now would you say that most of the time, when there  
13 was violence in your house from your husband, that your  
14 children were around?

15          A     Yes, they was.

16          Q     Now I want to talk a little bit about your life.

17          A     Uh-huh.

18          Q     Was there a time in John's life over here --

19          A     Uh-huh.

20          Q     -- that you had some problems being a parent for  
21 him?

22          A     Yes, I did, after me and his father separated. You  
23 know, things got harder for me, so --

24          Q     Let me ask you this. How many times did you get  
25 back together again with John's father after the violence

CAIN - DIRECT

1 started?

2 A Let's see, I think maybe like twice, twice, and that  
3 last time, that was it.

4 Q Okay.

5 A The last time from the Frontier.

6 Q So now after you're finally separated from him, you  
7 were gonna tell us something about your ability to parent and  
8 what was that?

9 A Well, I started using drugs.

10 Q Okay.

11 A Due to the fact that I was having problems with my  
12 living, you know. I needed --

13 Q Let me ask you this, Ms. Cain.

14 A Uh-huh.

15 Q What kind of drugs were you using at this time?

16 A I was using Sherm and PCP then.

17 Q Okay, what is Sherm?

18 A PCP.

19 Q Okay, is there something special about the PCP?

20 A It's just a drug, something, you know, like a  
21 cigarette.

22 Q Okay. Do you know if Sherm means that it's dipped  
23 in something?

24 A Yeah.

25 Q What's it dipped in?

CAIN - DIRECT

1           A     I don't know. I don't know how to say it, but I  
2 know they calls it water.

3           Q     Is it --

4           A     You know, some kind of water with a chemical.

5           Q     A chemical?

6           A     Yeah.

7           Q     And do you know if it's embalming fluid?

8           A     Yeah.

9           Q     Does that sound right?

10          A     Yeah.

11          Q     Okay. So what were you doing with the Sherm? How  
12 do you use it?

13          A     We would smoke it.

14          Q     You would smoke Sherm?

15          A     Uh-huh.

16          Q     So you started smoking Sherm around this time.

17                 How old is John at this time when you're starting to  
18 smoke the Sherm?

19          A     He was -- He should have been about eight or  
20 something like that. Well, during that time he was like  
21 removed from me, you know.

22          Q     So was that a time when he was removed from you,  
23 when he was still young?

24          A     Yeah, but I was always -- you know, I would always  
25 see him, but we was like not together.



CAIN - DIRECT

1 Q Tell me more how smoking this PCP dipped in  
2 embalming fluid affected you. What did it do to you?

3 A It had me crazy. You know, it had me to -- you  
4 know, I was already having problems and it just made it worse,  
5 you know, more --

6 Q How did it make you crazy? What are you talking  
7 about?

8 A More thinking harder, more pressure. You know; it  
9 was a high, but it also was pressure to me, you know.

10 Q And why were you using the Sherm now?

11 A Problems, trouble, I mean, things were on my mind.  
12 I wanted to be with my kids and I couldn't. You know, I was  
13 going to see 'em and then I had a stepfather who was like -- I  
14 would go there to see my babies and he would like tell me and  
15 he would say -- like say I see my child doing something wrong  
16 and I would go to discipline the child and he would say,  
17 "That's not your child no more, they're not your kids no more  
18 and you can't, you know, tell 'em that." In other words, I  
19 can't chastise 'em and they're in my mother's custody, so I  
20 won't be getting 'em back.

21 You know, so all that stuff just, you know, built up  
22 and I would be thinking about it and I would go away, I would  
23 leave there mad, you know. Every time I'd go there he would,  
24 you know, have me upset when I leave about my kids. I was  
25 hurting enough without being there with 'em, you know.

CAIN - DIRECT

1 Q So now at this time you had sisters of your own?

2 A Yes, yeah.

3 Q Now how were they involved with your PCP use?

4 A Well, there was one that, after a certain amount of  
5 time, I wouldn't stay with her. Well, when I first -- To keep  
6 from going and staying with my mom, now this is like before I  
7 started using heavy, to keep from going to my mom's I would go  
8 to my sister's. I was paying her rent to stay there with her,  
9 but I wouldn't stay because she had children, so I would --

10 Q And what's your sister's name that you're talking  
11 about?

12 A Her name was Wanda Faye.

13 Q Faye?

14 A Yeah. And so I would go and stay with my other  
15 sister.

16 Q And what's her name?

17 A I would go over to her house because -- Her name was  
18 Pam. They had -- They had children, like maybe about three or  
19 four boys or something like that and I would like -- and she  
20 was with her husband, so I would like go to Pam's house with  
21 my kids, you know, to be out of the way of her, you know, not  
22 to be so much pressure on her. And I would also go over there  
23 because I know me and Pam would, you know, sometimes we would  
24 smoke, you know, but this was not --

25 Q Smoke the PCP?

III-20

AA02088

CAIN - DIRECT

1           A     Yeah, we would leave, yeah, and go, but -- and that  
2 became the time when one night I went and then she was already  
3 having trouble there anyway, because she was supposed to be  
4 moving from there, so one night I went and that's when they  
5 removed John from me and I have to go -- I was trying my best  
6 to tell them that me and my babies was not staying there. We  
7 were visiting there, but they said that I shouldn't have been  
8 there with the kids, so that night they took 'em from me.

9           Q     Okay, so you were --

10          A     And they --

11          Q     Were you lying to the authorities 'cause you knew  
12 that they were actually living there?

13          A     No, we wasn't.

14          Q     Okay. There were periods of time though where you  
15 were completely away from your children and you don't really  
16 know what was going on with them, isn't that true?

17          A     Yeah.

18          Q     Okay. And how often would you say you were using  
19 these drugs like PCP and Sherm at this time?

20          A     I couldn't say. I really couldn't say.

21          Q     A lot?

22          A     You know, I was using a lot, but I couldn't say  
23 exactly -- I mean, you know, like how much, how long, you  
24 know, because that happened a while. I switched then to  
25 another drug now, so, you know.

CAIN - DIRECT

1 Q Okay, let me ask you this. How old are you as you  
2 sit here today?

3 A I'm 40.

4 Q 40 years old?

5 A Uh-huh.

6 Q And do you get money from some source or --

7 A Yes.

8 Q And what's that?

9 A My eligibility for Social Security.

10 Q And what makes you eligible for Social Security?

11 A I was born with premature lungs.

12 Q Now when your children --

13 A And also, excuse me, also I have a little slowness  
14 into my appearance and thinking, okay?

15 Q Okay. When your children were ultimately taken away  
16 by the police, --

17 A Uh-huh.

18 Q -- and you were using these drugs at that time, what  
19 sort of impact did that have on you? How did that make you  
20 feel?

21 A Oh, it was awful, real awful. I mean -- I mean, I  
22 was very upset, very hurt over that.

23 Q Did you have any hope?

24 A Of them being away from --

25 Q Did you have any hope?

CAIN - DIRECT

1           A     Yes, I did. I did. I just knew that I was gonna  
2 get my babies back, but I didn't never get 'em back, no.

3           Q     And you were still using --

4           A     I tried.

5           Q     You were still using drugs?

6           A     Yeah, yeah, and the pressure was -- I tried. I did  
7 everything I could, you know. I went to school for a while,  
8 and I got of there, you know, but I did what I could to get  
9 'em back, but it didn't work.

10           MR. FIGLER: The Court's indulgence.

11                     (Pause in the proceedings)

12 BY MR. FIGLER:

13           Q     Ms. Cain, you haven't see John for some time, isn't  
14 that true?

15           A     Yes.

16           Q     Okay. Have you had a chance to see him -- I don't  
17 want to put this in your way.

18           A     No, no, I haven't.

19                     (Pause in the proceedings)

20           Q     Now let me ask you this.

21           A     Yes.

22           Q     You said just now that after the PCP and the Sherm  
23 that you changed to a different drug?

24           A     Yes.

25           Q     And what drug was that?

CAIN - CROSS

1 A Cocaine.

2 Q And what kind of cocaine were you using, what form?

3 A Rock.

4 Q Crack, rock cocaine?

5 A Yeah.

6 Q And were you using that to ease your pain or  
7 something or why were you using that?

8 A Yes, the same reason.

9 Q And you know that John here is in a real serious  
10 situation?

11 A Yes, I do.

12 Q Okay. And have you been honest with us today about  
13 your life?

14 A Yes, I have.

15 MR. FIGLER: I'll pass the witness, Your Honor.

16 THE COURT: Any cross?

17 MR. GUYMON: Yes, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. GUYMON:

20 Q Good morning, Mrs. Cain.

21 A Good morning.

22 Q I take it that you have three children who you love  
23 very dearly?

24 A Yes, I do.

25 Q And you love John just like you love your other two

CAIN - CROSS

1 children?

2 A Yes, I do.

3 Q And you tried, did you not, to teach your children  
4 right from wrong?

5 A Yes, I did.

6 Q And John, at a young age, learned right from wrong?

7 A Yes, he did.

8 Q In fact, John was the kind of child that would help  
9 you when something wrong was happening to you?

10 A Yes.

11 Q Okay. It is true that John knows right from wrong?

12 A Yes.

13 Q And John was able to make choices just like your  
14 other children could make choices, isn't that true?

15 A Yes.

16 Q And some of the choices he made were right and some  
17 of the choices he made were wrong as a child?

18 A Yes.

19 Q There was choices that he made that you were unhappy  
20 with him about making?

21 A Yes, there was, very much.

22 Q And --

23 A But I didn't -- and actually didn't know about, so -  
24 -

25 Q Okay, some of his wrong choices you didn't know

CAIN - CROSS

1 about?

2 A Yeah.

3 Q Okay. You would say that's probably true of all  
4 children and mothers. Sometimes children do things that they  
5 don't want their mothers to know about.

6 A Yes.

7 Q That's the same with all children and all parents.  
8 You'd agree?

9 A Yes.

10 Q Okay. Now there came a point in time when, because  
11 of your problem with Senior, your husband, --

12 A Uh-huh.

13 Q -- that you left the house and you began to use some  
14 drugs?

15 A Yes.

16 Q And you regret those choices that you made, is that  
17 true?

18 A Yes, I do.

19 Q And even while you were using the drugs, you still  
20 let John and the other children know that you loved them?

21 A Yes, always.

22 Q And John always had the love of his mother?

23 A Yes, he did.

24 Q He also always had the love of his grandmother,  
25 didn't he?



CAIN - CROSS

1 A Yes.

2 Q Your grandmother -- Your mother is a good woman?

3 A Yes, she is.

4 Q And, in fact, when you lost the children, when you  
5 lost John, ultimately John went to your mother's house?

6 A Yes.

7 Q And, in fact, you and your mother lived very near to  
8 one another for many years?

9 A Yes.

10 Q So while John was now being raised by your mother,  
11 you got to see John regularly?

12 A Yes, I did.

13 Q Okay.

14 A Yes, I did.

15 Q And you would agree that your mother did the best  
16 she could to raise you?

17 A Yes.

18 Q She loved you and she taught you right from wrong?

19 A Yes.

20 Q Would you agree that the same teachings that your  
21 mother taught you she tried to teach her grandson, who she  
22 loved?

23 MR. FIGLER: Your Honor, foundation. I mean, she  
24 wasn't in that household. I don't think she knows. She was  
25 kept away.

CAIN - CROSS

1 THE COURT: Overruled.

2 BY MR. GUYMON:

3 Q You would agree that your mother wanted to teach you  
4 and her other children right from wrong?

5 A Yes.

6 Q She's a loving woman?

7 A Yes, she is.

8 Q A woman that you love dearly?

9 A Yes.

10 Q Okay. And you would agree that your mother loved  
11 her grandbabies?

12 A Yes.

13 Q Very much so?

14 A Yes, she does.

15 Q Would you agree that -- And, in fact, you saw the  
16 love that your mother had for John?

17 A Yes, when I was there, yes.

18 Q Okay. And tell me, when John went to your mother's  
19 house, your mother's house and your house, the house that you  
20 stayed at, were right next door to one another?

21 A Yes, for a while.

22 Q Okay. And for how long a while did --

23 A I can't remember exactly, but it was for a while,  
24 because they moved away.

25 Q Okay.

CAIN - CROSS

1           A     They moved farther.

2           Q     When you lived next to your mother, you got to see

3 John daily?

4           A     Yes, when he was there, yeah.

5           Q     Okay. And how old was John when you got to see him

6 daily living next door to you at grandma's?

7           A     He was around seven or eight.

8           Q     And would you say seven or eight and maybe even up

9 to nine or ten before he moved?

10          A     Yeah.

11          Q     Okay. When your grandmother -- Now let me ask you

12 this. From seven to ten then, right around that age, your

13 grandma tried to teach John right from wrong?

14          A     Yes.

15          Q     And tried to help him?

16          A     Yes.

17          Q     Okay. And, in fact, she was good to John, wasn't

18 she?

19          A     Yes, she was.

20          Q     And there was a house over John's head and clothing

21 and food and things like that for John?

22          A     Yes.

23          Q     So that he could grow up well?

24          A     Yes.

25          Q     Okay. In fact, your mother would make sure that

CAIN - CROSS

1 John would go to school so that he could be taught like other  
2 kids?

3 A Yes, yes, she did.

4 Q And there were kids in that neighborhood that did  
5 well, didn't they?

6 A Not that I know of. Most of 'em were bad.

7 Q Most of the kids, you say, were bad kids?

8 A Correct, yeah, uh-huh.

9 Q They started making -- The kids started making bad  
10 choices then?

11 MR. FIGLER: Argumentative, Your Honor.

12 THE COURT: Overruled.

13 BY MR. GUYMON:

14 Q The kids in the neighborhood made choices that were  
15 wrong then, true?

16 A Yes.

17 Q Okay. Now you say that your grandmother moved and  
18 John went with her then too, didn't he?

19 A Yeah.

20 Q Okay. And how often would you see John at grandma's  
21 house once John and grandma moved?

22 A It was very -- not very much once they moved.

23 Q Okay.

24 A Not very much.

25 Q And you would agree, though, that your grandmother

CAIN - REDIRECT

1 continued to try to do the best she could for John?

2 A Yes.

3 Q She continued to try to help him?

4 A Yes.

5 Q And John, nonetheless, made choices though that your  
6 mother didn't agree with?

7 MR. FIGLER: Your Honor, lack of foundation.

8 THE COURT: Sustained.

9 MR. GUYMON: Okay.

10 BY MR. GUYMON:

11 Q And John was able to make his choices as he grew up,  
12 is that true?

13 A Yes.

14 MR. GUYMON: The Court's indulgence.

15 (Pause in the proceedings)

16 MR. GUYMON: I'll pass the witness, Your Honor.

17 THE COURT: Any redirect?

18 MR. FIGLER: Thank you.

19 REDIRECT EXAMINATION

20 BY MR. FIGLER:

21 Q Ms. Cain, I'm sorry, I didn't tell you that you would  
22 be asked questions by the prosecutors. I didn't think that  
23 was gonna happen and I apologize for that.

24 A Uh-huh.

25 Q Let me ask you, you said something, when I was

CAIN - REDIRECT

1 talking to you first, --

2 A Uh-huh.

3 Q -- that you felt that John was affected by the  
4 things that he saw, is that correct?

5 A Yes, uh-huh.

6 Q Do you think that that interfered with his ability  
7 to make choices?

8 A Yes, I do. Yes, I do.

9 Q Okay. And I kind of softened it before, but you  
10 know exactly what's going on here today, right?

11 A Yes.

12 Q Okay. And you're aware what some people want to do  
13 to John now, correct?

14 A Yes, I do.

15 MR. GUYMON: Judge, goes beyond the scope of my --

16 THE COURT: It does, but I'll permit it.

17 BY MR. FIGLER:

18 Q Does that scare you?

19 A Yes, it does, very much.

20 Q Was it a long way for you to get here from  
21 California?

22 A Yes.

23 Q You didn't fly?

24 A No, bus.

25 Q You hadn't been on a plane before?

CAIN - REDIRECT

1           A     No.  
2           MR. GUYMON:  Objection, irrelevant.  
3           THE COURT:  Overruled.  
4  BY MR. FIGLER:  
5           Q     So you took the bus to come?  
6           A     Uh-huh.  
7           Q     Is it worth it for you for John?  
8           A     Yes, it is.  
9           Q     I'm sorry, that probably goes without asking.  
10          MR. FIGLER:  I don't have any further questions.  
11          THE COURT:  Any recross?  
12          MR. GUYMON:  Nothing, Your Honor.  
13          THE COURT:  Thank you, ma'am.  You're excused.  
14          THE WITNESS:  Uh-huh.  
15          THE COURT:  Call your next witness, please.  
16          MR. SCISCENTO:  Your Honor, could we approach --  
17          THE COURT:  Sure.  
18          MR. SCISCENTO:  -- while the witness is coming in?  
19          THE COURT:  Sure.  
20                (Off-record bench conference)  
21          MR. FIGLER:  Our next witness is gonna be Keonna  
22  Bryant.  
23          THE COURT:  Hold on one second.  
24                (Pause in the proceedings)  
25          THE COURT:  Would counsel approach the bench?  I

BRYANT - DIRECT

1 wasn't quite through.

2 MR. FIGLER: I'll be right with you, ma'am.

3 (Off-record bench conference)

4 THE CLERK: Ma'am, please raise your right hand.

5 KEONNA BRYANT, DEFENDANT'S WITNESS, IS SWORN

6 THE CLERK: Please state your full name and spell  
7 your last name for the record.

8 THE WITNESS: My name is Keonna, K-E-O-N-N-A, last  
9 name Bryant, B-R-Y-A-N-T.

10 DIRECT EXAMINATION

11 BY MR. FIGLER:

12 Q Good morning, Ms. Bryant.

13 A Good morning.

14 Q Is there someone in the courtroom here that you are  
15 related to?

16 A Yes.

17 Q And who is that person and what is your relation?

18 A John White and he's my cousin.

19 Q Okay. Is he your first cousin?

20 A Yes.

21 Q Can you identify him in the courtroom?

22 A He's sitting right there.

23 MR. FIGLER: The record will reflect --

24 THE COURT: It will.

25 (Pause in the proceedings)

III-34



BRYANT - DIRECT

1 BY MR. FIGLER:

2 Q The woman who just walked out of the courtroom, you  
3 know her, of course?

4 A Yes.

5 Q And what's her relation to you?

6 A She's my aunt.

7 Q Okay, so your mother and her mother are sisters?

8 A Yes.

9 Q Keonna, how old are you today?

10 A I'm 26 years old.

11 Q And where do you live?

12 A I live in Los Angeles.

13 Q Now do you know how many years older you are than  
14 John?

15 A About three.

16 Q And how many brothers and sisters do you have?

17 A I have four sisters and one brother.

18 Q And what are their names?

19 A Kennita Bryant and Floyd McGowan [phonetic], Lynette  
20 Love, Kierra Cain and Kishinette [phonetic] Cain.

21 Q And what's your relative -- Are you the oldest, the  
22 youngest, in the middle? Where are you?

23 A I'm the oldest of all my siblings.

24 Q Okay. And how about your cousins too?

25 A I'm not the oldest, but I'm the second oldest.

BRYANT - DIRECT

1 Q Now do you have any other special relationship with  
2 any of your siblings?

3 A Special relationship?

4 Q Would you have anything with any of your sisters or  
5 --

6 A Well, we're all close.

7 Q Okay. Do you have custody of any of them?

8 A Yes, I have custody of my youngest sister.

9 Q Okay. And when did you begin to have custody of  
10 your youngest sister?

11 A Since she was born, at birth.

12 Q And why do you have to have custody of your sister?

13 A I have custody of my sister because my mom has a  
14 drug problem and when my sister was born she was born with  
15 drugs in her system and she also was born with syphilis.

16 Q I don't mean to embarrass her, or do anything like  
17 that, you understand.

18 A I understand.

19 Q I just need to ask.

20 Now there was some talk that Eunice just gave about  
21 relationships with people. I drew up a little chart and,  
22 since you're pretty much the oldest sibling, I think that  
23 maybe you can help us with this.

24 (Pause in the proceedings)

25 And there's a lot of names on here, but I think this

BRYANT - DIRECT

1 will probably help everyone figure out who's who. Keonna,  
2 maybe you could come down here.

3 Okay, now there's one name that's up above here  
4 above the rest and what's that name?

5 A Jane Edwards.

6 Q And who is she?

7 A She's my grandma.

8 Q Okay. Now your grandmother gave birth to some  
9 children and, yeah, maybe you could use the pointer and point  
10 to it. Can you tell who the children are and who's your mom  
11 and who's John's mom, that sort of thing?

12 A Here we have Faye. I believe this is Faye.

13 Q Okay.

14 A No, this isn't Faye. Faye is here.

15 Q Okay.

16 A And Debra's here.

17 Q Right.

18 A Lolita's here.

19 Q Right.

20 A And Eunice is here. These are my aunts and  
21 Shermatta [phonetic] is my aunt.

22 Q Okay.

23 A And Jamie is my uncle and Pam is my mom.

24 Q Okay. Now all those are the children of Jane  
25 Edwards, correct?

BRYANT - DIRECT

1 A Correct.

2 Q Okay, now your mom is Pam?

3 A Pam, uh-huh.

4 Q Okay. And now what children did Pam have?

5 A She had me, Keonna, she had Kennita, my sister,

6 Floyd, my brother, Kierra, my sister, Kishinette, my other

7 sister and then there's one missing and her name is Lynette.

8 Q Okay. And she's the baby?

9 A She's not the baby. Kishinette is the baby.

10 Q Kishinette is the baby, okay.

11 Now Eunice had some children too.

12 A Uh-huh.

13 Q And those are your first cousins, correct?

14 A Yes.

15 Q Okay. And point out who those are.

16 A It says Donte here.

17 Q Do you know him as Donte?

18 A I know him as John.

19 Q Okay.

20 A And then there's Johnnisha, his sister, she's my

21 cousin, and Eunnisha, his sister, and she's also my cousin.

22 Q Okay. Now were there some other -- Let me ask you

23 this. Who are some of these people over here? Do you know

24 them?

25 A These's are my cousins, Tish, Leckia [phonetic] and

BRYANT - DIRECT

1 Donna.

2 Q Okay. And you have some other cousins over there?

3 A Yes, we have Cornelius, Willie, Sam, Trevon and  
4 Donnisha.

5 Q And those are Faye's children?

6 A Yes.

7 Q Okay. I want you to take your seat again.

8 Now when you were growing up, you had a lot of  
9 contact with your cousins and your sisters?

10 A Yes.

11 Q Now what were your -- Let's take you to when you're  
12 -- What are your earliest recollections of all your family  
13 members?

14 A I can remember pretty much far back as to six, but  
15 like the more painful things, ten.

16 Q Okay. Why don't you tell me how you interact with  
17 them. First of all, what did you know about John and his  
18 brothers -- I'm sorry, John and his sisters?

19 A When you say --

20 Q Well, what are your first memories of John and his  
21 sisters?

22 A First memories?

23 Q Or what do you know about their family life?

24 A Basically we all had problems, just put it -- put it  
25 like that. We all had issues. Their mom had issues. My mom

BRYANT - DIRECT

1 had issues. They were on drugs and basically they just --

2 Q Was there a time when John and his sisters used to  
3 come over to your mom, Pam's, house?

4 A Yes.

5 Q And what were the occasions for that? Why would  
6 they come over?

7 A They didn't have any place to stay.

8 Q Now how about your house with your mom, how was she  
9 at this time when John and Johnnisha and Eunnisha would come  
10 over to the house? What was her role? What did she do?

11 A My mom?

12 Q Yeah.

13 A Her and Eunice, that's John's mom, they would try  
14 and find food for us to eat, because we had no money and no  
15 place to stay, so they would leave us at home alone and go out  
16 and do the best that they could to provide food for us.

17 Q Did there come a time, when you were young, when  
18 they weren't doing their best for you?

19 A A lot of times.

20 Q Well, you had some other -- What about your Aunt  
21 Faye, was she around at this time too?

22 A Yeah, she was around.

23 Q Okay. And how were they -- What is it that makes  
24 you say that they weren't doing the best they could for you  
25 little kids at that time?

BRYANT - DIRECT

1           A     Well, Faye, Eunice and my mom, Pam, they all had  
2 drug problems.

3           Q     What kind of drug problems?

4           A     They started with a drug called Sherm, they call it  
5 Sherm, and then they turned to crack cocaine.

6           Q     Now you said they had a problem with it. What  
7 information do you have that Pam and Eunice and Faye had a  
8 problem with Sherm and crack cocaine?

9           A     They used to take us, at times, they used to take us  
10 on like runs to buy their dope.

11          Q     Runs?

12          A     Yeah.

13          Q     What does that mean?

14          A     That means that whenever they needed a hit or they  
15 wanted to get high and if they had to take us they would.

16          Q     Did they ever use the drugs, actually use them, in  
17 front of you and the kids?

18          A     They didn't know -- They didn't know that we were  
19 watching, but at times we were playing like in the living room  
20 or something and it's not closed off from the kitchen and, you  
21 know, we could sit and watch whatever they were doing.

22          Q     And was John included in that group of kids?

23          A     Yes, he was.

24          Q     Okay. How did these drugs, the crack, the Sherm,  
25 how did that affect your -- how your moms were behaving or

BRYANT - DIRECT

1 interacting with you?

2 A The drugs --

3 Q It made them -- Did it make them sleepy, happy,  
4 mean, fighting, what?

5 A They fought a lot.

6 Q Fought?

7 A With each other or with their spouses, boyfriends or  
8 whoever they were involved with.

9 Q Under the influence of these drugs?

10 A Yes.

11 Q In front of the kids?

12 A Yes.

13 Q All right. And how did that affect you and the rest  
14 of the kids?

15 A I mean, it hurts, you know. Being little kids, you  
16 don't know what's really going on with -- what's the argument  
17 about. You don't understand why they're fighting or why  
18 they're arguing and the only thing we could do is sit and  
19 watch or sit and cry.

20 Q So you would cry?

21 A Yes.

22 Q And did they do anything about that when they were  
23 using the drugs?

24 A Basically they would just grab the kids up and  
25 leave, I guess, you know, head in different directions.



BRYANT - DIRECT

1 Q And there were times when they just left you there?  
2 A Yes.  
3 Q Now about how old are you when you have a  
4 recollection of this going on?  
5 A Ten.  
6 Q About ten years old?  
7 A Uh-huh.  
8 Q So you're ten and John's three years younger than  
9 you, so he's about seven?  
10 A Uh-huh.  
11 Q And his sister's six, Johnnisha?  
12 A Yes.  
13 Q And your sisters and brothers are around too?  
14 A Yes.  
15 Q And sometimes Faye's kids are around too?  
16 A Yes.  
17 Q Now Eunice told us there was a time when she wasn't  
18 with her kids, that they were living somewhere else.  
19 A Uh-huh.  
20 Q Was there a time when Pam's kids, you and your  
21 siblings over there, weren't living with your mom?  
22 A Yes.  
23 Q Okay. Were you living -- Who were you living with?  
24 Who were you and your siblings living with?  
25 A My grandmother.

BRYANT - DIRECT

1 Q Okay. Was John there and his siblings?  
2 A Yes.  
3 Q Okay. The first thing I want to do is show you a  
4 picture. It's been marked Proposed Defense Exhibit D. Do you  
5 recognize the people in that picture?  
6 A Yes.  
7 Q Okay, do you know about how old you are in that  
8 picture? I'm sorry, who does this --  
9 A Actually, this is my sister.  
10 Q That's your sister?  
11 A Uh-huh.  
12 Q Okay.  
13 A Kennita and this is John.  
14 Q Okay. Do you know about how old everyone is in that  
15 picture?  
16 A This looks like when we first moved with our  
17 grandmother, so she's about eight and he's probably about  
18 seven.  
19 Q Okay.  
20 A Uh-huh.  
21 Q And that's what they looked like at that time?  
22 A Yes.  
23 Q Okay.  
24 MR. FIGLER: Move for its admission, Your Honor.  
25 MR. GUYMON: No objection, Your Honor.

BRYANT - DIRECT

1 THE COURT: Received.

2 (Defendant's Exhibit D admitted)

3 MR. FIGLER: I'm gonna publish it really briefly to  
4 the jury.

5 (Pause in the proceedings)

6 BY MR. FIGLER:

7 Q Now let me ask you, there came a time -- there came  
8 a time when you and your siblings and John and his siblings  
9 were all living in one area?

10 A Yes.

11 Q Okay, can you describe where it is that you were all  
12 living together the first time?

13 A I call it a shack, 'cause basically that's what it  
14 was. It was --

15 Q There was some sort of --

16 A It was located -- would be in the back of my great-  
17 grandmother's house.

18 Q Okay, so this isn't Jane Edwards. This is someone  
19 even --

20 A Her mother.

21 Q -- older than Jane Edwards?

22 A Yes, her mother.

23 Q Now you've described this place as a shack and I  
24 want to get into it a little bit more. I want to show you a  
25 picture first. Do you recognize what's depicted in this.

III-45

BRYANT - DIRECT

1 particular picture?

2 A This is where we were living.

3 Q Okay. And does that reflect how it looked when you  
4 lived there?

5 A Yes.

6 Q Okay. And this is -- Do you know the area that this  
7 is in?

8 A Yes.

9 Q What area is that?

10 A That's Los Angeles.

11 Q Okay. Do you have anything more specific on it?

12 A It's right in back of my grandmother's -- my great-  
13 grandmother's house.

14 THE COURT: Outside where?

15 THE WITNESS: 52nd and Compton.

16 MR. FIGLER: Okay. Move for its admission, Your  
17 Honor.

18 THE CLERK: What exhibit is that, counselor?

19 MR. FIGLER: Sorry. It's Proposed Exhibit C.

20 MR. GUYMON: No objection, Your Honor.

21 THE COURT: Received.

22 (Defendant's Exhibit C admitted)

23 BY MR. FIGLER:

24 Q Okay, so now this is what we're calling the shack or  
25 what you're calling the shack. Is it much bigger than what's

BRYANT - DIRECT

1 depicted here in the picture?

2 A Not really.

3 Q Okay.

4 A You probably have like half of it in the photo.

5 Q At least half of it, if not more?

6 A At least half of it is in the photo.

7 Q Now why don't you describe -- About how old are you  
8 when you're living in here?

9 A Ten.

10 Q Ten.

11 And who else is living in this space at this time?

12 A My sister, my brother, that's Kennita and Floyd, and  
13 then there was my mom, my stepdad stayed there for a short  
14 period and then -- and then my mom separated. Then there was  
15 John, Johnnisha and Eunnisha and Eunice.

16 Q Okay. Now was there a time when there were no  
17 adults living in that house and just the kids?

18 A Yes.

19 Q Okay. Now why don't you describe, because we don't  
20 have a picture of the inside, can you tell us what it was like  
21 inside this, what you're calling the shack?

22 A My mom had lost her job and we needed a place to  
23 stay, so we had moved all our furniture inside, couches,  
24 refrigerator, stove, beds, clothing, drawers, everything, and  
25 the space was very small and we had a space where we just kept

BRYANT - DIRECT

1 the bed where we all slept in and --

2 Q You all slept in the one bed?

3 A In one bed.

4 Q Okay. What about -- You mentioned there was a  
5 stove. So you did a lot of cooking in there?

6 A There was no place to hook up a stove and there was  
7 no place to hook up a refrigerator.

8 Q So those things were just sitting in there?

9 A Yes.

10 Q Okay, how about -- Was there a bathroom in there?

11 A No.

12 Q Was there any running water in there?

13 A No.

14 Q Okay, is this place where you spent most of your  
15 time?

16 A Yes, every day.

17 Q Okay. Now you said that your great-grandmother  
18 lived right behind there. How come you didn't just live in  
19 your great-grandma's house? Why were you in that place?

20 A There wasn't enough space in her house anyway and,  
21 being that she wanted my mom to do the right thing and get on  
22 her feet and take care of her kids the right way, you know, I  
23 guess she felt that she had to give her hard love, you know,  
24 and --

25 Q Hard love?

III-48

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BRYANT - DIRECT

1           A     Tough love you could call it.  
2           Q     At the expense of you kids?  
3           A     Exactly. She's the one who called the police and  
4 told them that we were living back there by ourselves.  
5           Q     Okay, let's hold on a second.  
6           A     Okay.  
7           Q     Now your mom and John's mom, I mean, they have  
8 responsibility for you at this time, correct?  
9           A     Uh-huh.  
10          Q     But is this the time when they're using the drugs  
11 and all this too?  
12          A     Yes.  
13          Q     And is this the time when they're just leaving you  
14 there?  
15          A     Yes.  
16          Q     To basically take care of yourselves?  
17          A     Yes.  
18          Q     Now who is the oldest of all the siblings in there?  
19 Well, I guess we could figure it out.  
20                You were the oldest of all the people that you  
21 mentioned --  
22          A     Uh-huh.  
23          Q     -- in that shack at that time?  
24          A     Yes, I am.  
25          Q     Okay. Did that mean that you had any extra

BRYANT - DIRECT

1 responsibilities?

2       A     Well, I had to make sure they weren't getting into  
3 any trouble, leaving out of the shack and running around in  
4 the front yard or in the streets, you know, things like that.  
5 And at nighttime, when we were left alone, I had to make sure  
6 the door stayed locked and that all the kids were sitting in  
7 one spot where we wouldn't get into any trouble.

8       Q     Okay. And how old are you at this time when you  
9 have all these responsibilities?

10      A     I was ten.

11      Q     Ten years old?

12      A     Uh-huh.

13      Q     And there were one, two, three, four, five -- at  
14 least six of you in there, kids?

15      A     Yes.

16      Q     Now I mentioned running water before. Was there  
17 something in that shack that you used for a bathroom  
18 sometimes?

19      A     A bucket.

20      Q     I'm sorry?

21      A     A bucket.

22      Q     And this was just a regular -- like a bucket you mop  
23 in or something like that?

24      A     My mom had a, yeah, a bucket in the back of the room  
25 where we all would just go. Whenever we had to go and use it,



BRYANT - DIRECT

1 we used the bucket.

2 Q Now you mentioned an incident when your great-  
3 grandmother called the police.

4 A Uh-huh.

5 Q And told the police that there were a bunch of kids  
6 living alone in the shack, is that --

7 A Yes.

8 Q Okay, why don't you tell me about the day when the  
9 police came to the shack.

10 A My mom had left, and at the time it was just me, my  
11 sister and my brother, and she left. She told me she was  
12 going to get something to eat and, you know, keep the door  
13 locked and don't open it. And so then next Eunice came over  
14 with John, Eunnisha and Johnnisha and she asked me where my  
15 mom was and I told her she went to go get something to eat, so  
16 she told her kids to go in, sit down, watch TV and wait 'til  
17 she comes back. And so by the time they got back the police  
18 were already at the door.

19 Q And what did the police do with you?

20 A They questioned us first and asked us where our  
21 parents were and we told them they went to get something to  
22 eat. And so when my mom and Eunice walked up, they were  
23 trying to explain to them that they were just gone for a few  
24 minutes and they just went to get us something to eat, but  
25 there was nothing that they could say or do, you know, to keep

BRYANT - DIRECT

1 us there, because we were left alone.

2 Q Were they lying to the police?

3 A Yes.

4 Q They had left you there for very lengthy periods of  
5 time?

6 A Yes.

7 Q Days, weeks sometimes?

8 A Not really.

9 Q Okay, tell me.

10 A I can remember just a lot of times we were there for  
11 like a day or so and then we'd go up to my grandmother's -- or  
12 my great-grandmother's house, like if we were hungry or needed  
13 to use the restroom.

14 Q Where did the police take you?

15 A They took us to the police station first and they  
16 questioned us. They called Children Services and our parents  
17 came down and they questioned our parents and from there we  
18 went to McClarren Hall.

19 Q Okay. And what's McClarren Hall?

20 A McClarren Hall is like -- it's a foster home for  
21 children.

22 Q And how many kids are in this foster home?

23 A I couldn't give you a number, but there were a lot.  
24 I could say there were like over 50 kids in the dorm where I  
25 slept and it was just with girls from like ages six to like

BRYANT - DIRECT

1 maybe 17.

2 Q Was it a nice place?

3 A It was -- It wasn't home.

4 Q What were some of the problems that you encountered  
5 at McClarren Hall?

6 First of all, was John at McClarren Hall too?

7 A Yes, he was.

8 Q What were some of the problems that you encountered  
9 at McClarren Hall?

10 A There would be like different things going on as far  
11 as the rest of the kids there besides us, fights, kids  
12 throwing temper tantrums in the middle of the night. There  
13 was a girl who was sick right in the room next door to us.  
14 She had -- I believe she had sickle-cell and she had to be in  
15 and out of the hospital a lot. And Johnnisha -- There was a  
16 closet, a big closet space, where we all had to go out and  
17 pick our clothes from and everybody inside the dorm shared  
18 those same clothes. They got washed and everything, but, you  
19 know, we had to do our duties, wash 'em, fold 'em and put 'em  
20 back in the closet and we all shared the clothes. All the  
21 girls in the dorm shared those clothes.

22 Q Okay. What about any kind of disease or ailments or  
23 anything else like that running around?

24 A Well, I can recall Johnnisha having ringworms from  
25 like just different things around there.

BRYANT - DIRECT

1 Q Now when the police are asking all these questions  
2 to all you kids, were they asking you about the drugs and all  
3 that stuff too?

4 A Yes.

5 Q Now there came a time, after you were in McClarren,  
6 where your grandmother took you out of that facility?

7 A Yes.

8 Q And that's Jane Edwards?

9 A Uh-huh.

10 Q Okay. She took all of you kids?

11 A Yes, all six of us.

12 Q Now how long do you think you were in McClarren?

13 A We were there for about two months.

14 Q Two months.

15 A Maybe less.

16 Q Now when you went to your grandmother's house, were  
17 there any other kids that were there?

18 A At the time it was just us six kids and then, my  
19 aunt, she also lived with my grandmother and she had one son.  
20 And then she also had another daughter living there and that  
21 was Debra, so Debra and Lolita also stayed in the house with  
22 us.

23 Q Okay. And did Lolita have any kids?

24 A She had one son at the time.

25 Q Okay. Now you all lived in one bedroom at that

BRYANT - DIRECT

1 time?

2 A Yes.

3 Q You and all -- John?

4 A Six of us --

5 Q All six of you?

6 A -- lived in one bedroom.

7 Q Okay. Now what about any of -- You have an Uncle  
8 Jamie. Did he ever live there?

9 A Yes. He was in and out a lot of times. Sometimes  
10 he stayed with girlfriends and then, whenever he'd break up  
11 with his girlfriend, he'd come in and stay with my grandmother  
12 and us.

13 Q Now during this time your grandmother is trying to  
14 show love and care for all the kids?

15 A Yes.

16 Q 'Cause she's basically in charge?

17 A Yes.

18 Q Okay, what kind of things would she do? Would she  
19 take you to church and that sort of stuff?

20 A Yeah. She made sure we were in school. She made  
21 sure we went to church every Sunday. We were in the choir and  
22 Usher Board.

23 Q Now where are all the moms during this time that  
24 you're in Jane Edward's house?

25 A I couldn't tell you where they were staying, but --

BRYANT - DIRECT

1 Q Do you know what they were doing?  
2 A Yes.  
3 Q And what were they doing?  
4 A Supporting their habit.  
5 Q Would there be some times when Eunice would try to  
6 come over to visit John --  
7 A Yes.  
8 Q -- and Johnnisha and Eunnisha?  
9 A Yes.  
10 Q And did you know what she said she was there for?  
11 A Sometimes she came, like if she ran out of money and  
12 she needed something to eat, she'd come and ask for food or  
13 sometimes she'd come and ask for money. It depends on if she  
14 needed a hit or if she just needed someplace to lay her head.  
15 Q Okay. Now what street did Jane Edwards live on in  
16 this area, Central?  
17 A 43rd and Ascot.  
18 Q 43rd?  
19 A Uh-huh.  
20 Q Okay. Tell me about 43rd, the neighborhood, growing  
21 up there. What was that like?  
22 A There was a lot of gangs around. We had the Bloods  
23 and we had the Crips and we had -- there were like two more --  
24 two to three more gangs around, but we never like were out of  
25 the yard, because my grandmother tried to keep us away from

BRYANT - DIRECT

1 all that stuff.

2 Q Now what would -- What else were these gangs doing?  
3 What were they involved with that you saw or you knew about?

4 A Drugs, drive-bys, robberies.

5 Q How about just other kids in the neighborhood, were  
6 they nice kids or kids that weren't involved with the gangs?

7 A Not really. We did get picked on a lot and, you  
8 know, harassed by men.

9 Q By men?

10 A Yes.

11 Q Now your grandmother couldn't keep you in that house  
12 all the time, could she?

13 A No.

14 Q You had to go to school, for instance?

15 A We had to go to school or sometimes we needed to go  
16 to the store or the market to get something to eat.

17 Q And that typically was walking to --

18 A Yes.

19 Q -- those various places?

20 Okay, now was there any problem that the  
21 neighborhood kids gave you because you stayed in the house all  
22 the time too?

23 A It wasn't because we stayed in the house. It was  
24 just because they were bullies and they liked to pick on  
25 people.

BRYANT - DIRECT

1 Q Now you talked about there being drugs and problems  
2 in that neighborhood. Let me ask you if you've ever witnessed  
3 any violence on 43rd Street growing up there.

4 A Yes.

5 Q Okay. And this was the same time that John was  
6 there?

7 A Yes.

8 Q Okay. Maybe you could give me an example of some of  
9 the violence that you saw.

10 A Well, I can remember the house across the street  
11 they had raided, the police raided the house across the  
12 street, and they ended up in a shootout with the guy who was  
13 held up inside the house and he was inside the attic. And  
14 they exchanged gunfire and the guy was shot.

15 Q Did he live or --

16 A I can't recall if he lived or died.

17 Q Now what about the house itself, was Jane Edwards'  
18 house pretty much a safe haven where nothing bad ever  
19 happened?

20 A No.

21 Q What kind of bad things -- What kind of bad things  
22 happened while you were in Jane Edwards' house?

23 A We had break ins.

24 Q Were you ever home when there was a break-in?

25 A Yes.



BRYANT - DIRECT

1 Q Tell me about that.

2 MR. GUYMON: Could we approach?

3 THE COURT: Sure.

4 (Off-record bench conference)

5 BY MR. FIGLER:

6 Q About how old are you at this time?

7 A About 13.

8 Q 13?

9 A Yes.

10 Q So John's about ten?

11 A Yes.

12 Q Is John around the house at this time when we're  
13 talking about?

14 A Yeah. We were all sleeping in the same room at the  
15 time.

16 Q All in the same room?

17 A Yes.

18 Q Okay, why don't you tell me what happened.

19 A There was a window that you could easily crawl  
20 through and someone broke in and he came into the room and we  
21 were all asleep. And he came in and he -- and he touched me  
22 in my private parts.

23 Q And all you kids are in the bed when this is going  
24 on?

25 A Yes.

III-59

AA02127

BRYANT - DIRECT

1 Q Did the police ever come?

2 A No, 'cause by the time everybody was aware of what  
3 happened he was already gone, but later on we found out who it  
4 was and he went up to my cousin John and he told him, "You  
5 almost had me, huh?"

6 Q He told that to John here?

7 A Yes.

8 Q Okay.

9 (Pause in the proceedings)

10 Now you have no doubt that Jane Edwards, your  
11 grandmother, loves you, right?

12 A No doubt.

13 Q And she wanted to do the best she could to protect  
14 all you kids?

15 A All the time.

16 Q There's a lot of kids there, though, right?

17 A Yes.

18 Q Now there came a time when grandma saved up some  
19 money so you could go to a different school?

20 A Yes, I went to a private school.

21 Q A safer --

22 A Yeah.

23 Q Okay. Did all the kids get to go to that safer  
24 school?

25 A She couldn't afford to send us all.

BRYANT - DIRECT

1 Q So who got to go?  
2 A I was the only one who got to go.  
3 Q You were the oldest?  
4 A Yes.  
5 Q Do you know if it was expensive or not?  
6 A The tuition was a hundred and ninety dollars (\$190)  
7 a month for the first year that I went and then for the second  
8 year the tuition went up to two hundred and ten dollars  
9 (\$210).  
10 Q Was that a lot of money for your grandma at that  
11 time?  
12 A Yes, it was.  
13 Q Did there come a time when Jane lost her house on  
14 43rd?  
15 A The owner sold the house and we had to move.  
16 Q So they didn't own, they were just renting?  
17 A Yes.  
18 Q And where did you move to?  
19 A We moved to 60th and Normandy.  
20 Q Okay. And that's a -- Is that another house or is  
21 that an apartment?  
22 A It was an apartment.  
23 Q And Jane moved the whole crew into this apartment on  
24 60th?  
25 A Yes. At the time, there were ten of us.

III-61

BRYANT - DIRECT

1 Q Ten of you?

2 A Ten.

3 Q And about how old are you at this time?

4 A I was about 16.

5 Q Tell me what living on 60th Street was like compared  
6 to living on 43rd Street.

7 A There were gangs on 43rd, but they didn't hang out  
8 in front of our door and when we moved to 60th they hung right  
9 out in front of our apartment, so there was like no way of  
10 getting to the store or to the school without having to pass  
11 'em up.

12 (Pause in the proceedings)

13 Q Keonna, I'm gonna show you a picture that's been  
14 marked Proposed Defendant's Exhibit H. Do you recognize  
15 what's depicted in this picture?

16 A Yes. That's the apartment we lived in.

17 Q And that's on 60th?

18 A Yes.

19 Q And does it look in the condition that it looked  
20 back when you lived there?

21 A There were no bars when we lived there.

22 Q Okay, so the bars have been added?

23 A Yes.

24 Q Okay.

25 MR. FIGLER: With that caveat, I'd move for its

BRYANT - DIRECT

1 admission.

2 MR. DASKAS: Submitted, Judge.

3 THE COURT: Admitted.

4 (Defendant's Exhibit H admitted)

5 MR. FIGLER: Publish to the jury.

6 BY MR. FIGLER:

7 Q So since then somebody decided to put some bars on  
8 the windows, correct?

9 A Yes.

10 Q But you didn't have those back when you were living  
11 there?

12 A No.

13 Q Okay, so now there were ten kids living there on  
14 60th when you were about 16 years old, right?

15 A Uh-huh.

16 Q So John was about 12, 13 around that time?

17 A Yes.

18 Q Okay. And he was there with you?

19 A Yes.

20 Q Now were there ever any other children that Grandma  
21 Jane brought into this apartment complex?

22 A Well, before we even moved there, she also had  
23 Faye's kids.

24 Q Faye's kids?

25 A Yes.

III-63

BRYANT - DIRECT

1 Q Okay, so that is Cornelius, Willie, Sam and Trevon?  
2 A Trevon, uh-huh.  
3 Q Okay. So now there's four more of you in there?  
4 A Yes.  
5 Q Now you were saying that the difference between 43rd  
6 and 60th was something to do with the gangs. What was the  
7 difference with the gangs on 60th Street?  
8 A They hung right out in front of our apartment.  
9 Q Okay, is this -- Can you tell me how --  
10 A That's just the driveway there and like in front --  
11 there's like more room in front of the apartment where they  
12 hung out outside the gate.  
13 Q Okay. And what would they do when they hung out  
14 there?  
15 A They sold drugs.  
16 Q Now were there any kind of parks near there?  
17 A Yeah, there was a park, maybe about two or three  
18 blocks away.  
19 Q Okay, did you ever play in that park?  
20 A No.  
21 Q Why not?  
22 A I was afraid to go there.  
23 Q Now give me an idea of the degree of violence on  
24 60th compared to 43rd. Was it more, less, about the same?  
25 A It was about the same except that, you know, they

BRYANT - DIRECT

1 hung right out in front of the door, so there was no way of  
2 getting past them. And there was a store right on the corner,  
3 so, you know, if we had to go to the store or anything, there  
4 they were right there in our face either harassing us or  
5 picking on us.

6 Q And when you say harassing us, you mean you and John  
7 too?

8 A Yes.

9 Q And John was kind of smaller, wasn't he?

10 A Yes.

11 Q The kids at that time -- Did you ever see guns or  
12 violence or anything like that?

13 A Yes.

14 Q And what did you see?

15 A There was a time when there was a feud between the  
16 guys who sold the drugs in front of our apartment and,  
17 basically, it was like the Blacks against the Mexicans and who  
18 wanted to sell their drugs right in front of our apartment.  
19 And so one day there was a guy on a bike, he rode down the  
20 street with a shotgun and they were right in front of our door  
21 arguing with guns and stuff.

22 Q Do you know if the police were trying to stop this  
23 going on?

24 A No, nobody called the police.

25 Q Now were there any gang members that specifically

BRYANT - DIRECT

1 harassed you at this time?

2 A Yes.

3 Q Do you know that person's name?

4 A They called him Sonny.

5 Q Sonny?

6 A Uh-huh.

7 Q And what did Sonny do?

8 A Like I said, there were times when we needed to go

9 to the store and I could be standing at the counter paying for

10 my stuff and he'd come up and hit me on my behind or just grab

11 me or something.

12 Q And did he make any comments to you?

13 A He just really always pressured me for sex.

14 Q Did John know about this?

15 A Yes.

16 Q Now were these -- Sonny was in some kind of gang?

17 A Yes.

18 Q Okay. Now did you ever see Sonny, or any of his

19 gang, harassing or talking or doing anything with John?

20 A One day we were all in the house and John and

21 Cornelius, that's our cousin, they were walking down the

22 street and Sonny approached him and he socked him.

23 Q He did what?

24 A He punched him.

25 Q He punched him?



BRYANT - DIRECT

1 A Uh-huh.

2 Q Now at this time you know that John was starting to  
3 hang around with the gang kids? Do you know that?

4 A That was the day that he told John if he didn't join  
5 the gang that he would rape me.

6 Q And John knew that?

7 A Yes.

8 Q And you knew that?

9 A I didn't find out 'til later.

10 Q Now was there a time when you saw John beat up by  
11 the gang people?

12 A It was that day.

13 Q Okay. After that day did you start seeing less of  
14 John?

15 A Yes.

16 Q What would happen? How would that occur?

17 A They'd come by in the morning, early in the morning,  
18 and they'd say they were gonna take him to school or they were  
19 gonna hang out or something and they'd just leave with John.

20 Q Now your grandma's still living there, Jane Edwards,  
21 right?

22 A Yes.

23 Q And they're telling her this information too?

24 A Yes. They made it seem as if they were just gonna  
25 watch movies or something.

BRYANT - DIRECT

1 Q Just as ordinary friends?  
2 A Yes.  
3 Q Was John real vocal at this time or was he a quiet  
4 kid or what was going on?  
5 A He didn't tell us much about what was happening. He  
6 tried to keep -- He tried to keep them away from the house.  
7 (Pause in the proceedings)  
8 Q Let me ask you this. Was it a choice of yours to  
9 take care of all these kids when you were ten years old?  
10 A No.  
11 Q But it was something that you decided to do as a ten  
12 year old, right?  
13 A Yes.  
14 Q Okay. Was it just something that you felt you were  
15 in a position where you just had to do what you had to do?  
16 A There was no one else there.  
17 Q Now your grandma made a choice to use that money to  
18 send you to a safer school?  
19 A Uh-huh.  
20 Q And that was a school far away?  
21 A Yes, it was in Hawthorne. I had to catch the bus,  
22 the school bus, there.  
23 Q Okay. Was that better for you?  
24 A Yes.  
25 Q That helped you?

BRYANT - DIRECT

1 A Yes.

2 Q But you know your grandma had to make a choice to  
3 spend those family monies for that, right?

4 A Yes.

5 Q And you know, if she had all the money, she probably  
6 would have sent all the kids away, huh?

7 A Yeah.

8 Q But she had to make a choice?

9 A Yes.

10 Q Now you still make choices in your everyday life,  
11 right?

12 A Yes, I do.

13 Q Do you think that your experiences, getting away  
14 from this neighborhood, getting away from walking to those  
15 schools, do you think that has helped you with your ability to  
16 make good choices in this world?

17 A Most definitely.

18 MR. FIGLER: I'll pass the witness, Your Honor.

19 THE COURT: Any cross?

20 MR. GUYMON: Nothing, Judge.

21 THE COURT: Thank you, ma'am. You're excused.

22 THE WITNESS: Thank you.

23 THE COURT: Before you call your next witness, could  
24 I see counsel at the bench?

25 (Off-record bench conference)

WHITE - DIRECT

1 THE CLERK: Would you please remain standing and  
2 raise your right hand?

3 JOHNNISHA WHITE, DEFENDANT'S WITNESS, IS SWORN

4 THE CLERK: Would you please state -- Have a seat  
5 and state your full name and spell your last name for the  
6 record?

7 THE WITNESS: My name is Johnnisha White, W-H-I-T-E.

8 DIRECT EXAMINATION

9 BY MR. SCISCENTO:

10 Q Johnnisha?

11 A Uh-huh.

12 Q How are you today?

13 A Fine.

14 Q Can you move up a little to the microphone?

15 (Pause in the proceedings)

16 Are you a little nervous to be here today?

17 A Yes.

18 Q Why are you nervous to be here today?

19 A I'm afraid.

20 Q What are you afraid about?

21 A Of how the victims' family feel.

22 Q You're afraid of the victims' family?

23 A Yes.

24 Q And I explained to you, in this world, there's no  
25 retaliation against family. You understand that?

III-70

WHITE - DIRECT

1           A     Yes.

2           Q     Do you still believe it?

3           A     Yes.

4           Q     Okay. And after you testify today, what is your  
5 intentions?

6           A     Say it again.

7           Q     Do you want to go home as soon as you testify today?

8           A     Yes, I do.

9           Q     And where do you live?

10          A     In L.A.

11          Q     What part of L.A. do you live in?

12          A     In South Central.

13          Q     I guess first you should introduce yourself. Your  
14 name is Johnnisha White?

15          A     Yes.

16          Q     And you are?

17          A     John's sister.

18          Q     Okay. And you see John over here?

19          A     Yes.

20          Q     And where is he at?

21          A     He's right there.

22                MR. SCISCENTO: For the record, I think, Your Honor,  
23 it's the identification of Mr. White.

24                THE COURT: Right.

25                       (Pause in the proceedings)

III-71

WHITE - DIRECT

1 BY MR. SCISCENTO:

2 Q Do you know a person named Eunice Cain?

3 A Yes, I do.

4 Q Who's Eunice Cain?

5 A My mother.

6 Q Tell me a little bit about your relationship -- Tell  
7 the jury here a little about the relationship you had with  
8 your mother when you were growing up.

9 A It wasn't no relationship. My mother, she, first of  
10 all, was on drugs. She was always worried about -- and not  
11 focusing on how to raise us.

12 Q Tell me, there was an incident about that ghost.

13 A Uh-huh.

14 Q Do you remember that?

15 A Yes.

16 Q Explain to the jury about the ghost.

17 A He's the -- He's the honess [phonetic]. We'd look  
18 and he would be in the mirror, but we would never see no -- we  
19 would never see nobody. My mom used to lock us in the closet  
20 and she would go out and you'd just hear her scream.

21 Q So your mom would say that there's ghosts out there?

22 A Uh-huh.

23 Q And to protect you she'd put you in the closet?

24 A Put us in the closet, yeah.

25 Q And then you would be in the closet and what would

WHITE - DIRECT

1 you hear?

2 A Hear her screaming.

3 Q And how old were you when this was happening?

4 A Four.

5 Q And how old was John?

6 A About six or seven.

7 Q How many years older than you is he?

8 A I think two, three.

9 Q Growing up would you say that you were close with

10 John?

11 A Yes.

12 Q Physically and emotionally?

13 A Uh-huh.

14 Q There was mention about -- Well, do you remember

15 living in a shack?

16 A Yes, I do.

17 MR. SCISCENTO: Can I see the exhibits, please?

18 (Pause in the proceedings)

19 BY MR. SCISCENTO:

20 Q What's been marked as Defense Exhibit C, do you

21 recognize this?

22 A Uh-huh.

23 Q What is that?

24 A A shack where we lived.

25 Q What is that normally? Is it a garage?

WHITE - DIRECT

1           A     A garage.

2           Q     How many people lived in there?

3           A     It was about -- at least about ten of us in there.

4           Q     In and out there were different people?

5           A     Different people.

6           Q     And that was connected to your great-grandmother's

7 house?

8           A     Yes, it was.

9           Q     Do you think your great-grandmother loved you?

10          A     Yes, she did.

11          Q     But there came a time that the police showed up at

12 that --

13          A     Yes.

14          Q     -- that shack that you people were living in.

15 Explain to the jury about that.

16          A     Well, my grandmother, she warned my mamma about

17 leaving us back there, 'cause there wasn't no running water,

18 wasn't no tub. And so one day they left us in there by

19 ourself, and they didn't believe her, so she called the

20 police. And the police came and put us in their car and

21 that's when my mamma and my daddy and my auntie showed up and

22 they was trying to get the police not to take us, but they

23 wanted to put us in a process, so then that's when they took

24 us to the police station.

25          Q     Okay, let me stop you there.

III-74



WHITE - DIRECT

1           A     Uh-huh.

2           Q     During the time that you were living in this garage

3 with these other people, what was your physical relationship

4 with your mother? How many times a day would you see her?

5           A     One time she was gone for like a week.

6           Q     Do you know where she was?

7           A     No.

8           Q     Did you ever see your mother do any kind of drugs?

9           A     Yes, I did.

10          Q     What kind of drugs did you see her do?

11          A     Crack cocaine.

12          Q     Okay, what did you, you personally, see?

13          A     I seen her and my auntie, when we were staying in

14 the projects, I seen them smoking crack cocaine in the

15 kitchen.

16          Q     And how were they doing that?

17          A     Out of a pipe.

18          Q     Okay, explain -- I mean, explain the process to me.

19          A     They was --

20          Q     What did you see?

21          A     I seen them put -- roll something up, drop it in the

22 inside of the pipe hole and then they'd light the top of the

23 pipe and then they would suck off the little horn part of the

24 pipe.

25          Q     And you viewed this?

III-75

WHITE - DIRECT

1 A Yes, I did.

2 Q How old were you when you were seeing this?

3 A At least about five.

4 Q Okay. You were aware, during your childhood, that  
5 your mother was on drugs?

6 A I didn't really know what it was. I just thought it  
7 was a thing to do.

8 Q Okay. After you were taken away from the garage and  
9 brought to the police station, you went to another place.  
10 What was that called?

11 A McClarren Hall.

12 Q All right. Explain your -- Explain about McClarren  
13 Hall, your experience there.

14 A My nose used to bleed every night. I used to get  
15 ringworms. I used to have to -- There used to be one big  
16 closet and we used to have to all wear the same clothes.

17 Q How many people lived in there?

18 A It was at least -- It was three in each room.

19 Q Okay, who were you there with, your family members?

20 A Keonna and Kennita, my cousins. They looked over  
21 me.

22 Q And John was also taken to McClarren Hall?

23 A Yes, he was. We was separated. He wasn't in the  
24 same dorm as us. He was with the guys.

25 Q He had to go to another dorm?

WHITE - DIRECT

1           A     Uh-huh.

2           Q     All right. Was there any males with him that he  
3 knew?

4           A     No.

5           Q     I mean, no family members?

6           A     No, not in the same part as him.

7           Q     Okay, so he was separated from you and you were put  
8 over to -- in separate sides?

9           A     Yes.

10          Q     You were allowed to keep one of the babies with you,  
11 though, and he was a male, right?

12          A     Uh-huh.

13          Q     And why was that?

14          A     Why? 'Cause he was -- It was like an age. They go  
15 by the different ages. So they put my sister, my younger  
16 sister, and my younger cousin together, 'cause they was one  
17 and two, so they had to stay with the babies.

18          Q     There came a time that you left McClarren Hall.

19          A     Yes.

20          Q     When was that? Do you remember?

21          A     I don't even remember the exact year, but my --

22          Q     How old were you? Do you remember?

23          A     I was seven.

24          Q     Okay. And how did you come about leaving McClarren  
25 Hall?

III-77

WHITE - DIRECT

1           A     We went to court one day and then my grandmother --  
2 they gave legal custody to my grandmother.

3           Q     Okay. And who's your grandmother?

4           A     Jane Edwards.

5           Q     And then what happened? You moved into Jane  
6 Edwards' house?

7           A     Yeah, we moved to her new house on 43rd and Ascot.

8           Q     Okay, 43rd and Ascot.

9           A     Uh-huh.

10          Q     Explain to me the living conditions at 43rd and  
11 Ascot.

12          A     It was a five-bedroom house and me and my sister  
13 share rooms and Keonna and Kennita share rooms and John and  
14 Floyd slept in the dining room. Then there was my auntie and  
15 her boyfriend and my other auntie and her boyfriend and my  
16 grandmother and my grandfather.

17          Q     So how many people were living there?

18          A     At that time it was about ten.

19          Q     Okay. And there came a time that more people moved  
20 in?

21          A     Uh-huh.

22          Q     When was that?

23          A     That was like two years after my grandmother got  
24 custody of us. Then she got custody of four more boys and  
25 then she got -- then my cousin ran away and came and stayed

WHITE - DIRECT

1 with us.

2 Q So about 16 people now are --

3 A Yeah.

4 Q -- living there?

5 A Uh-huh.

6 Q All living together?

7 A Yes.

8 Q Okay. And during this time your mother, Eunice,  
9 what was your relationship with her?

10 A The same. It wasn't gonna never change. When she'd  
11 come, the only thing she would come for is to try to sell  
12 something to my grandmother to help support her habit.

13 Q All right, let's talk about trying to sell something  
14 to your grandmother. Explain to me about that.

15 A She would go to a church and they gave you free  
16 cheese, free peanut butter and beans and rice. And she would,  
17 instead of her giving it to my grandmother, she would sell it  
18 to my grandmother for drugs.

19 Q Okay. And you'd see her do this?

20 A Uh-huh.

21 Q And this is your mother, Eunice, that we're talking  
22 about?

23 A Yes.

24 Q But you still love your mother, Eunice?

25 A I love her, yes, I do.

WHITE - DIRECT

1 Q Growing up there was a -- there was a grandfather  
2 that lived there on 43rd and Ascot, right?

3 A Yes, there was.

4 Q But it's not your natural grandfather?

5 A Uh-uh.

6 Q He was married to Jane Edwards?

7 A Yes, he was.

8 Q What was your relationship with him?

9 A He wasn't neither, 'cause he couldn't -- he couldn't  
10 stand my mamma 'cause of the way she was. And then it was  
11 like he didn't know how to show love to us because he wasn't  
12 there all the time or, if he was there, he would be drunk. He  
13 would drink.

14 Q Okay. Was John living there at the time too?

15 A Uh-huh.

16 Q Was there any interaction between the grandfather  
17 and John?

18 A No.

19 Q Was your grandfather upset that you people were --  
20 that you were living there?

21 A I kind of felt he was, but he didn't really show it  
22 show it, but he didn't really show us no attention.

23 Q Let me show you what's been marked as Defense  
24 Exhibit F.

25 A Uh-huh.

WHITE - DIRECT

1 Q Do you recognize this picture?  
2 A Yes, I do.  
3 Q And what is that a picture of?  
4 A The yard on 43rd and Ascot.  
5 Q 43rd and Ascot?  
6 A Uh-huh.  
7 Q Where you lived with 16 of your siblings?  
8 A Yes.  
9 Q Okay. Let me show you also what's been marked as  
10 Defense Exhibit E. Do you recognize this picture?  
11 A Yes.  
12 Q What is that a picture of?  
13 A The front yard on 43rd and Ascot.  
14 MR. SCISCENTO: Move for admissions as to Defense  
15 Exhibit F and Defense Exhibit E.  
16 MR. GUYMON: No objection, Your Honor.  
17 THE COURT: Received.  
18 (Defendant's Exhibits E, F admitted)  
19 BY MR. SCISCENTO:  
20 Q During the time that you lived --  
21 MR. SCISCENTO: If I can also publish this. I'm  
22 sorry, Your Honor.  
23 BY MR. SCISCENTO:  
24 Q During the time that you lived at 43rd and Ascot, --  
25 A Uh-huh.

WHITE - DIRECT

1 Q -- let me stand over here, was it a safe place to  
2 live?  
3 A No.  
4 Q Okay. And you were told you were supposed to stay  
5 in the yard?  
6 A Yeah.  
7 Q What does the yard consist of?  
8 A Not going out that gate.  
9 Q Okay, but I'm saying the physical. This is a  
10 picture of the yard?  
11 A Uh-huh.  
12 Q So all you had to -- If you could show to the jury  
13 where you played, where the 16 of you played.  
14 A Right there and in the back part of that.  
15 Q And how big is the back part?  
16 A Just as big as the front.  
17 Q And why weren't you allowed -- Why weren't you  
18 allowed to go out and visit or go out and play in the streets?  
19 A 'Cause it was -- the gang -- There was too many  
20 gangbangers.  
21 Q There were some parks there though, wasn't there?  
22 A Uh-huh.  
23 Q And what about those parks, --  
24 A They --  
25 Q -- did you play in those parks?



WHITE - DIRECT

1 A No.

2 Q Why not?

3 A 'Cause they hung out there too.

4 Q Did you see families walking family members out  
5 there? Did you ever go by the park at all?

6 A Uh-uh. I don't even remember the park.

7 Q Okay. Your grandmother, Jane Edwards, loved you a  
8 lot?

9 A Yes, she did.

10 Q And she tried to guide you?

11 A Uh-huh.

12 Q Would you agree?

13 A Yes.

14 Q Do you think she tried to guide the other children?

15 A Yes.

16 Q Okay, but how many children were there again?

17 A It was like 16 of us and there never was no one-on-  
18 one contact.

19 Q It was just her --

20 A And when she showed love and affection, it was with  
21 all of us, not just one of us.

22 Q Okay. Eunice, your mother, --

23 A Uh-huh.

24 Q -- is she still using drugs today?

25 A Yes, she do.

WHITE - DIRECT

1 Q And she has a mental illness that know about?  
2 A Yes.  
3 Q And what is that?  
4 A She have -- I don't even know what it's called.  
5 Q A reaction or the symptoms that she --  
6 A She have -- She has seizures and she have asthma and  
7 she have --  
8 Q Is she receiving aid for --  
9 A Yeah, she get aid.  
10 Q -- because of her IQ?  
11 A Uh-huh, she get Social Security.  
12 Q Because she's been diagnosed as what, mentally  
13 retarded?  
14 A Uh-huh.  
15 Q Okay. Growing up there was a name that the boys in  
16 the neighborhood would say about your mother.  
17 A Uh-huh.  
18 Q And it was said to John numerous times?  
19 A Yes.  
20 Q What was that name?  
21 A Leprechaun.  
22 Q And why would they call her leprechaun?  
23 A That's what they said she looked like.  
24 Q Because of the physical appearance?  
25 A Because of her face, the way her lips and her nose

WHITE - DIRECT

1 is.  
2 Q And the lips and the nose are caused from what?  
3 A One was from the accident and one was from my daddy.  
4 Q What did your daddy do to her?  
5 A He used to beat her up.  
6 Q And she lost her teeth because of it?  
7 A Uh-huh.  
8 Q And she gained the name of Leprechaun because of it?  
9 A Yes.  
10 Q And growing up you would hear the boys --  
11 A And the girls.  
12 Q -- taunt you and John?  
13 A Uh-huh. They used to chase me and John from school.  
14 They was called -- It was Ray-Ray and Tazma [phonetic]. They  
15 used to chase us from school and throw rocks at us.  
16 Q And what would they say to you?  
17 A They used to just call -- say my mamma a crackhead,  
18 your mamma the leprechaun.  
19 Q Did this upset you?  
20 A Uh-huh.  
21 Q And did it upset John, do you know?  
22 A Yes.  
23 Q Okay. Sometimes when your mother, Eunice, would  
24 come to visit you at 43rd and Ascot, she was under the  
25 influence?

WHITE - DIRECT

1           A     Uh-huh.

2           Q     Of what?

3           A     Of crack cocaine and alcohol.

4           Q     Okay. And what would she -- she came to visit and

5 was under the influence what would happen?

6           A     My grandfather would argue and fuss and try to make

7 her leave.

8           Q     And would she willingly go?

9           A     It would be hard, but she is -- he would push her

10 away. They would just stand and argue.

11          Q     Your mother received some money from disability

12 though, right?

13          A     Uh-huh, every month.

14          Q     Okay. Do you know what she did with that money

15 every month?

16          A     When she'd get it on the 1st, it's like -- She'd get

17 like seven hundred dollars (\$700), she'd get it on the 1st, it

18 would be gone on the 2nd or the 3rd and she don't have no

19 bills.

20          Q     Do you know your father, John White?

21          A     Yeah, I know him.

22          Q     How many times have you met him in your lifetime?

23          A     I can count on my hand, no more than ten.

24          Q     And how many times have you seen him in contact with

25 your brother, John?

WHITE - DIRECT

1           A     I haven't.  
2           Q     Okay. Was there any trips that John would take with  
3 him?  
4           A     He would take him to the park.  
5           Q     Did he ever take him outside of South Central L.A.?  
6           A     No.  
7           Q     And would he ever try to give him guidance or  
8 anything like that?  
9           A     No, not that I know of.  
10          Q     Did he ever help him with his schoolwork?  
11          A     No.  
12          Q     Did he ever --  
13          A     Nobody helped us with our schoolwork.  
14          Q     You were on your own basically?  
15          A     Yeah.  
16          Q     Was there any emotional bonds between John and his  
17 father?  
18          A     No.  
19          Q     How about between you and your father?  
20          A     No.  
21          Q     And it's the same person, correct?  
22          A     Yes.  
23          Q     Okay. After you moved from Ascot and 43rd, you  
24 moved to another house, right?  
25          A     Uh-huh.

WHITE - DIRECT

1 MR. SCISCENTO: If I may approach.

2 BY MR. SCISCENTO:

3 Q Defense Exhibit G, do you recognize this?

4 A Yes.

5 Q Okay. And what do you -- What is this a picture of?

6 A That's a picture of -- That's on Ascot and 43rd and  
7 that's the vacant lot, the little auto place that was vacant  
8 where we found -- where they found this lady dead in there.

9 Q Okay, let me stop you there for a second. Let me go  
10 through this. This is --

11 MR. SCISCENTO: Your Honor, I'd move for its  
12 admittance, Defense Exhibit G.

13 MR. GUYMON: No objection.

14 THE COURT: Received.

15 (Defendant's Exhibit G admitted)

16 BY MR. SCISCENTO:

17 Q This is the street, at 43rd and Ascot, before you  
18 moved to 60th Street, right?

19 A Yes.

20 Q And you had described some things in there. Why  
21 don't you have -- Why don't you come down here, if you can,  
22 come right here for a second.

23 (Pause in the proceedings)

24 This is the neighborhood that you grew up in?

25 A Yes.

III-88

WHITE - DIRECT

1 Q All right. And I want you to show to the jury the  
2 kind of neighborhood that you grew up in. Explain different  
3 aspects of this neighborhood.

4 MR. GUYMON: Judge, --

5 THE WITNESS: This was the place where they found  
6 the lady dead. She was -- She was white and she had a pole  
7 stuck up her privacy. And this is the corner we stood on and  
8 watched 'em pull her body out.

9 Q Okay. How far away is this street from where you  
10 lived, the house that we just saw?

11 A We stayed right next door to the apartments there,  
12 right here.

13 Q Okay. Did John -- Was John there when this lady's  
14 body was pulled out?

15 A Uh-huh.

16 Q Okay. And what else did you view on this street?

17 A Right across the street from here there was a heavy-  
18 set man and the police chased the man and he got up in the  
19 attic and he got stuck and the way they brought him down --  
20 they shot him and they killed him, but they broke the whole  
21 wall down and pulled his body out.

22 MR. SCISCENTO: Your Honor, I'm sorry.

23 COURT RECORDER: I'm having a hard time picking her  
24 up when she's facing that away.

25 MR. SCISCENTO: Johnnisha, I'm sorry, we need you to

III-89

WHITE - DIRECT

1 talk into that mike a little bit louder.

2 BY MR. SCISCENTO:

3 Q Show me other -- Show the jury other aspects of the  
4 street that you grew up on.

5 A This was the apartments and sometimes guys hung out  
6 in front of there.

7 Q Okay, what kind of guys?

8 A Gangbangers.

9 Q Okay. Did they taunt you?

10 A They wouldn't mess with me.

11 Q Okay, what about John?

12 A They would mess with him.

13 Q Okay. Tell me more about this street, the street  
14 that you called home for how many years?

15 A For like four or five years.

16 Q Okay, tell me some more about this. Did you see any  
17 drive-by shootings?

18 A Yeah.

19 Q How many?

20 A A lot, like --

21 Q Some guy on a bicycle with a shotgun?

22 A Yeah.

23 MR. GUYMON: Judge, I'm gonna object to the leading  
24 nature. I mean, if she can answer the question is one thing,  
25 but for him to suggest it is another.

III-90



WHITE - DIRECT

1 THE COURT: I'll permit some leading. Overruled.

2 BY MR. SCISCENTO:

3 Q Tell me what other kinds of acts of violence that  
4 you witnessed on this street that you lived on for four and a  
5 half years.

6 A We used to hear shooting and my grandmother used to  
7 make us get down on the ground.

8 Q Okay. Any other kind of violence you saw there?

9 A No.

10 Q Have a seat. You can go back to the --

11 MR. SCISCENTO: The Court's indulgence for one  
12 moment, Your Honor.

13 (Pause in the proceedings)

14 BY MR. SCISCENTO:

15 Q Now at 43rd and Ascot, you lived there at what age?

16 A 43rd and Ascot I was seven and eight.

17 Q Okay, you were seven --

18 A Seven, eight, nine, ten.

19 Q So you lived there for about four years?

20 A Uh-huh.

21 Q And John lived there with you?

22 A Yes.

23 Q Okay. Did you ever see any crack cocaine being sold  
24 out there?

25 A Right in front of the store.

III-91

WHITE - DIRECT

1 Q Okay. I'm gonna to show what's been marked as  
2 Defendant's Exhibit Proposed -- as Proposed Exhibit L. It's a  
3 videotape.  
4 A Uh-huh.  
5 (Pause in the proceedings)  
6 Q Do you recognize this, Johnnisha?  
7 A Yes, yes.  
8 Q What is this?  
9 A Where we lived on 43rd and Ascot.  
10 Q Is that -- Does this tape adequately represent where  
11 you lived?  
12 A Yes, it do.  
13 Q Okay. And what is that a picture of right now that  
14 you're looking at?  
15 A The house that we stayed in.  
16 Q Okay. That's your grandmother's house?  
17 A Yes.  
18 Q Okay. And that's where 16 of you stayed?  
19 A Yes.  
20 Q Okay. Now there are some more pictures that are  
21 coming and I want you to describe what you see here.  
22 A Okay.  
23 Q And that house, the picture that we just saw of the  
24 house, adequately describes what is presently there and where  
25 you lived?

WHITE - DIRECT

1           A     Yes, it's the same right now today.  
2           Q     Okay, what is this?  
3           A     That's on 45th. That's going down Ascot.  
4           Q     And that's the neighborhood you grew up in?  
5           A     Yes.  
6           Q     Explain to me, you've seen different houses in  
7 here, --  
8           A     Uh-huh. And that's the school we attended.  
9           Q     Okay, let me back you up a little. These houses --  
10 This is the school that you went to?  
11          A     Yes.  
12          Q     Okay, which school is that?  
13          A     Ascot Elementary School.  
14          Q     Tell me about that school. Is it a private school  
15 or public school?  
16          A     Public.  
17          Q     Okay. Was it a violent place to be at?  
18          A     The only thing was wrong with Ascot is you really  
19 didn't get no help from the teachers.  
20          Q     Walking to school --  
21          A     Walking to and from school, we used to get chased by  
22 Ray-Ray and Tazma.  
23          Q     And they're the ones that called your mother  
24 leprechaun?  
25          A     Yes.

III-93

WHITE - DIRECT

1 Q Okay. As we go through this tape, explain to me  
2 what we're seeing there.

3 A That's the school we attended.

4 Q And it looks the same today --

5 A Uh-huh.

6 Q -- as it did back when you were there?

7 A Yes.

8 Q Okay. What about that market right there?

9 A They just put that there.

10 Q I'm sorry?

11 A They just put that there. That wasn't there.

12 Q So that market isn't there?

13 A Uh-uh.

14 Q What is this? Do you recognize this?

15 A That's all going down Ascot.

16 Q Okay. That's right by where you lived?

17 A Uh-huh.

18 Q This is what you grew up in?

19 A Yeah.

20 Q Did you see any violence on these streets?

21 A Yeah. That's the place where the lady got killed.

22 Q That's the place where the lady got killed?

23 A Uh-huh.

24 Q The one you described about with the --

25 A Yeah.

WHITE - DIRECT

1 Q I forgot what you said.  
2 A A pole.  
3 Q A pole?  
4 Do you know who put it there?  
5 A No.  
6 Q Okay. And what is this?  
7 A That's the other neighborhood, 43rd and Ascot.  
8 Q Okay. So you grew up in here?  
9 A Yes.  
10 Q And this is what you saw every day?  
11 A Yes.  
12 Q Was John living with you?  
13 A Yes, he was.  
14 Q Some abandoned carts out there?  
15 A Uh-huh, baskets and --  
16 Q Tell me more --  
17 A -- all kind of stuff.  
18 Q Go ahead, explain.  
19 A Baskets with cans the baseheads have.  
20 Q Baseheads?  
21 A Baseheads is people with no home on crack cocaine,  
22 don't got nowhere to live, live on the street.  
23 Q So there's people called baseheads?  
24 A Yes.  
25 Q All right, explain to me what a basehead is.

WHITE - DIRECT

1           A     I used to call my mamma that too. A basehead is  
2 somebody that don't have a home, somebody that uses drugs,  
3 somebody that don't get no income or even sometimes they could  
4 get income and blow it all off.

5           Q     Okay. And so there's pictures in those -- in there  
6 there is baskets?

7           A     The carts, yes.

8           Q     And the baseheads live in there?

9           A     Yeah, in them apartments where you see the carts  
10 parked at.

11          Q     Okay. Did you see a lot of baseheads around where  
12 you lived?

13          A     Yes.

14          Q     Okay, let me go on. Do you recognize this?

15          A     Yes. That's one of the liquor stores, the second  
16 liquor store.

17          Q     Okay. And does this adequately represent the  
18 neighborhood you grew up in?

19          A     Yes.

20          Q     And this was actually the neighborhood of these  
21 pictures -- or the neighborhood as it is today, right?

22          A     Yes.

23          Q     Has it changed since you lived there?

24          A     No.

25          Q     Okay, so this pretty much looks like it was --

WHITE - DIRECT

1           A     It's still the same.  
2           Q     -- nine years ago?  
3           A     Uh-huh.  
4           Q     What are we looking at here?  
5           A     43rd and Ascot.  
6           Q     What is this building?  
7           A     No, that's where the baseheads stay, where the  
8 basket's at.  
9           Q     Okay. This is the neighborhood that you grew up in?  
10          A     Yeah.  
11          Q     And this is also --  
12          A     That's the store, yeah.  
13          Q     That's the store?  
14          A     The liquor store where the gangbangers hang at. And  
15 that's the school we attended.  
16          Q     This is another school?  
17          A     That's still Ascot.  
18          Q     And this is the one you had to walk to --  
19          A     Walk from --  
20          Q     -- with Taz and Ray-Ray?  
21          A     Walk from there to home, from Vernon to 43rd and  
22 Ascot.  
23          Q     How far a walk was this?  
24          A     About six, seven blocks.  
25          Q     And was it safe walking through there?

WHITE - DIRECT

1 A No.

2 Q And every day you had to do this?

3 A Yeah, every day.

4 Q And what we see here is still Ascot?

5 A Uh-huh.

6 MR. SCISCENTO: Your Honor, I'd move for the  
7 admittance of State's [sic] Exhibit -- What number was that?

8 THE CLERK: L.

9 MR. SCISCENTO: L?

10 MR. GUYMON: And the only problem I have is I  
11 understand there's some possible -- some additional stuff on  
12 the tape. If they want to duplicate -- delete the remaining,  
13 that's fine.

14 THE COURT: Is there more stuff on there?

15 MR. SCISCENTO: There is additional stuff that this  
16 witness is not privy to.

17 MR. GUYMON: May we approach?

18 (Off-record bench conference)

19 THE COURT: Admitted subject to that limitation.

20 (Defendant's Exhibit L admitted)

21 BY MR. SCISCENTO:

22 Q Johnnisha, there's a time that you moved away from  
23 43rd and Ascot, right?

24 A Yes.

25 Q Okay. And where did you move to at that time?

III-98



WHITE - DIRECT

1           A     60th and Normandy.

2           Q     All right. From 43rd and Ascot to 60th and

3 Normandy?

4           A     Yes.

5           Q     Explain to me about 60th and Normandy.

6           A     60th and Normandy, when we first moved over there,

7 my grandmother checked us into school. John attended John

8 Muir. I attended Berlong [phonetic] Elementary. We used to

9 walk to school. We used to walk by gangbangers. And they

10 didn't mess with John while we were together. They would just

11 look at him and sometimes, when he was by himself, they used

12 to tell him that they was gonna put him on and he'd used to

13 ignore 'em.

14          Q     Okay. Was 60th and Normandy more violent than 43rd

15 and Ascot?

16          A     Yes.

17          Q     Why did you guys move there then?

18          A     'Cause we didn't have -- They was selling the house

19 and that was the only thing available to our -- for my

20 grandmother's price range.

21          Q     Okay. And how many people were living with you on

22 60th and Normandy?

23          A     About 19 people. It was a five-bedroom house.

24          Q     On 60th and Normandy?

25          A     Uh-huh.

WHITE - DIRECT

1 Q Your cousin, Keonna, had a chance to go to a  
2 different school.  
3 A Uh-huh.  
4 Q What kind of school?  
5 A She attended Valley Alternative, I think.  
6 Q Okay. And did you have an opportunity to attend?  
7 A No.  
8 Q Why not?  
9 A Because of the -- You had to have -- You had to get  
10 certain grades to go there.  
11 Q Was it a private school?  
12 A Uh-huh.  
13 Q And did it cost money?  
14 A Yeah.  
15 Q Now do you know a person named Sonny, a gang member  
16 named Sonny?  
17 A Yes.  
18 Q Sonny what? What was his name?  
19 A Baby Sonny.  
20 Q Baby Sonny?  
21 A Uh-huh.  
22 Q And Baby Sonny had some connection with Keonna,  
23 right?  
24 A Yes.  
25 Q Explain to the jury about that connection.

III-100

AA02168

WHITE - DIRECT

1           A     He used to -- Every time he seen her, he used to  
2 always hit her on her butt. She used to be mad, but she  
3 couldn't do nothing about it. And then one day he seen -- he  
4 seen John and he told John that he was gonna rape her if he  
5 didn't get in the gang.

6           Q     Did John tell you this?

7           A     No, my friend.

8           Q     Your friend heard this?

9           A     'Cause where they jumped him on, it was in front of  
10 my friend's house, by my friend's house.

11          Q     And so did John tell you why he did what he did?

12          A     No, I found out later through Keonna.

13          Q     Why he joined?

14          A     Yeah.

15          Q     And what was the reason why?

16          A     Because they said they was gonna rape Keonna if he  
17 didn't.

18          Q     Okay, so he did it as protection for the family?

19          A     As protection.

20          Q     Okay. After John joined the gang, what was the  
21 gang's reaction to the family, your family?

22          A     It was like they was like protection, but then, in a  
23 way, it wasn't, 'cause they hung out in front of the house all  
24 the time or they always come and get John early in the morning  
25 and take him away.

WHITE - DIRECT

1 Q But was anybody hassling you anymore now?  
2 A No.  
3 Q So once John joined the gang, the hassles stopped  
4 with you?  
5 A Yeah.  
6 Q You were more protected in the neighborhood?  
7 A Yes.  
8 Q Okay. And was that a direct correlation because  
9 John joined the gang?  
10 A Yes.  
11 Q And he did that -- Do you know why he did that?  
12 A For his family.  
13 Q So in the form of protection, he went in to join the  
14 gang?  
15 A Yes.  
16 Q Okay. And the gang members left the rest of the  
17 family alone?  
18 A Yes, they did.  
19 Q And then what would happen after that? How old was  
20 John at this point?  
21 A About 14, 15.  
22 Q 14 or 15?  
23 A Uh-huh.  
24 Q What was happening to your relationship at that  
25 point with John?

III-102

AA02170

WHITE - DIRECT

1           A     John was always quiet. When they come and get him,  
2 he would say nothing and if he wouldn't -- didn't want to go,  
3 we wouldn't know 'cause he wouldn't say nothing and, if he  
4 come back, he still wouldn't say nothing.

5                     Big Deco used to always tell my grandmother that --  
6 He would get some movies from my grandmother and say they  
7 gonna watch movies.

8           Q     And Big Deco was who?

9           A     Johnny's bigger friend.

10          Q     And he's the one that took John under his wings in  
11 the gang?

12          A     Yes.

13          Q     There was a time that John was in the California  
14 Youth Authority.

15          A     Yes.

16          Q     He was then placed on parole. Do you remember that?  
17 Well, was there a time that he had to come and visit the  
18 family and he couldn't at 60th and Normandy?

19          A     Yeah. Well, when he couldn't come on 68th and  
20 Broadway, he couldn't come over there.

21          Q     Okay. And why not?

22          A     Because there was a different gang from where he  
23 from.

24          Q     And he was told by a gang member what about visiting  
25 there?

WHITE - DIRECT

1           A     That next time he come over there he was gonna kill  
2 him.

3           Q     Were you there when that happened?

4           A     I was just coming outside. It was him and my  
5 cousin, Cornelius, standing by the car and --

6           Q     And you heard --

7           A     Keonna or Kennita, one of them, was standing by the  
8 car and he passed by and saw them there.

9           Q     And so basically this gang member told John, "You  
10 can't come back here"?

11          A     Yes.

12          Q     And if he does what happens?

13          A     He was gonna kill him.

14          Q     Johnnisha, tell me about your life now. You've had  
15 bouts with violence?

16          A     Yes.

17          Q     Explain to the jury what happened.

18          A     I was walking to the store one day on 68th and  
19 Broadway and there was a drive-by and I had -- they had shot  
20 me in my leg.

21          Q     When did this happen?

22          A     This happened in '94, '95.

23          Q     Anything else happen?

24          A     Then one day I was walking to the store and there  
25 was two guys and a girl. She asked me what was my name and

WHITE - DIRECT

1 then I told her my name and she stabbed me in my head and ran.  
2 Q Why?  
3 A I never knew why.  
4 Q Did the police do anything about it?  
5 A Yeah, they -- we drove around and looked for 'em  
6 after I got out of the hospital, but we never found out why.  
7 They didn't ever look into it and it was just left at that.  
8 Q Growing up in your neighborhood with these drive-bys  
9 and stabbings, --  
10 A Yeah.  
11 Q -- was that a rare occasion?  
12 A That was the first time it happened to me really  
13 experiencing it, but it isn't rare.  
14 Q It happens a lot?  
15 A Yeah.  
16 Q How many times a week does it happen?  
17 A I would say at least about twice.  
18 Q So you're under this constant, in the places that  
19 you grew up, that you lived with John, --  
20 A Uh-huh.  
21 Q -- you were always under this constant threat --  
22 A Yes.  
23 Q -- of violence?  
24 A Yes.  
25 Q It was always there?

WHITE - DIRECT

1 A Yes.

2 Q Do you know people growing up in your neighborhood?

3 A Uh-huh.

4 Q Are they faced with the same problems?

5 A Yes, they are.

6 Q Have you known any of 'em to get out of there?

7 A No.

8 MR. SCISCENTO: The Court's indulgence for one  
9 moment.

10 (Pause in the proceedings)

11 BY MR. SCISCENTO:

12 Q Let me ask you this. There's been a lot of talk  
13 about choices. The choice to walk to school and whether or  
14 not to be jumped is a tough choice to go to school, right?

15 A Yes.

16 Q Okay. And it's not the same choice of whether or  
17 not you're going to buy a car or not buy a car, right?

18 A Is not.

19 Q As a matter of fact, it's a life choice?

20 A Yes.

21 Q Are you constantly bombarded with these choices of  
22 live or die?

23 A Yes.

24 Q The choice of the color of clothes you wear  
25 determines what?



WHITE - DIRECT

1           A     If you live or die.  
2           Q     Why?  
3           A     If you can come in certain neighborhoods.  
4           Q     In my neighborhood I could wear anything I want and  
5 why is it different in your neighborhood?  
6           A     That's South Central L.A. It's different.  
7           Q     And what is different about it?  
8           A     There's more gangbangers. There's more poor people,  
9 people with no money.  
10          Q     If I walk in with red down in your neighborhood,  
11 what would happen to me?  
12          A     You probably would get shot or beat up.  
13          Q     And why is that?  
14          A     Because you have on the wrong color.  
15          Q     What if I walked in with blue?  
16          A     You would blend in with the colors that you walking  
17 into.  
18          Q     And black?  
19          A     Black is more neutral.  
20          Q     Or gray and green?  
21          A     Gray is more neutral, but they still called gang  
22 colors, gangster colors, and either/or can wear it.  
23          Q     These choices that we have, was there anybody there  
24 as a male adult for John growing up?  
25          A     No.

III-107

AA02175

WHITE - DIRECT

1 Q How many years of education do you have?  
2 A Nine.  
3 Q When you were faced in school with choices or make a  
4 decision, make a wrong decision in arithmetic when you were in  
5 school, was there somebody there, the teachers, to correct  
6 you?  
7 A No.  
8 Q Let me get it at this. There was always an answer,  
9 a right and wrong answer, --  
10 A Yes.  
11 Q -- to the arithmetic. Would you agree with that?  
12 A Yes.  
13 Q Because one plus one is always gonna equal two?  
14 A Uh-huh.  
15 Q Are these the same easy choices that you find  
16 growing up in South Central L.A.?  
17 A No.  
18 Q Why are they different choices?  
19 A Because that's math, that's school, and it's -- you  
20 can't compare that together though. South Central L.A. is  
21 just crazy.  
22 Q So an 18 year old kid making a decision about what  
23 college to go to, --  
24 A Uh-huh.  
25 Q -- that's a choice, right?

WHITE - DIRECT

1           A     Yes.

2           Q     Isn't that the same kind of choice that you have or

3 John has or anybody growing up in your neighborhood as to

4 whether or not to join a gang?

5           A     No, not really, no.

6           Q     Why?

7           A     Because they looking to make their gang bigger.  If

8 they want you in their gang, they can put you in it if they

9 want to.

10          Q     Is it a choice about life or death?

11          A     Yes.

12          Q     About whether your family is gonna walk the streets?

13          A     Is in harm, yes.

14          Q     And it's not the same kind of choices?

15          A     Uh-uh.

16          Q     Do you see John over there?

17          A     Yes.

18          Q     Do you still love John?

19          A     Yes, I do.

20          Q     Do you know why you're here today?

21          A     Yes.

22                MR. SCISCENTO:  No further questions, Your Honor.

23                THE COURT:  Any cross?

24                MR. GUYMON:  Very briefly.

25                       (Pause in the proceedings)

WHITE - CROSS

CROSS-EXAMINATION

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BY MR. GUYMON:

Q Johnnisha, --

A Uh-huh.

Q -- when Deco was about 19 years old he left South Central L.A. and he came to Las Vegas. Did you know that?

A I didn't find out for a long time.

Q Okay, but there came a point in time that you learned that he was up here in Vegas, is that right?

A Yes.

Q Did you hear from him at all when he was in Vegas?

A Sometimes he would call.

Q Okay. And he was no longer -- I mean, he stayed up here in Vegas, didn't he?

A Yes.

Q Did you learn about the things that he was doing here in Vegas and the trouble he was getting in?

A No.

Q Did he tell you anything about shooting a guy in the face here in Las Vegas?

A No.

Q Did he tell you about being involved in duct taping four young boys and laying 'em on the ground, face down, and shooting 'em in the head?

A No.

WHITE - CROSS

1 MR. SCISCENTO: Your Honor, I object to that.

2 THE COURT: Sustained.

3 BY MR. GUYMON:

4 Q Did you hear from him or know what he was doing when  
5 he was here in Vegas?

6 A No.

7 MR. GUYMON: No other questions.

8 THE COURT: Anything on redirect?

9 MR. SCISCENTO: The Court's indulgence.

10 (Pause in the proceedings)

11 MR. SCISCENTO: No further questions, Your Honor.

12 THE COURT: Thank you, ma'am. You're excused.

13 Who's going to ask the direct questions of Dr.  
14 Matthews?

15 MR. SCISCENTO: I will, Your Honor.

16 THE COURT: How long would you anticipate the  
17 direct's going to be, Joe?

18 MR. SCISCENTO: The Court's indulgence for one  
19 moment.

20 (Pause in the proceedings)

21 MR. SCISCENTO: How long do I think it's gonna be,  
22 Your Honor? Half hour to 45 minutes.

23 THE COURT: Okay, because we've been at it two  
24 hours. We're going to hear the direct examination. We'll  
25 hear the cross-examination after lunch, but we're gonna hear

III-111

MATTHEWS - DIRECT

1 30 to 45 minutes of a Dr. Matthews before lunch, so let's take  
2 a recess, a brief recess.

3 During this recess you're admonished not to talk or  
4 converse among yourselves or with anyone else on any subject  
5 connected with this trial, read, watch or listen to any report  
6 of or commentary on the trial, or any person connected with  
7 it, by any medium of information, including, without  
8 limitation, newspaper, television and radio, or to form or  
9 express any opinion on any subject connected with the penalty  
10 in this case until it's finally submitted to you.

11 We'll be in recess 'til 20 minutes of 12:00.

12 (Court recessed at 11:28 a.m. until 11:42 a.m.)

13 (Jury is present)

14 THE CLERK: Please raise your right hand.

15 DR. ZAKEE MATTHEWS, DEFENDANT'S WITNESS, IS SWORN

16 THE CLERK: Please be seated and state your full  
17 name and spell your last name for the record.

18 THE WITNESS: My name is Zakee, Z-A-K-E-E, Matthews,  
19 M-A-T-T-H-E-W-S.

20 DIRECT EXAMINATION

21 BY MR. SCISCENTO:

22 Q Dr. Matthews?

23 A Yes.

24 Q How are you today?

25 A Fine. And yourself?

III-112

MATTHEWS - DIRECT

1 Q Fine.

2 Doctor, what is your point of education? What are  
3 you schooled in?

4 A I'm a child and adolescent psychiatrist.

5 Q Could you please explain to the jury your education?

6 A Are you referring to the schools that I've attended?

7 Q Yes.

8 A Okay. I attended the University of California at  
9 Santa Cruz. Prior to that I went to several junior colleges.  
10 I finished my undergraduate training at the University of  
11 California at Santa Cruz in biology, molecular biology. I  
12 went on to complete medical school at the University of  
13 Missouri, Columbia, and then I went on and trained in general  
14 psychiatry at the University of California, San Francisco.  
15 And then I went on to do a fellowship in child and adolescent  
16 psychiatry at Stanford University Medical School, Department  
17 of Child and Adolescent Psychiatry.

18 Q Do you have any other education after Stanford?

19 A No.

20 Q Are you medical licensed and board certified?

21 A Yes, I am, medical licensed and board eligible.

22 Q Okay. And where is that at?

23 A In California.

24 Q And you're eligible in psychiatric and neurological  
25 studies?

MATTHEWS - DIRECT

1 A Yes.

2 Q And psychiatric and neurological studies of child?

3 A Yes.

4 Q And the Academy of Child and Adolescent Psychiatry?

5 A Yes.

6 Q And you're also certified with the American Medical  
7 Association?

8 A Yes.

9 Q Okay. What kind of appointments, academic  
10 appointments, have you had?

11 A I've served as clinical faculty at the University of  
12 California's -- excuse me, at Stanford.

13 Q Okay, anywhere else?

14 A Pretty much there.

15 Q At Stanford University in California?

16 A Yes.

17 Q What kind of professional appointments have you had?

18 A I've served as an instructor there, I've been  
19 medical director of the substance abuse program for  
20 adolescents, I've also been medical director for the partial  
21 hospitalization program there and I've worked in the counsel  
22 and liaison program there as well and also medical director  
23 for the trauma clinic.

24 Q Okay. Have you ever provided any lectures on child  
25 psychiatry?



MATTHEWS - DIRECT

1 A Yes, I have.

2 Q Will you please explain to the jury what kind and  
3 when, if you remember, that is?

4 A When may be a little bit more difficult, but much of  
5 the discussions that I present are around the area of trauma  
6 and abuse with adolescents, early childhood until adulthood.  
7 My work involves looking -- Let me step back. I talk about a  
8 developmental aspect to the trauma when I give these  
9 presentations.

10 I also have given talks along the line of disruptive  
11 behaviors, AD/HD, espalosa venimenten [phonetic] disorder,  
12 substance abuse presentations on various substances. I work  
13 with the fellows in training at the med school in the  
14 Psychiatry Department to talk with them about issues that will  
15 arise during their training in working with adolescents and  
16 working with children.

17 Q Let me stop you there, doctor.

18 A Sure.

19 Q Do you have any kind of publications?

20 A I have a publication in the American Academy of  
21 Child and Adolescent Psychiatry addressing these issues on  
22 trauma, I think March of 1997, and I also have an article in  
23 treating adolescents, with Dr. Hans Steiner, looking at the  
24 effects of trauma and PTSD.

25 Q And do you have any other kind of abstracts? Well,

MATTHEWS - DIRECT

1 I guess first we should -- What is an abstract?

2 A An abstract is a publication that's in process or a  
3 discussion of a research design that may not have gone on to  
4 publication, but was initiated.

5 Q Okay. Doctor, where is your area of expertise?

6 A My area of expertise has to do with trauma and on  
7 child development, mainly trauma.

8 Q All right. Have you ever been certified as an  
9 expert to testify in any courts?

10 A Yes, I have.

11 Q And where is that at?

12 A In California and Oklahoma.

13 Q And what were you certified, in California and  
14 Oklahoma, what were you certified as an expert of?

15 A I'm not sure if I understand your question.

16 Q Were you certified as a Doctor of Psychiatry?

17 A Yes.

18 Q And specifically child psychiatry?

19 A Yes.

20 Q In California and Oklahoma?

21 A Yes.

22 MR. SCISCENTO: At this time, Your Honor, I'd ask  
23 that this Court find that Dr. Matthews is certified as an  
24 expert to talk and discuss the aspects of child psychiatry.

25 THE COURT: Any traverse?

MATTHEWS - DIRECT

1 MR. GUYMON: I'll submit it, Judge.

2 THE COURT: Okay, he'll be recognized as an expert.

3 As I've told you on three or four or five other  
4 occasions, that just means, because he has been labeled an  
5 expert, he can state his testimony in the form that laypeople  
6 cannot, which is in the form of opinions. What weight you  
7 give those opinions is your provence.

8 Go ahead, Mr. Sciscento.

9 BY MR. SCISCENTO:

10 Q Dr. Matthews, --

11 A Yes.

12 Q -- do you know a person named John White?

13 A Yes.

14 Q Do you see him present here today in court?

15 A Yes, I do.

16 Q And where is he sitting at?

17 A He's sitting to my far right.

18 Q Okay.

19 A At the table in front of me.

20 Q Did there come a time that you interviewed Mr.  
21 White?

22 A Yes, I did.

23 Q Please explain when you interviewed him and how  
24 long.

25 A I saw him, I believe, May 11th and 12th and I saw

III-117

MATTHEWS - DIRECT

1 him roughly three and a half to four hours each day.

2 Q So about seven to eight hours maybe?

3 A Yes.

4 Q Have you had a chance to speak with his family?

5 A Yes, I spoke with the family.

6 Q And what family -- Who was that? Do you recall?

7 A I spoke with his sister, Johnnisha, his cousin  
8 Keonna, his mother and his grandmother.

9 Q Okay. Doctor, just so I can clear this up, you're  
10 not here today to tell us that Mr. White is suffering from  
11 insanity, are you?

12 A No, I'm not.

13 Q And you're not here today to say that he has a  
14 diminished capacity not to know right from wrong?

15 A No, I'm not.

16 Q Okay. And you're not here to say that he's a  
17 psychopath or something to that effect?

18 A No, I'm not.

19 Q Your investigation, your studies with Mr. White,  
20 revolved around social issues?

21 A Yes.

22 Q And you talked to the family members?

23 A Yes.

24 Q Did you review any documents?

25 A I reviewed some school documents, social history,

MATTHEWS - DIRECT

1 reports from the California Youth Authority.

2 Q And why did you review those documents?

3 A I reviewed those documents to better understand the  
4 nature of Mr. White's earlier development and the various  
5 traumatic events that have occurred in his life and to get a  
6 sense of some of the impact of that.

7 Q And when we talk about early developments, do you  
8 mean mental developments or social developments?

9 A I'm talking about both.

10 Q Okay. And if you could describe that to the jury --

11 A Sure.

12 Q -- with what you're looking for when you interview  
13 and you review documents.

14 A What I'm trying to get a sense of is normal  
15 development. There is a progression in one's development from  
16 childhood up to adulthood. If you think about your own -- or  
17 if any of you are parents and you think about raising your  
18 children and the various stages that those kids go through,  
19 there are natural stages that they traverse through as they  
20 approach adulthood.

21 There is an attachment, a bonding, that occurs very  
22 early on, between particularly the mother and the child. It  
23 also includes the father. The mother is the one who is  
24 spending much more time and has a lot more direct contact, so  
25 I'm looking at that. I'm looking at that interface. I'm

MATTHEWS - DIRECT

1 looking at how this individual is fitting and viewed in the  
2 family, what's their emotional temperament, how do they manage  
3 information in their environment, what are the kinds of  
4 support and the nature and structure of their environment, is  
5 there two parents present, is there -- is this a nurturing  
6 environment, do they provide the kind of stability and support  
7 that you would normally see in a child's growth to adulthood.

8 Q All right, doctor, let me stop you there.

9 A Sure.

10 Q And this is important, to determine the development  
11 of a child, knowing all this information?

12 A This is important in gaining an understanding,  
13 exactly.

14 Q And with that understanding you interviewed  
15 witnesses -- you spoke to John White and family members and  
16 went over some documents?

17 A Yes.

18 Q Okay. Now does not having a strong social family  
19 structure, does that have an effect on a child?

20 A Certainly.

21 Q What kind of effect would that have?

22 A If I could step back for a moment. The family  
23 provides protective factors. We think in terms of protective  
24 factors for children in their development, protective factors  
25 being a two-parent family or a significant individual in the

MATTHEWS - DIRECT

1 family that is very connected and important to this child's  
2 development.

3           We look at the growth of this child emotionally to  
4 try to get a sense of the temperament, how this child manages  
5 with stress, is there -- are there -- the environment, the  
6 nature of that family environment where the child lives, is it  
7 one where it supports and provides nourishment, both emotional  
8 and physical nourishment, and also protection, is it a stable  
9 environment, are the members of that family structure, are  
10 they individuals who are consistent in providing the type of  
11 connection that we normally see in what we call,  
12 quote/unquote, "normal families."

13           Q     Let me stop you there and go on.

14                     You reviewed evidence or you reviewed all this  
15 documentation about Donte -- or John White growing up. Did  
16 you get any information about John's mother?

17           A     Yes, I did.

18           Q     Can you explain to the jury what information you  
19 found out about John's mother?

20           A     Let me say that in reviewing the records what I  
21 found is that -- what the mother reported is that her  
22 development in growing up she thought was extremely difficult  
23 -- a difficult child, but what later happened, later on in her  
24 life, she started having more difficulties, especially around  
25 the area of substance abuse. And the mother subsequently

MATTHEWS - DIRECT

1 received a diagnosis of mildly mentally retarded, which the  
2 family, the mother's mother, has tried to really provide an  
3 environment to support her, but unfortunately, because of the  
4 mother's drug use, which was pretty severe, really  
5 incapacitated her.

6 Q The mother in this case is Eunice Cain?

7 A Exactly.

8 Q Okay. And she was here earlier today testifying.

9 A Okay.

10 Q The father, John White, Sr., --

11 A Yes.

12 Q -- what information did you gather about him?

13 A Mr. White, Sr., that's a bit more difficult in terms  
14 of the amount of information I gained on him. We didn't have  
15 many records on him. It appears that the father was starting  
16 to -- the father has a history of, I guess I could say,  
17 emotional instability, becomes very explosive at times,  
18 especially when he gets angry, has also a substance abuse  
19 problem that has interfered majorly with the functioning of  
20 the family, has, at times, become very threatening and  
21 physically assaultive with various family members, someone  
22 who's had peripheral contact with Mr. White, Jr., as well as  
23 the other siblings.

24 Actually, I was told that Mr. White, Jr. hasn't seen  
25 the father since 1977, so it sort of tells you how peripheral



MATTHEWS - DIRECT

1 the father has been in his development.

2 Q What about the drug use of both -- There was drug  
3 use of both the mother and father?

4 A Yes.

5 Q And you've reviewed documents that show that?

6 A Yes.

7 Q How significant is drug use in the family when it's  
8 done by the mother and father?

9 A How significant is the drug use?

10 Q Especially in this case.

11 A Extremely significant. There are reports that the  
12 mother was using drugs just prior to his birth, prior to being  
13 pregnant with Mr. White, Jr. The mother denies any drug use  
14 during the pregnancy, but interestingly enough, shortly after  
15 his birth, drug use was restarted and so it's sort of hard to  
16 figure out what was going on at that time and if there was any  
17 drugs on board. That certainly is a question.

18 The mother's use of drugs have, in Mr. White's own  
19 words, has really taken his mother down, at one point saying  
20 that he thinks the mother likes drugs more than she likes the  
21 family. And this mother, in terms of her drug use, which  
22 includes alcohol, marijuana, cocaine and PCP, phencyclidine,  
23 which is a hallucinogen, the severity of her drug use reached  
24 the point such that the home environment became very unstable.  
25 Mom would, and dad, would go away from time to time

III-123

MATTHEWS - DIRECT

1 separately.

2           There were brief -- There were periods when money  
3 would come into the house, and a substantial amount to support  
4 them, but then two days to a week all of that money was gone  
5 and the family, at later points, began to move around from  
6 household to household living with various family members and  
7 living in other unstable and oftentimes unclean environments  
8 with the children.

9           Q     All right. Was there a lot of violence in the  
10 house?

11          A     There was a great deal of violence in the house.  
12 The father was extremely physically abusive towards the mom.  
13 In fact, this abuse, this physical abuse, was also directed at  
14 Mr. White, Jr. as well as he was developing.

15          Q     And this is -- There was violence from the father,  
16 John White, Sr., and John White, Jr.?

17          A     Right.

18          Q     Okay.

19          A     But also violence directed particularly at the  
20 mother.

21          Q     Okay. You had mentioned that John White, Sr. hadn't  
22 seen John White, Jr. since 1977?

23          A     Yes.

24          Q     Is that correct, '77?

25          A     Yes. That's what I remember.

MATTHEWS - DIRECT

1 Q Or was it in 1987?

2 MR. DASKAS: Objection, Judge, leading.

3 THE COURT: Overruled.

4 BY MR. SCISCENTO:

5 Q Well, do you know when John White was born?

6 A May 27th, 19 -- Oh, okay, '77. That's right.

7 Q Okay, so the correct date would have been --

8 A '87.

9 Q Okay. Upon reviewing the documentation and speaking  
10 to people, what was life like for John White growing up in  
11 this home?

12 A As a child, from zero to five, it was pretty -- zero  
13 to seven and a half, I should say, it was pretty scary from  
14 what I reviewed in the records. I mean, this is a family  
15 where at times he -- He reported an incident where there  
16 wasn't food in the house and so what the father did was took  
17 he and John and other members out to a trash bin behind a  
18 grocery store to find food, which he took out bread and meat,  
19 wiped off any contaminants and had the kids and the other  
20 members eat this food.

21 Q And this is something that happened to John at an  
22 early age?

23 A Yes.

24 Q And was this a one-time happening?

25 A It sounded as if this happened on various occasions,

MATTHEWS - DIRECT

1 but he recalled this one incident.

2 Q Was there any violence in the house? And you  
3 described a little, but --

4 A There was a situation where he reported being in the  
5 tub at age five and hearing a ruckus in the living area. They  
6 were living in a hotel at this time and there was a ruckus in  
7 the living room -- I mean, in the living area of the room. He  
8 comes out of the tub and sees his father, who is handcuffed,  
9 and his mother choking his father and he's confused, 'cause  
10 the father's telling him to go get someone to help and his  
11 mother is looking and saying don't do anything, stay out of  
12 this.

13 So he sits there on the bed for a minute confused  
14 and then he runs to get someone to come in and help the  
15 family.

16 Q What's the impact of the parents' drug use in the  
17 family?

18 A Excuse me?

19 Q What's the impact of the parents' drug use on the  
20 family?

21 A Well, the impact of the drug use can interfere with  
22 their ability certainly to be supportive as stable parents and  
23 nurturing parents. It certainly can interfere with their  
24 ability to bond with their child, because they may oftentimes  
25 misunderstand cues that the child is presenting to them when

MATTHEWS - DIRECT

1 they're growing up because they're seeing it through the cloud  
2 of the drugs, so they misinterpret and aren't able to respond  
3 in a way that's nurturing and supporting of that individual.

4 It also interferes with their ability to provide  
5 food, clothing and shelter if money is being directed towards  
6 the drugs. If much of the attention is spent trying to secure  
7 and procure drugs, there's not much time for the family, the  
8 children.

9 They oftentimes were moved from place to place and  
10 other family members would come in periodically to try to  
11 shore up the family, which they really couldn't.

12 Q Does John White -- You spoke with him, John White,  
13 over here?

14 A Yes.

15 Q You spoke with him numerous times for a long --  
16 eight hours about. Does he recall any of the drug use and the  
17 violence in the house?

18 A Yes, he does.

19 Q Okay. Does he remember with some specificity?

20 A He does, particularly in terms of the parents' drug  
21 use with other family members and how that -- and seeing that  
22 at a -- so at the age of 13 becoming more apparent of what the  
23 parents were doing.

24 Q Would you agree that there was a breakdown of the  
25 family unit at one point?

MATTHEWS - DIRECT

1 A Certainly.

2 Q And some agencies came in to take over the family?

3 A Yes.

4 Q Or to take control of the situation?

5 A Right. What happened was because the parents were -  
6 - the mother and father had separated shortly after the last  
7 child was born and Mr. White, Jr. was seven and a half years  
8 old at this time and so the mother and -- mother and the kids  
9 were moving from household to household and they would spend  
10 time with the great-grandmother living inside of a garage  
11 attached to her house and they would spend several days and  
12 sometimes several weeks living in this garage, the four of  
13 them.

14 Now the problem with that, not just living in the  
15 garage, which wasn't a garage that was adapted to allow  
16 individuals to live in there -- It was just a regular garage.  
17 There wasn't any utilities or running water, et cetera. There  
18 was only one bed. The other thing is is that another family  
19 member and her siblings were also living in the garage, so at  
20 one point it was anywhere from eight to ten people living in  
21 this garage, all sleeping in one bed.

22 Q Doctor, we've had a lot of testimony from family  
23 members or some testimony from family members indicating this  
24 very thing that you talked about.

25 A Yes.

MATTHEWS - DIRECT

1           Q     What is the effect of that kind of environment on a  
2 child growing up?

3           A     Well, when we look at Mr. White, Jr., one thing  
4 you're struck by when you review the records is that once he  
5 is removed from the care of his mother, that situation I just  
6 described in the garage, when CPS got involved and he was then  
7 placed with the grandmother, he tended to settle down somewhat  
8 and began to describe feeling much better, to some degree,  
9 about the events. However, in moving to the household where  
10 the grandmother lived, there were still roughly ten to 11  
11 individuals living in this house, though they had different  
12 areas. Crowding became a major issue.

13                I think the big picture here is one of a child's  
14 identity that's evolving, how they look at the world, how they  
15 view themselves, what, in the environment, reflects something  
16 positive about them and their growing up subsequent to these  
17 events. And I think that that was very difficult for him, for  
18 certainly the earlier years of his life.

19                When we look at -- In talking with the family  
20 members, clearly there emerged behavioral problems secondary  
21 to one not seeing the father for a long period of time and  
22 when contact was made, which was fairly infrequent, the father  
23 would place ideas about the grandparents not really loving the  
24 child. And so the child had this -- was getting these mixed  
25 messages from supposedly individuals who were there to protect

MATTHEWS - DIRECT

1 him and those individuals weren't able to protect him. The  
2 father wasn't there, the mother was off and on coming to the  
3 home and she wasn't there to protect him and so, as a result,  
4 that self-image that evolved was one of a child who did not --  
5 felt they didn't belong or had difficulty expressing their  
6 emotions.

7 Most of the time, some of the family members said,  
8 he was very guarded about his feelings and quiet, but, when he  
9 was upset, he was upset and I think that is the result of the  
10 trauma that he was experiencing, the lack of connection within  
11 the family, and so it had this underlining drive of anxiety  
12 and emotion that, from a personality profile, his defense  
13 mechanisms were overwhelmed by this.

14 And so you would hear this and see this in school  
15 where he started having problems managing his behavior and his  
16 academic progress began to decline.

17 Q Okay. So now we're describing up to the age of  
18 seven, about seven and a half?

19 A Seven and on, yes.

20 Q Okay, prior to that -- prior to that, was there,  
21 when you talk about trauma in his life, was there a lot of  
22 trauma up to age seven?

23 A I'm describing trauma in the sense of acts that are  
24 normally considered not normal, that a normal person would  
25 experience. I'm also including, in those traumatic events,



MATTHEWS - DIRECT

1 maltreatment, particularly neglect, at this age that could be  
2 very devastating to the developing individual.

3 Q In the case of John White, --

4 A Yes.

5 Q -- to age seven and a half, was there constant  
6 trauma, as you describe it, in his life?

7 A There was a substantial amount.

8 Q Okay, more than most people his age?

9 MR. DASKAS: Judge, I'll object as to the  
10 foundation. I don't know that he knows most people this young  
11 man's age.

12 THE COURT: Well, he's been qualified as an expert.  
13 He can say if he does and, if he doesn't, he'll tell us.

14 MR. SCISCENTO: All right.

15 I'm sorry, Your Honor, you sustained that?

16 THE COURT: No. It would just be that is automatic.

17 MR. SCISCENTO: I'll move on.

18 THE COURT: No, I didn't sustain it, Joe. I said if  
19 he wants to answer it as an expert he can and if not he --

20 MR. SCISCENTO: I'll move on to my response that --

21 THE COURT: Oh, okay.

22 MR. SCISCENTO: I don't want the contempt.

23 BY MR. SCISCENTO:

24 Q Dr. Matthews, I'm sorry. I got all this other stuff  
25 going on.

MATTHEWS - DIRECT

1 A Could you restate your question?

2 Q I'm gonna restate the question.

3 A Sure.

4 Q And I'm gonna apologize, because this is very  
5 important and I've got to focus on you and you've got to focus  
6 on the jury.

7 You described earlier that John White had constant  
8 trauma in his life up to the age of seven, it was always  
9 there, it was always present, correct?

10 A A fair amount of trauma, yes.

11 Q Fair amount of trauma in his life up until the age  
12 of seven that we know about?

13 A Uh-huh.

14 Q And that's where we just focused.

15 A Uh-huh.

16 Q And is that consistent with the same kind of trauma  
17 that other children grow up with?

18 A It's consistent with children in that kind of  
19 environment.

20 Q Okay. Would this be more -- And have you reviewed a  
21 lot of children from that environment?

22 A I've seen, I mean, working in the California Youth  
23 Authority, I see a fair number of children who have been  
24 exposed to that type of trauma in that kind of environment.

25 Q Okay. And so the children who are there in that

MATTHEWS - DIRECT

1 environment, some may have this effect with the trauma on them  
2 and some may not have as much?

3 A Yes.

4 Q Okay. Would you say that John White suffered from a  
5 high amount of trauma based on what you know so far?

6 A I would say that he was exposed to a severe amount  
7 of trauma. Whether I can weigh it as high or whatever is not  
8 the way I would categorize it, but severe trauma when it did  
9 occur, I mean, mother not available, physical assaults,  
10 abandoned at times by various adults who were to supervise  
11 him, et cetera.

12 Q Now from age seven and a half he moves to 43rd and  
13 Ascot?

14 A Right.

15 Q Okay. Can you describe that part of his childhood  
16 now?

17 A Ascot, this is where they move right after being in  
18 the shelter and they're living with the grandmother, a  
19 somewhat more stable but yet a sort of difficult environment  
20 as a result of overcrowding, but the grandmother tried to make  
21 best with what she could, with what she had. The problem now  
22 is that he's growing, he's beginning to move and explore the  
23 environment and being a male, and particularly an African-  
24 American male in the environment where he is, one of the big  
25 problems in South Central Los Angeles is the impact of gangs.

III-133

MATTHEWS - DIRECT

1           And so on a fairly consistent basis that was a  
2 constant threat in the environment as well, so one had to  
3 become more vigilant about where he was and what he was doing.

4           Q     And at 43rd and Ascot he was exposed to this, the  
5 gang elements?

6           A     Yes, from what I reviewed and from what the family  
7 has stated.

8           Q     Okay. And as he's getting older -- He hasn't, up to  
9 this time, really had any parental supervision up to age seven  
10 and a half?

11          A     Not by his -- Not significantly by his mom and  
12 certainly not significantly by his father.

13          Q     So at age seven, when we're at Ascot, now we're  
14 trying to get some controls in there?

15          A     Right, the grandmother is attempting to and the  
16 grandfather.

17          Q     At age seven is it significant for a boy to have,  
18 around that age, to have a male role model?

19          A     Yes, and even before then, but certainly during  
20 those periods.

21          Q     In the beginning years, the tender years, it's  
22 usually the mother who provides some guidance and then, as a  
23 male matures, the father's role comes in, the male roles come  
24 in?

25          A     It becomes more apparent, the need for the male

MATTHEWS - DIRECT

1 energy, exactly, involvement.

2 Q At seven and a half, at Ascot and 43rd, was there  
3 that male role that you described?

4 A The only male role model involved in his life at  
5 that time, in a limited capacity, was his grandfather, his  
6 step-grandfather.

7 Q Okay. Did his step-grandfather like him?

8 A Well, there's some question about there being  
9 concerns about the grandfather being upset with all the kids  
10 in the house, but, when you talk with Mr. White, he talks  
11 about going fishing with him and doing various activities.

12 Q Was there any bonding going on?

13 A I think so.

14 Q Okay, significant bonding?

15 A As much as could be.

16 Q Okay, but then there's a chance -- a time then that  
17 they moved from 43rd and Ascot to another house.

18 A To 60th.

19 Q Okay. And you found out about 60th through your  
20 investigation, through your questioning of the family of Donte  
21 and within the documents?

22 A Right.

23 Q All right, describe to me about 60th Street.

24 A Excuse me?

25 Q Describe to me 60th Street.

MATTHEWS - DIRECT

1           A     Well, 60th Street was a real difficult period. This  
2 is the age of around 13 to 18 and by this time there clearly  
3 was gang activity. To the extent that you walk out the door  
4 of the house, the way it's described, there are groups of male  
5 individuals on the corner, around the house, very visible, to  
6 the point that the school that they were attending was only a  
7 few blocks away, but, because of the gang influence and  
8 activities, -- This was Blood territory.

9                     Should I explain that? I'm sorry.

10          Q     Explain the Bloods and the Crips, I guess.

11                     THE COURT: We've heard this from him before.

12                     THE WITNESS: Okay. Okay, I just wanted to make  
13 sure.

14 BY MR. SCISCENTO:

15          Q     Okay, I think they do understand the difference,  
16 that there are rival gangs.

17          A     Right, the rival gangs. And even within those gangs  
18 are various groups and the group that was pretty prominent in  
19 that area was the 62nd Brim. And these individuals, some of  
20 these individuals, took notice of his family, particularly the  
21 female members of his family.

22          Q     Now Donte at this -- John at this age is -- at this  
23 time is what age?

24          A     He's 13.

25          Q     Now any male role models he has are coming from

MATTHEWS - DIRECT

1 where now?

2 A Pretty much from outside of the household.

3 Q Okay.

4 A 'Cause now, developmentally, what he's doing is  
5 trying to, even though it's delayed, his developmental growth  
6 has somewhat been delayed by the earlier events, he's now  
7 trying to separate himself from the adults and move into his  
8 peer group.

9 Q And the only person he could turn to then, for male  
10 guidance, is whom or what?

11 A Well, the individual that he started --

12 Q Excuse me.

13 A The individuals that he found himself with mostly  
14 during that period were gang members.

15 Q Okay. Now, I'm sorry, I interrupted you. You were  
16 talking about some effect or the 62nd Brim, I think you called  
17 them?

18 A Yes.

19 Q They were taunting -- or dealing with his family.

20 A Right.

21 Q And please explain about that.

22 A What I understand and learned from reading reports  
23 and talking with Mr. White, Jr. and his sisters -- sister,  
24 excuse me, and cousin, is that Keonna became the attention of  
25 one of the major gang players in the area and this individual

MATTHEWS - DIRECT

1 decided that he wanted her to be his girlfriend and she  
2 resisted that. And, unfortunately, he kept taunting them as  
3 they went to school and so part of what it seems that Mr.  
4 White was trying to do is intervene in a way that would move  
5 the attention from her to him, i.e., spending more time with  
6 the members in the gang, which he did.

7           Unfortunately, during one of -- as he became more  
8 involved, they became more interested because he was at the  
9 ripe age to be brought into the gang. And so one day, when he  
10 was with them, they decided to jump him in, meaning -- it's an  
11 initiation process that they go through to bring new members  
12 into the gang, but it is a severe beating which they gave him  
13 that particular day.

14           Q     Before we go on to the gangs, --

15           A     Sure.

16           Q     -- let's back up a little.

17           A     Sure.

18           Q     He's on 60th Street. What kind of -- What was the  
19 grandmother trying to do, if you know, to ensure the safety of  
20 the children?

21           A     Well, many -- It's probably strange to hear us  
22 talking about this environment, 'cause it sounds like probably  
23 an environment on Mars or something and it's so different from  
24 what most of us are accustomed to, but, in fact, many inner-  
25 cities are struggling with this. And certainly in the CYA you



MATTHEWS - DIRECT

1 see a lot and you hear and you come to really understand this  
2 in ways that prior to my work in the CYA I had no idea how  
3 difficult -- the pervasiveness of this problem.

4 Q Which I believe --

5 MR. DASKAS: I apologize. It's non-responsive.

6 THE COURT: Overruled.

7 THE WITNESS: So the grandmother, as would many  
8 mothers in this environment, decided, one, that she would  
9 dress the kids in neutral colors, because they wouldn't draw  
10 any attention and would be able to move a little more freely  
11 along the streets.

12 The other thing the grandmother would do is  
13 oftentimes there were shotgun -- gunshots that erupted at  
14 night, so what she would do is try to -- would tell the kids  
15 to get down on the floor, remain on the floor, turn the lights  
16 off, until everything settles down, I mean, as if they're in a  
17 war zone. And this was on a pretty frequent basis.

18 BY MR. SCISCENTO:

19 Q So every -- Well, a couple of times a week, or maybe  
20 a couple of times a month, they would hear the gunfire going  
21 off?

22 A Right.

23 Q And this -- And John was telling you about this and  
24 the other family members?

25 A Right.

MATTHEWS - DIRECT

1 Q Okay. Is that a traumatic experience on a person?

2 A It would be for me, certainly. I mean, I don't --  
3 Many of us don't live in those kind of environments where  
4 we're hearing shotguns going off on a regular basis.

5 Q You said that after this there came point that John  
6 joined the gang, the 62nd Brim?

7 A Yes.

8 Q Okay, you keep saying CYA. That's California Youth  
9 Authority, right?

10 A Yes.

11 Q And you work with them or you work in that system?

12 A I am a consultant to the California Youth Authority.  
13 That means that I am not a -- I am only a contracted person  
14 for them. I'm not officially a part of their structure.

15 Q And what is it exactly that you do for them?

16 A I am -- I run a cycle farm clinic. What that means  
17 is I am the person that -- they would send kids to me if  
18 they're having major difficulty while they're in the prison  
19 setting. If the child has been on medication before or  
20 they're presenting with psychiatric symptoms, that may  
21 indicate that they need to be tried on a medication. If the  
22 child and I can agree to that, that's what would occur, if we  
23 feel it clinically necessary.

24 Q All right, so you, in part, work with the California  
25 Youth Authority?

MATTHEWS - DIRECT

1 A Yes.

2 Q And if someone like John White were to be sent  
3 there, he may pass through you?

4 A Possibly.

5 Q Okay. You see them though after they've been  
6 admitted to the California Youth Authority, right?

7 A Mainly, yes.

8 Q Okay. And, I mean, maybe parents send their  
9 children to you outside of this, but what I'm talking about is  
10 the kids are sent to you from the state after they've  
11 committed problems -- or had problems, am I right?

12 A Yes.

13 Q Okay. You're not sent out to families who have  
14 little children who are not in trouble yet, who haven't  
15 committed crimes, and try to help them?

16 A You mean through the California Youth Authority?

17 Q Yes.

18 A No.

19 Q Okay. Now let's get on to the involvement with  
20 gangs. We've admitted that John White was involved with the  
21 62nd Brim.

22 A Yes.

23 Q Why did he choose that gang?

24 A I don't know if choice is really the correct term.

25 Q Is that the gang that was in his neighborhood?

MATTHEWS - DIRECT

1           A     That's the gang that was in his neighborhood. If it  
2 had been a Crip gang or another, it probably would have been  
3 him being initiated in one of those.

4           Q     It's not a choice that you make about which gang you  
5 join?

6           A     No.

7           Q     It's the one that's controlling the place you live?

8           A     Oftentimes it's where you are, exactly, at that  
9 particular age and time and point.

10          Q     What kind of environment do the gangs create in a  
11 neighborhood?

12          A     Could you be a bit more specific with that?

13          Q     All right. Well, we had some testimony earlier that  
14 it was tough for them to walk to school because there was  
15 always constant threats and being made fun of, there were  
16 fights, bullies, gunfire and stuff like that. What does the  
17 gang provide to the environment now to the person involved in  
18 the gang and his family, if you know?

19          A     Well, it provided, in this case, it provided  
20 security and some stability, because once Mr. White became a  
21 part of the gang, what various family members report, is that  
22 the threats directed at the family, at the females and the one  
23 male family member that was living in the area, Floyd, all of  
24 those threats subsided and they were able to move somewhat --  
25 I mean, if I could use that term, somewhat more freely. I

MATTHEWS - DIRECT

1 don't think it was totally ever free, but at least they didn't  
2 have that kind of taunting going on.

3 Q What have the other family members said about John  
4 joining the gang?

5 A What did they say?

6 Q Yes.

7 A Some of them really -- Many of them didn't know this  
8 was going on. The younger ones, that were closer to his age,  
9 realized what was going on, but the older ones weren't aware  
10 of it and they were concerned about him. His sister was  
11 really upset because once he joined he spent very little time  
12 at home. He was -- They would come to the house, it sounded  
13 like a ritual, and take him away for several hours, several  
14 days, and then he would return for only a brief period.

15 Q Okay. Now reviewing all the documents, speaking  
16 with John White and speaking with his family, what need did  
17 John need to join a gang -- or what need did he have to join  
18 the gang?

19 A I'm not sure if he was aware of it, but I think,  
20 from a developmental standpoint, he was trying to be in an  
21 environment where he, one, could be respected, supported.  
22 Adults, in his world, and many of the youth that I meet in the  
23 CYA, will express this, that they don't see adults as being,  
24 for the most part, individuals that can protect them and  
25 oftentimes, because of the nature of the environment they're

MATTHEWS - DIRECT

1 in, they feel uncomfortable and certainly unwilling to reveal  
2 or seek adults out for protection, but they're willing to do  
3 that with their own peers.

4 And so the gang provides that kind of experience for  
5 them and provides them sort of a surrogate or substitute  
6 family that they buy into.

7 Q Now in your interviews and research you came across  
8 that John was at the California Youth Authority?

9 A Right.

10 Q There were a couple of places he was at?

11 A Right.

12 Q And he was at Kilpatrick?

13 A Exactly.

14 Q Explain to me about Kilpatrick. How did John do at  
15 Kilpatrick?

16 A It seems that from the reports I reviewed that he  
17 did well. This is a community camp that he attended, and  
18 attended school there as well, and he was able to function  
19 there.

20 Q Now that, we would consider, a structured  
21 environment, right?

22 A Yes.

23 Q How structured is it?

24 A It seemed, from what I understand, fairly  
25 structured. It probably isn't as structured as maybe the

MATTHEWS - DIRECT

1 Youth Authority is.

2 Q Okay, but it does provide somebody with knowing when  
3 to leave, when to go and things like that?

4 A Right.

5 Q Some kind of structure that John was missing in his  
6 childhood?

7 A Well, in his immediate environment.

8 Q Okay. There's another California Youth Authority  
9 called Paso del Robles?

10 A Paso Robles.

11 Q Paso Robles?

12 A Right.

13 Q And you interviewed records from there?

14 A Yes.

15 Q Okay. And what did you make of those records?  
16 Please explain to the jury.

17 A They saw him as a fairly immature young man who  
18 could benefit, they felt, by the programs that they offered at  
19 the Youth Authority at that time, victim awareness, small  
20 group settings to address anger management, education, those  
21 kinds of activities.

22 He was placed in a school and kitchen group and it  
23 seemed that he did, from their description, he did reasonably  
24 well. He wasn't a major behavior problem during that time.

25 Q He responded well while he was at Las Robles.

MATTHEWS - DIRECT

1           A     Yeah, Paso Robles.

2           Q     Paso Robles.

3                   How long was he in there for? Do you know?

4           A     I believe nine months.

5           Q     Okay. And you mentioned that he worked in the

6 kitchen?

7           A     Yes.

8           Q     So now he's having some -- And there was positive

9 output by him?

10          A     It seems that. I think the fact that he was in this

11 structured environment and that there were -- And you see this

12 sometimes in the wards who come into the CYA. They call the

13 adolescents, the children that come into the CYA, they call

14 them wards, I guess an abbreviated term for wards of the

15 state, but many of the kids, when they come in, are very

16 reactive at first, meaning they're everywhere, and then they

17 settle down over time. And it seems that for him, the reports

18 that I've reviewed, indicate that he was able to settle down

19 and not be a major discipline problem.

20          Q     Okay. Now, Doctor, you've reviewed -- At this age

21 in Paso Robles --

22          A     Uh-huh.

23          Q     -- how old is John White?

24          A     He's 15.

25          Q     Okay. And when is he released?

III-146

AA02214



MATTHEWS - DIRECT

1 A I'm trying to remember that date.

2 Q Do you remember the age he was?

3 A I believe he was 16 when they released him.

4 Q Okay. Now up to this time, from birth to 16, you  
5 reviewed records?

6 A Uh-huh.

7 Q And spoke to family members?

8 A Yes.

9 Q Okay. And you saw the kind of childhood that Mr.  
10 White was brought up in. Is that conducive to a healthy  
11 lifestyle, his childhood?

12 A No.

13 Q There's a lot of problems growing up in that kind of  
14 childhood?

15 A True.

16 Q What kind of problems are there?

17 A The problems that he'd face, again, as I mentioned,  
18 from a developmental aspect, identity, who am I gonna be, how  
19 do I look at this world, how do I develop a healthy view of  
20 myself. In terms of moral development, looking at the various  
21 examples that's been presented to him in the environment by  
22 the family, et cetera.

23 The traumatic events, I think, generated a certain  
24 level of anxiety internally. That sort of perpetuates a  
25 certain response when he's out of those structured

III-147

MATTHEWS - DIRECT

1 environments that cause him to be somewhat reactive and  
2 oftentimes misinterpret what's going on in the environment.

3 Q Your review of his documents and his records and  
4 past CYA, California Youth Authority, records --

5 A Yes.

6 Q -- show that when he was in a structured environment  
7 everything was okay with him?

8 A I mean, reasonably okay, as well as we could say  
9 that.

10 Q He would have still some infractions though?

11 A Yeah.

12 Q Maybe stealing Kool-Aid or something like that?

13 A That's a possibility, yes.

14 Q Okay, but there was never any violence?

15 A Not that they -- not that I saw.

16 Q So minor infractions of maybe stealing Kool-Aid,  
17 giving bad looks or talking back may just be a normal  
18 response?

19 A It could be.

20 Q Okay, but there was never any violence shown?

21 MR. DASKAS: That's been asked and answered, Judge.

22 THE COURT: Overruled.

23 MR. SCISCENTO: Just reiterating.

24 BY MR. SCISCENTO:

25 Q But there was never any violence shown?

MATTHEWS - DIRECT

1 A Not that I recall in those institutions.

2 MR. SCISCENTO: The Court's indulgence for one  
3 moment.

4 (Pause in the proceedings)

5 MR. SCISCENTO: If I may approach, Your Honor.

6 THE COURT: Sure.

7 MR. SCISCENTO: Can I have this marked as Defense  
8 Exhibit --

9 (Colloquy between Mr. Sciscento and Clerk)

10 BY MR. SCISCENTO:

11 Q Dr. Matthews, I'm handing you what's marked as  
12 Defendant's Proposed Exhibit M.

13 A Okay.

14 Q Have you seen this document before?

15 A Yes, I have.

16 MR. SCISCENTO: The prosecution knows what I'm  
17 referring to?

18 MR. GUYMON: We do, Your Honor.

19 MR. SCISCENTO: All right, thank you.

20 BY MR. SCISCENTO:

21 Q Have you reviewed this document before?

22 A Yes.

23 Q What document is this?

24 A This is a CPS report that was generated shortly  
25 after the children were removed from the mother.

MATTHEWS - DIRECT

1 Q And CPS is what?

2 A Oh, I'm sorry, Child Protective Services.

3 Q Okay. And this provides some information about the  
4 family?

5 A This provides information about the family, what the  
6 observed regarding the family. An interview with the children  
7 after they had been removed from the mother's care

8 Q Okay. And this basically confirms what was stated  
9 before by other witnesses about the -- the living conditions  
10 of John?

11 A Yes.

12 Q Okay. And the mental retardation of the mother?

13 A Yes.

14 Q To some degree, I mean she had an --

15 A To some degree this is --

16 Q -- an IQ of --

17 A Yes.

18 Q -- of 61?

19 A Yes.

20 Q Which that puts her in which kind of range?

21 A The mild range.

22 Q Okay. And it talks about the drug use?

23 A Yes.

24 Q Okay. In there it also talks about Johnny being  
25 beaten, little Johnny being beaten?

MATTHEWS - DIRECT

1 A Yes.

2 Q Okay. It talks about the family strength, on the  
3 second page, am I right? It talks about family members can be  
4 counted on to provide care and nurturing as long as the  
5 parents don't intervene and sabotage?

6 A Yes.

7 Q Was there a lot of that going on?

8 A It seems to be, the --

9 Q That being the sabotaging of the parents on the  
10 relationship that the family tried to provide to John?

11 A The grandparents --

12 Q The grandparents.

13 A -- were trying to provide.

14 Q Okay. It talks about the part that the mother,  
15 Eunice, had no real contact?

16 A For periods of time, yes.

17 MR. SCISCENTO: Your Honor, at this time I move for  
18 the admissions of State's Exhibit M -- or Defense Exhibit M.

19 MR. DASKAS: Subject to the discussion we had,  
20 Judge.

21 THE COURT: So you do object to it?

22 MR. DASKAS: Yes, Judge.

23 THE COURT: Okay. He's testified to it, I don't  
24 know of any authority for an expert to introduce the very  
25 things that he relied on. We haven't had that with any of the

MATTHEWS - DIRECT

1 other experts who went with this, I think we've covered it.

2 Anything else, Mr. Sciscento?

3 MR. SCISCENTO: If I may just finish very briefly,  
4 Your Honor?

5 THE COURT: Sure.

6 BY MR. SCISCENTO:

7 Q Dr. Matthews, based on your research and your  
8 investigation and research of all the documentation, what is  
9 your feeling about John White? What is your -- what have you  
10 determined about John White and his childhood?

11 A Well, if -- in reviewing his childhood I found it to  
12 be very -- a very deprived -- emotionally deprived environment  
13 and one which certainly would have lasting effects on him as  
14 he grows into his adulthood.

15 Q This doesn't excuse any action though, am I right?

16 A No, I'm not saying this is terms of excusing his  
17 behavior.

18 Q This shows the problems he had growing up?

19 A The difficulty that he was exposed to.

20 Q And these difficulties are difficulties not exposed  
21 to everybody growing up? I mean, it's not a decision of what  
22 movie you see, right? The decision that he had to make.

23 MR. DASKAS: Judge, I'm going to object to the  
24 leading nature of the -- of the question.

25 THE COURT: Sustained.

III-152

MATTHEWS - DIRECT

1 BY MR. SCISCENTO:

2 Q All right. In your review of John White's life, it  
3 wasn't -- the problems he had were different than problems of  
4 other children?

5 A In some cases, yes.

6 Q Other children in different neighborhoods not in  
7 South Central L.A., right?

8 A Yes.

9 Q Okay. And those problems are significant --

10 MR. DASKAS: Judge, same objections. He can  
11 certainly ask this Doctor's opinion or conclusion but he's  
12 really leading him to the answers.

13 THE COURT: Well, if his expert wants to be lead, go  
14 ahead.

15 BY MR. SCISCENTO:

16 Q Tell me about the ability for John White to make  
17 decisions?

18 A I think the decision making ability of Mr. White is  
19 really influenced by his environment and very much influenced  
20 by his past experiences which color the choices that are  
21 available to him.

22 Q Okay. And the choices that he has growing up that  
23 you observed, are not the same kind of choices that most  
24 children make?

25 A Well, the choices that he has growing up would.

MATTHEWS - DIRECT

1 certainly be different from those of us who did not live in  
2 that type of environment. If we lived in that type of  
3 environment here in Las Vegas, if that existed, then we would  
4 probably have very -- some very similar different selection as  
5 well.

6 Q Did you provide a diagnosis of John White?

7 A I wasn't ask to provide a diagnosis.

8 Q Let me ask you this very briefly, you've been  
9 brought in by the defense, by my office, which is the Clark  
10 County Special Public Defender's office, correct?

11 A Yes.

12 Q Your time is valuable, I'm assuming?

13 A Well, everyone's time is, yeah.

14 Q You're being paid by the county?

15 A Yes.

16 Q Okay. They're going to provide a check to you for  
17 testifying, for providing all this information, for doing the  
18 research, and the time you spent on this case?

19 A Yes.

20 Q Okay. How much is that?

21 A Per hour?

22 A Per hour do you charge?

23 A Two fifty.

24 Q Okay. With your degrees that you've had, your  
25 teachings at Stanford, if I promised to pay you additional



MATTHEWS - DIRECT

1 money would you say anything I wanted you to say?

2 A I'm not sure if I understand that question.

3 Q If I pay you more money would you change your  
4 testimony?

5 A No, I'm not here because you're paying me per se,  
6 that's not --

7 Q You wouldn't put your professional reputation on the  
8 line?

9 MR. DASKAS: Judge, I'm going to object, he's  
10 vouching for the witness's credibility.

11 THE COURT: And bolstering. Sustained.

12 MR. DASKAS: Thank you.

13 BY MR. SCISCENTO:

14 Q Were you asked to come up with a specific diagnosis?

15 A No, I was not.

16 Q Were you asked to come up with a mitigation of  
17 anything?

18 A I was asked to come and evaluate this case, to look  
19 at the impact of the trauma and the developmental issues that  
20 arose from the result of what this young man had experienced  
21 in his upbringing.

22 Q Was any of the information that you were provided  
23 was it made up or false?

24 A I hope not.

25 Q You investigated that though, correct?

MATTHEWS - DIRECT

1           A     Yes.

2           MR. SCISCENTO:  No further questions, Your Honor.

3           THE COURT:  Thank you.  We'll take our lunch recess.

4           During this recess you're admonished not to talk or  
5 converse among yourselves or with anyone else on any subject  
6 connected with this trial; read, watch or listen to any report  
7 of or commentary on the trial or any person connected with it  
8 by any medium of information including, without limitation,  
9 newspaper, television or radio; or to form or express any  
10 opinion on any subject connected with this penalty hearing  
11 until it's finally submitted to you.

12           If you will report back to Stony at twenty minutes  
13 of 2:00, we will try to start exactly at 1:45, which is when  
14 we will need you back here, Doctor.

15           THE WITNESS:  Okay.

16           THE COURT:  Yes.

17                       (Off record colloquy)

18           THE COURT:  Go ahead folks.

19           THE WITNESS:  Do I leave as well?

20           THE COURT:  Sure.

21                       (Court recessed at 12:40 p.m. until 1:57 p.m.)

22                       (Jury is not present)

23           THE COURT:  Okay.  We are here to settle jury  
24 instructions.  State and defense stipulate I can read them  
25 before rather than after argument?

1 MR. DASKAS: Yes, Your Honor.  
2 MR. SCISCENTO: Yes.  
3 THE COURT: And I have seventeen instructions that  
4 include one or two "As" and "Bs" and from our discussion in  
5 chambers, after modifying and replacing some of the  
6 instructions from the original packet of these, I take it that  
7 the State does not object to the giving of any of these  
8 instructions?  
9 MR. DASKAS: No, Judge.  
10 THE COURT: And the defense does not object to the  
11 giving of any of these instructions?  
12 MR. SCISCENTO: Your Honor, did we -- everything is  
13 worked out with Mr. Figler, 17 and the Judge has -- this Court  
14 has agreed on the ones that I really was concerned about, was  
15 the Gary instruction --  
16 THE COURT: Right, those are all in here now.  
17 MR. SCISCENTO: -- which set forth --  
18 THE COURT: Right.  
19 MR. SCISCENTO: -- and the ones that were provided  
20 that's going to be given, okay? And the other one that I  
21 provided which was the three, four line one? It's three or  
22 four lines, --  
23 THE COURT: 7B, the law does not require the jury to  
24 impose the death penalty under any circumstance?  
25 MR. SCISCENTO: Yes.

1 THE COURT: Okay. And you don't -- so, which way  
2 did I ask it? Did you --  
3 MR. SCISCENTO: We have no objections.  
4 THE COURT: Okay. You don't offer anything that  
5 isn't in this package, Ms. Daskas?  
6 MR. DASKAS: No, Judge.  
7 THE COURT: And do you, Mr. Sciscento?  
8 MR. SCISCENTO: No, Your Honor.  
9 THE COURT: Okay. And you've reviewed the verdicts,  
10 one of which we have replaced, the special verdict on  
11 mitigation with the form suggested by you --  
12 MR. SCISCENTO: Which -- if I may follow up on it.  
13 Which allows lines after mitigation, so they can write in the  
14 mitigations they find.  
15 THE COURT: Right.  
16 MR. SCISCENTO: Yes.  
17 THE COURT: And so, you agree that the verdict forms  
18 are appropriate, Mr. Sciscento, on behalf of the State and --  
19 on behalf of the defense?  
20 MR. SCISCENTO: With the understanding that the  
21 lines will be in there, yes. We have no objection.  
22 THE COURT: Okay.  
23 (Off-record colloquy)  
24 THE COURT: What do you prefer to be called, White?  
25 Mr. White, is that what you prefer to be called?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Okay. I'm gonna discuss briefly with  
3 you, in case you exercise your right of allocution. I take it  
4 you've discussed with your lawyers what that means, right?

5 MR. SCISCENTO: Can he just sit during the --

6 THE COURT: Yeah, he can sit.

7 Have you discussed that with either Mr. Figler, Mr.  
8 Sciscento or both of them and that is your right to make a  
9 statement to the jury that's unsworn?

10 THE DEFENDANT: Yes.

11 THE COURT: And you understand that under the laws  
12 of the State of Nevada, it's not unlimited what you say. For  
13 example, you can't go back and say you're innocent of the  
14 charges, do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: And you have the right to state, in an  
17 unsworn manner, anything that you feel would be important to  
18 discuss with the jury in mitigation of sentence, however  
19 you're instructed this right of yours is not without bounds,  
20 as I just indicated. Can't discuss guilt or innocence and if  
21 you do or if you lie, if you express remorse in a way which  
22 contradicts the facts, should you be going beyond the bounds  
23 of the proper statement, the prosecution's going to be able to  
24 comment, they may even be allowed to reopen their case. Those  
25 are the sorts of things that happen if you exceed the bounds.

1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you feel comfortable you've been  
4 explained by Mr. Figler, Mr. Sciscento, or both of them, what  
5 the limits are of this unsworn statement?

6 THE DEFENDANT: Yeah.

7 THE COURT: Okay. Do you have any questions about  
8 it?

9 THE DEFENDANT: No.

10 THE COURT: And you did, for the record, have that  
11 kind of a conversation, without getting into the details of  
12 it, Mr. Figler, with your client?

13 MR. FIGLER: Yes, for about one hour of time, Your  
14 Honor.

15 THE COURT: Thank you. Is that sufficient in your  
16 mind?

17 MR. FIGLER: Yes, Your Honor. We -- we --

18 THE COURT: Apparently we don't view time always the  
19 same way.

20 MR. FIGLER: That's correct, Your Honor, we  
21 thoroughly discussed it.

22 THE COURT: Okay. Stony, let's roll.

23 (Off-record colloquy)

24 (Jury is present)

25 THE COURT: For the reasons discussed in chambers,

MATTHEWS - CROSS

1 I'm going to reverse my ruling and admit into evidence  
2 Defendant's Proposed Exhibit M.

3 Cross, Mr. Daskas.

4 (Defendant's Exhibit No. M admitted)

5 MR. SCISCENTO: Your Honor, what was your ruling on  
6 that one? I'm sorry.

7 THE COURT: I said I just reversed it and it's  
8 admitted.

9 MR. SCISCENTO: It's what?

10 THE COURT: It's admitted.

11 MR. SCISCENTO: Thank you.

12 MR. DASKAS: May I proceed, Judge?

13 THE COURT: Sure.

14 CROSS-EXAMINATION

15 BY MR. DASKAS:

16 Q Doctor, there are some questions about the fact that  
17 you're being paid for testifying today. Just to clarify, you  
18 were --

19 A Sure.

20 Q -- retained by the defense counsel in this case, is  
21 that correct?

22 A Yes.

23 Q In other words, this Court did not appoint you to  
24 testify?

25 A Exactly.

MATTHEWS - CROSS

1 Q All right. You would agree with the notion that  
2 it's important for somebody, such as yourself, to gather as  
3 much information as possible in order to make an accurate  
4 opinion, diagnosis, or conclusion in any particular case?

5 A True.

6 Q All right. Did you ever speak with the defendant's  
7 biological father in this case?

8 A No, I didn't.

9 Q Did you ever speak with the defendant's grandfather  
10 in this case?

11 A No, I didn't.

12 Q Did you ever speak with any of the staff members of  
13 the California Youth Authority?

14 A No, I did not.

15 Q Did you ever speak with any staff members at the --  
16 I believe you called it the Paso Robles Camp?

17 A Paso Robles.

18 Q Did you speak with staff members there?

19 A No, I did not.

20 Q All right. You relied on what Mr. White told you,  
21 the defendant?

22 A I relied on my conversation with him as well as the  
23 records that I received.

24 Q You would agree, wouldn't you, that somebody in Mr.  
25 White's situation maybe motivated to be less than truthful



MATTHEWS - CROSS

1 when speaking with somebody such as yourself?

2 A Yes, that's --

3 Q That possible?

4 A -- a possibility. Yes.

5 Q And if he's less than truthful, that might effect or  
6 impact the conclusion you reach in this case?

7 A It could, yes.

8 Q Let me see if I understand exactly what your opinion  
9 is in this case. It's your opinion that because of the  
10 defendant's background and his exposure to gangs and violence  
11 it has effected his decision making?

12 A Yes.

13 Q All right. It's your testimony that he is more apt  
14 to make poor decisions than somebody who grew up in a better  
15 environment?

16 A I'm not going to say he would be more apt to make  
17 poor decisions but his decisions will be based on his  
18 experiences in whatever environment he is from.

19 Q And those decisions might be bad decisions?

20 A They may be.

21 Q You would agree that it was a bad decision on John  
22 White's part to gather up guns, gloves and duct tape and --

23 MR. SCISCENTO: Your Honor, I'm going to object to  
24 this.

25 THE COURT: What is the objection?

MATTHEWS - CROSS

1 MR. SCISCENTO: The objection is this witness has  
2 not been -- is not determining whether or not he can decide  
3 right from wrong or anything of that nature. And basically  
4 whether or not it's a right or wrong choice, we didn't ask him  
5 to do a diagnosis but to do a social history.

6 THE COURT: Sustained.

7 BY MR. DASKAS:

8 Q It's your testimony that his background has effected  
9 his decision making?

10 MR. SCISCENTO: Objection, asked and answered.

11 THE COURT: Overruled.

12 THE WITNESS: Could you repeat your question?

13 BY MR. DASKAS:

14 Q It's your testimony that his background, his  
15 upbringing has some effect, some impact on his decision  
16 making?

17 A Yes.

18 Q You would agree, wouldn't you, that you have  
19 interacted with young men who have similar backgrounds to this  
20 defendant?

21 A Yes.

22 Q Not all of them made the same decisions this  
23 defendant made?

24 A That's true.

25 Q All right. Can you estimate for me how many youths

MATTHEWS - CROSS

1 that have had problems similar to this defendant you've  
2 interacted with?

3 A Well, if I look at the California Youth Authority,  
4 they have a program called social thinking skills and let's  
5 say the majority of those who become a part of that system are  
6 oftentimes enrolled in that system because it's in part --  
7 it's thought that their -- part of their decision making  
8 strategy is flawed from those early experiences.

9 Q My question though was, can you estimate for me how  
10 many -- how many youths at CYA or otherwise have you  
11 interacted with who have had similar upbringing, similar  
12 backgrounds?

13 A Oh, I'm sorry. I misunderstood your question. I  
14 would say a significant number, I would say at least -- well  
15 over 35 percent of young men that I see there.

16 Q And certainly not all of those individuals made the  
17 same decisions this defendant made?

18 A No.

19 Q You would agree that the majority of people  
20 incarcerated made bad decisions?

21 A Along the way, yes.

22 Q The majority of people on death row are there  
23 because they made bad decisions along the way?

24 MR. SCISCENTO: Your Honor, I object to this.  
25 Again, the same reason.

MATTHEWS - CROSS

1 THE COURT: I believe it's also argumentative and  
2 we'll get to argument in about an hour or so. Sustained.

3 BY MR. DASKAS:

4 Q You would agree that this defendant knows the  
5 difference between right and wrong?

6 MR. SCISCENTO: Now, Your Honor, I will object to  
7 that, based on the argument or the -- the objection I made  
8 before. He's not here giving a diagnosis whether or not he  
9 can make a right or wrong decision.

10 THE COURT: Was it your understanding that you  
11 hadn't asked him that question?

12 MR. SCISCENTO: No, I asked his -- his --

13 THE COURT: Because that's what I don't recall.

14 MR. SCISCENTO: We have him for a social history  
15 only and not whether or not he can make bad --

16 THE COURT: I -- what I'm saying, Joe, is I don't  
17 recall that well, I thought that you had said something about  
18 right and wrong.

19 MR. SCISCENTO: I asked him --

20 THE COURT: Is it nothing more than to say --

21 MR. SCISCENTO: He knows the difference between  
22 right and wrong is what I asked.

23 THE COURT: Okay. And that's why I was -- all I  
24 hear is him asking the same question. Overruled.

25 THE WITNESS: Question?

MATTHEWS - CROSS

1 BY MR. DASKAS:

2 Q You would agree that this defendant knows the  
3 difference between right and wrong?

4 A I would say that this defendant, based on his skills  
5 and his experience, has some understanding what right and  
6 wrong is.

7 Q You reviewed some records for the -- from the  
8 California Youth Authority?

9 A Yes.

10 Q You're aware that he was given opportunities to  
11 attend behavior modification courses, is that true?

12 A You're referring to Paso Robles?

13 Q Well, let's rephrase it. Of all the records you  
14 reviewed --

15 A Mm-hmm.

16 Q -- any situation where he was incarcerated, was he  
17 given the opportunity to attend behavior modification courses?

18 A Oh, you asked if he was given the opportunity.

19 Q Yes.

20 A Normally that is an -- that's an opportunity that's  
21 extended to individuals who come into the CYA, that's Board  
22 ordered and I didn't see his board order cover to see if he  
23 specifically given that opportunity.

24 Q Based on your affiliation with the California Youth  
25 Authority, you have some familiarity with those programs

III-167

MATTHEWS - CROSS

1    though?

2           A     Yes.

3           Q     You would agree that they are good programs?

4           A     They're decent programs.

5           Q     If an individual either is ordered to attend those  
6 programs or decides on his own to attend those programs, he  
7 may get some benefit from those programs?

8           A     Given his motivation and participation in that, yes.

9           Q     There's been some testimony about the area in which  
10 the defendant grew up. Did you personally visit the home that  
11 we saw pictures of where the defendant was raised?

12          A     No, I did not.

13          Q     Any of the homes?

14          A     No, I did not.

15          Q     You mentioned that between the ages of thirteen and  
16 eighteen he had some problems, some interactions with gangs.  
17 You're aware that for a period of more than two years, during  
18 that age group, he was incarcerated?

19          A     Yes.

20          Q     It is not your testimony that he is manifesting any  
21 psychiatric symptoms, is it?

22          A     That's -- in terms of a diagnosis?

23          Q     Yes.

24          A     I'm not -- no, I'm not giving him a diagnosis.

25          Q     There was another camp that you mentioned, the

MATTHEWS - CROSS

1 Kilpatrick Community Camp?

2 A Right.

3 Q Did you interview the staff members there?

4 A No, I did not.

5 Q You mentioned you reviewed some disciplinary reports  
6 from the California Youth Authority, is that true?

7 MR. SCISCENTO: I objection, Your Honor, I don't  
8 think he said he reviewed them, I think he said there was none  
9 present.

10 THE COURT: He's an expert, if he isn't satisfied  
11 with the way it's phrased I'm sure he'll tell us. Overruled.

12 THE WITNESS: I did not review any -- the question I  
13 remember being asked was about infractions --

14 BY MR. DASKAS:

15 Q Right.

16 A -- and people receiving refractions and I didn't see  
17 any notation in what I reviewed, that indicated that he had  
18 received any infractions.

19 Q But you're also not certain whether you received all  
20 the disciplinary reports that exist?

21 A There could be.

22 Q So it's possible there are some violent disciplinary  
23 infractions you're not aware of?

24 MR. SCISCENTO: Your Honor, I object to this unless  
25 Mr. Daskas specifically has some of these records.

MATTHEWS - CROSS

1 THE COURT: Sustained. Move on to a new area.

2 MR. SCISCENTO: And I move to strike that, Your  
3 Honor. There's no basis for making that statement.

4 THE COURT: It's stricken, the jury will disregard  
5 it.

6 BY MR. DASKAS:

7 Q You mentioned on direct that his decision making is  
8 influenced by his -- that is, the defendant's, environment.  
9 Would you agree with that?

10 A Yes.

11 Q Particularly the environment that was riddled with  
12 gangs, is that true?

13 A Yes.

14 Q Do you have any information to believe that when  
15 Donte Johnson, the defendant, moved to Las Vegas he was in a  
16 similar environment as he was in Los Angeles?

17 MR. SCISCENTO: And, Your Honor, I would object to  
18 that. I think what we --

19 THE COURT: Honestly, I was looking at some people  
20 that just came in, I didn't hear it. What was the question?

21 MR. DASKAS: My question was and I need to give you  
22 the preface first, he testified on direct that his decision  
23 making is effected by his environment --

24 THE COURT: Right.

25 MR. DASKAS: -- particularly the gang environment.



MATTHEWS - CROSS

1 THE COURT: Okay. What was the next question?

2 MR. DASKAS: My question was, do you have any  
3 information to believe that when Donte Johnson moved to Las  
4 Vegas he was in a similar gang infested environment?

5 MR. SCISCENTO: Your Honor, my objection is on  
6 direct we specifically asked him, up until the age of fifteen  
7 or sixteen. That's what Dr. Matthews focused on.

8 THE COURT: Okay. Overruled.

9 BY MR. DASKAS:

10 Q Do you recall the question?

11 A No. You can say it again, please.

12 Q All right. Do you have any information to believe  
13 that when the defendant moved to Las Vegas that he was in a  
14 environment similar to the environment in Los Angeles, that is  
15 riddled or infested with gangs?

16 A You mean a community that pretty much resembled --

17 Q Correct.

18 A -- the community that he came from?

19 Q That's correct.

20 A No, I don't.

21 Q All right.

22 A From what I've reviewed and from he's stated to me.

23 Q You would agree that individuals who grew up in  
24 settings similar to this defendant's sometimes do well?  
25 Sometimes prosper?

MATTHEWS - REDIRECT

1 A Yeah.

2 Q That's a possibility.

3 A That's -- that is.

4 Q In fact, individuals with backgrounds worse than  
5 this defendant's sometimes prosper, sometimes do well?

6 A Sometime prosper, sometime does well.

7 Q Okay.

8 MR. DASKAS: I'll pass the witness, Judge.

9 THE COURT: Anything on redirect?

10 MR. SCISCENTO: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. SCISCENTO:

13 Q Dr. Mathis -- Matthews, were you aware that -- the  
14 District Attorney asked you if you interviewed the grandfather  
15 of John White and you answered, no. Correct?

16 A Right. Yeah.

17 Q Did you know that he's dead?

18 A Right, I know.

19 Q Okay.

20 A But actually, we're talking about the step-  
21 grandfather.

22 Q Okay. Further, the District Attorney asked you  
23 whether or not the investigation you had, whether it was a  
24 complete investigation or did you rely upon the statements of  
25 Mr. John White and the family when, in fact, there was other

MATTHEWS - REDIRECT

1 documents which supported the statements that they gave you,  
2 isn't that correct?

3 A What? I'm sorry, I didn't hear all of that  
4 question.

5 Q There were other documents that you relied upon  
6 which corroborated the statements given to you by the -- by  
7 Mr. White and by other witnesses or other family members, am I  
8 right?

9 A Yes.

10 Q Okay. Those being the CPS reports, the CYA reports?

11 A Yes.

12 Q Okay. California Youth Authority, California  
13 Protective Services?

14 A Right.

15 Q Okay. As a matter of fact, if I may have --

16 MR. SCISCENTO: -- Your Honor, this has been moved  
17 into evidence.

18 (Off-record colloquy)

19 BY MR. SCISCENTO:

20 Q As a matter of fact, Dr. Matthews, you reviewed this  
21 one by CPS, which is the California Protective Services and  
22 this document that we talked about, which was written by  
23 somebody unrelated to this case or unrelated to the family  
24 wrote back in -- I don't know if you know what year that was?

25 A Actually it was 19 -- I believe, 1984.

MATTHEWS - REDIRECT

1 Q Okay. And that document, documents the abuses and  
2 the living conditions of Donte Johnson?

3 A Yes.

4 Q Okay.

5 MR. SCISCENTO: If I may, Your Honor, may I publish  
6 this with the jury?

7 THE COURT: Sure.

8 MR. SCISCENTO: Thank you.

9 BY MR. SCISCENTO:

10 Q And in that document it does take about the drug use  
11 of the mother?

12 A Yes, it does.

13 Q The living conditions, living in a shack?

14 A Living in the garage, yes.

15 Q The beatings that John White suffered?

16 A Yes.

17 Q And it talks about all of the problems that were --  
18 you were talking about that you investigated what was done by  
19 somebody unrelated to the family whatsoever?

20 A Yes.

21 Q A neutral party?

22 A Yes, a --

23 Q Okay. You're familiar with CPS, California  
24 Protective Services?

25 A Right.

MATTHEWS - REDIRECT

1 Q If there's a problem in the home they come in there  
2 and they try to document what's going on?

3 A Right.

4 Q Okay. You're also familiar with California Youth  
5 Authority 'cause you, in a sense, work --

6 A Yes.

7 Q -- for them? Their records now -- their records,  
8 would you consider them very well kept? In other words, if  
9 you have somebody who comes to visit or somebody who's  
10 incarcerated there they keep pretty good records of it?

11 A For the most part, yes.

12 Q Okay. Would you be surprised if you knew that any  
13 information was missing from those records?

14 A If it's the records from the California Youth  
15 Authority?

16 Q They're pretty well intact?

17 A They're pretty well intact.

18 Q And they maintain them pretty well, am I right?

19 A Yes.

20 Q Okay. Maybe this an area that you don't know, if a  
21 probation officer from California who was a keeper of the  
22 records, the criminal records of John White, was present here  
23 he'd probably have the entire records of this California Youth  
24 Authority, too?

25 MR. DASKAS: Judge, I'll object. That calls for

MATTHEWS - REDIRECT

1 speculation.

2 THE WITNESS: I would hope for him to do that.

3 THE COURT: Sustained.

4 MR. SCISCENTO: Your Honor, he works for California  
5 Youth Authority --

6 THE COURT: Where's this going?

7 MR. SCISCENTO: -- he knows -- what Mr. Daskas asked  
8 him why he didn't review -- or asked him about records that he  
9 didn't review and whether or not they were there. He works  
10 for California Youth Authority, he knows the kind of records  
11 they have, he knows where the records go, and they put a  
12 witness on here that specifically said, I'm the keeper of the  
13 record of John White for criminal matters. Now, CYA is also  
14 part of those records and they should have them and they made  
15 a comment that there was some violence infractions going on  
16 and I want to show that in fact it there was not.

17 THE COURT: That's already been stricken. That's  
18 already been stricken. That was pure speculation that --

19 MR. SCISCENTO: Well, the bell has been rung, Your  
20 Honor.

21 THE COURT: -- should not be considered.

22 MR. SCISCENTO: I can still hear it. I apologize.

23 BY MR. SCISCENTO:

24 Q Dr. Matthews, you're familiar with South Central  
25 L.A.?

MATTHEWS - REDIRECT

1 A Yes.

2 Q You've been there a few times?

3 A Yes.

4 Q How many times have you been down there in the last  
5 ten years?

6 A Probably in the last ten years maybe six or eight  
7 times. Maybe more.

8 Q And the area that we're talking about, Sixtieth and  
9 Normandy, Vermont, those areas, Figueroa --

10 A Mm-hmm.

11 Q -- down further. I'm trying to remember all the  
12 streets down there, you've been in that area, am I right?

13 A Mm-hmm.

14 Q That's a yes?

15 A Yes.

16 Q And those are pretty much similar to where John  
17 White grew up? Some worse than others?

18 A Right.

19 Q Would you agree that a person's personality or the  
20 problems he's had -- the personalty makeup is set by a certain  
21 age?

22 MR. DASKAS: Judge, I'll object. He's really  
23 leading the witness now. We're beyond the scope of cross-  
24 examination.

25 MR. SCISCENTO: Your Honor, specific --

1 THE COURT: Overruled.

2 BY MR. SCISCENTO:

3 Q Do you want me to ask again?

4 A Yes.

5 Q Would you say that a person's personality and makeup  
6 is set by a certain age?

7 A Yes.

8 Q Okay. And so the problems that he has or the  
9 environment that he has, affects him -- affects that person  
10 and will probably stay with him for his life?

11 A In terms of the time in which he was exposed to this  
12 environment and the trauma is gonna -- is gonna be seen  
13 throughout -- it can be seen in his adult life in some degree.

14 Q And the choices that Mr. Daskas talked about,  
15 sometimes the choices are not the same that we think about in  
16 making a choice of right or wrong, am I right? As in  
17 relationship to Mr. White?

18 A Right. I think, again, the experience that this  
19 person has in life, their educational level, their experience  
20 in life, and then the environment, how they learn to deal with  
21 conflict and what have you, all of that is gonna be played out  
22 in terms of the environment they're from.

23 Q And so these choices are not simple choices, some of  
24 them are life or death choices?

25 A Some of them are.



MATTHEWS - REDIRECT

1 Q Safety choices?

2 A Yes.

3 Q Choices of whether or not you're gonna eat that day?

4 A Yes.

5 Q Mr. Daskas asked you about programs and California  
6 Youth Authority where the people are available for them and  
7 you being part of this California Youth Authority, there are  
8 programs like that, right?

9 A There are programs like that.

10 Q Are there programs that you know of, in place, that  
11 help out the people who are not in trouble, who are living  
12 below or who are living in a shack and not in trouble, I mean  
13 are there numerous program now for those kind of people?

14 A Are you saying out of the CYA system?

15 Q Out of the CYA system?

16 A No, there're not numerous programs.

17 Q And Mr. Daskas is talking about rehabilitation  
18 programs, correct?

19 A That's what I'm understanding, I was -- him saying.

20 Q Okay. Back in the 70's -- 60's and early 70's there  
21 were programs, after school programs and latch key programs to  
22 help these children, correct?

23 A Yeah.

24 Q And you've seen it -- have you, in your experience  
25 working with California Youth Authority and the juvenile

MATTHEWS - REDIRECT

1 offenders, have you seen a diminished amount of programs for  
2 the non-offending minor juveniles?

3 A Are you saying -- this is what I need to understand.  
4 Are you saying those juveniles who are say on parole and  
5 not --

6 Q Not parole, I'm talking about people who have not  
7 had infractions and not have trouble with the law. Are there  
8 programs, any significant programs out there which can help  
9 them before they get in trouble?

10 A Oh, that's sponsored by the CYA?

11 Q Sponsored by anybody?

12 A Oh, there are programs available.

13 Q Okay. Have they increased the numbers or decreased  
14 the numbers in the years?

15 A If you talk with many of the individuals working  
16 with adolescents they'll tell you those programs are not as  
17 plentiful or not nearly as much as --

18 Q As they used to be?

19 A Yes. Or, as they're needed.

20 Q Okay. And those programs, not to rehabilitate but  
21 to provide nurturing and guidance are not intact as it used to  
22 be, isn't that correct?

23 A I guess that question needs -- that question  
24 certainly depends on the environment you're in, because if you  
25 live in maybe an affluent environment that may not be the

MATTHEWS - RECROSS

1 case.

2 Q All right. Let's just get specific. How about  
3 South Central L.A.?

4 A I'm sure there's some -- there's probably major  
5 limitations in those areas.

6 Q Back in 1978 when Prop 13 came in, a lot of programs  
7 were thrown out, am I right?

8 A A lot of programs lost money.

9 MR. SCISCENTO: No further questions, Your Honor.

10 THE COURT: Anything further?

11 MR. DASKAS: One question.

12 RECROSS EXAMINATION

13 BY MR. DASKAS:

14 Q Based on your expertise and your experience, if you  
15 would have received information about this defendant's  
16 background, say a year ago, two years ago, three years ago --

17 A Yes.

18 Q -- could you have predicted what his behavior would  
19 have been?

20 A Could you give me a little more -- could you restate  
21 that?

22 Q Assume you have the background information you now  
23 have about Donte Johnson --

24 A Mm-hmm.

25 Q -- only three years ago, could you have predicted

MATTHEWS - RECROSS

1 the situation he would find himself in today?

2 A I don't know if I could predict him being in the  
3 situation he's in today, but certainly would say he would be  
4 some -- identify him as someone who's at risk.

5 MR. DASKAS: Nothing else, Judge.

6 THE COURT: Anything further?

7 MR. SCISCENTO: Nothing.

8 THE COURT: Thank you, Doctor. You're excused.  
9 Call your next witness, please.

10 MR. FIGLER: Moses Zamora.

11 THE COURT: Okay. Well --

12 MR. SCISCENTO: Your Honor --

13 THE COURT: -- while Mr. Zamora's coming in, I just  
14 want to make something very clear. Mr. Zamora, why don't you  
15 just have a seat here for a second.

16 Why don't you swear him in and then he can have a  
17 seat.

18 MOSES ZAMORA, DEFENDANT'S WITNESS, IS SWORN

19 THE CLERK: Please have a seat and spell -- state  
20 your full name and spell your last name for the record.

21 THE WITNESS: Moses Zamora, Z-A-M-O-R-A.

22 THE COURT: Okay. Just the final word on this  
23 question that Mr. Daskas asked Dr. Matthews, to which I  
24 sustained an objection and Mr. Sciscento had some additional  
25 words on when he was getting back to redirect. And the