

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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**No. 83917**

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**EDWARD MICHAEL ADAMS**

Appellant,

v.

**THE STATE OF NEVADA**

Respondent.

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Appeal from a Denial of Petition for Writ of Habeas Corpus (Post-Conviction)  
Eighth Judicial District Court, Clark County  
The Honorable Nancy A. Becker, District Court Judge  
District Court Case No. 08C241003

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**APPELLANT'S APPENDIX  
VOLUME II**

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## **CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on April 20<sup>th</sup>, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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Nevada Attorney General

STEVEN B. WOLFSON  
Clark County District Attorney

By /s/ Jan Ellison  
An Employee of Oronoz & Ericsson, LLC

1 out for you?

2 PROSPECTIVE JUROR NO. 147: I live by -- I'm a man of  
3 my word and I live by rules. I play by the game, so yeah, I  
4 don't have any issues with that.

5 MR. MANINGO: Okay. So when the Judge tells you that  
6 from the very beginning, you have to presume Mr. Adams is  
7 innocent unless the State can prove that he's not beyond a  
8 reasonable doubt, you're okay with that?

9 PROSPECTIVE JUROR NO. 147: I understood that, yeah.

10 MR. MANINGO: Okay.

11 PROSPECTIVE JUROR NO. 147: I mean, I've know that my  
12 whole life. That's Law 101 right there.

13 MR. MANINGO: Absolutely, absolutely. That's a  
14 Constitutional foundation. And you're okay with going along  
15 with that?

16 PROSPECTIVE JUROR NO. 147: Absolutely.

17 MR. MANINGO: And you're okay with the fact that the  
18 State has to do the proving in this case?

19 PROSPECTIVE JUROR NO. 147: Absolutely, that's the  
20 rules.

21 MR. MANINGO: Okay. They're bringing the charges, so  
22 they have to prove it up. And that's okay with you?

23 PROSPECTIVE JUROR NO. 147: I understand that.

24 MR. MANINGO: Okay. Is there anyone who's not okay  
25 with that? Anyone who disagrees with that? Good.

1 Let's go to Miss Callowhill.

2 PROSPECTIVE JUROR NO. 136: Hi.

3 MR. MANINGO: Hi. Did you think you were going to  
4 sneak by?

5 PROSPECTIVE JUROR NO. 136: Yeah.

6 MR. MANINGO: What about you, would you like to be on  
7 this jury?

8 PROSPECTIVE JUROR NO. 136: Yes.

9 MR. MANINGO: Have you ever done jury service before?

10 PROSPECTIVE JUROR NO. 136: No.

11 MR. MANINGO: Okay. And you would like to be  
12 selected?

13 PROSPECTIVE JUROR NO. 136: Yes.

14 MR. MANINGO: Okay. Why?

15 PROSPECTIVE JUROR NO. 136: I just think that  
16 everybody deserves a fair chance and I think that the more  
17 people that can come in and, you know, are selected that can do  
18 that, the better off everybody would be.

19 MR. MANINGO: Okay. And what about those rules that  
20 we just talked about with Mr. Marvin? You're okay with those?

21 PROSPECTIVE JUROR NO. 136: You have to live by rules  
22 everyday.

23 MR. MANINGO: Okay. And you're okay with the fact  
24 that the State has to do all the proving?

25 PROSPECTIVE JUROR NO. 136: Yes.



1 MR. MANINGO: Okay. Let's come down here to Ms.

2 Laba. Yeah, all the way, straight down. Hi.

3 PROSPECTIVE JUROR NO. 180: Hi.

4 MR. MANINGO: You've seen a lot of lawyers.

5 PROSPECTIVE JUROR NO. 180: Many, yes.

6 MR. MANINGO: Okay. And a lot of judges and other  
7 jurors and everything else; right?

8 PROSPECTIVE JUROR NO. 180: Yes.

9 MR. MANINGO: Okay. You can put all that aside,  
10 though, and kind of start from a clean slate as far as this  
11 trial is concerned?

12 PROSPECTIVE JUROR NO. 180: Definitely.

13 MR. MANINGO: Okay. You have three grown children?

14 PROSPECTIVE JUROR NO. 180: Yes, I do.

15 MR. MANINGO: Okay. Now you heard what this case is  
16 sort of about; right? The charges and that kind of thing.

17 PROSPECTIVE JUROR NO. 180: Yes.

18 MR. MANINGO: Okay. Is it going to have any impact  
19 on you to be a juror on this type of a case, this nature of  
20 case concerning the fact that you've had children and that kind  
21 of thing?

22 PROSPECTIVE JUROR NO. 180: I don't think so.

23 MR. MANINGO: Okay. Okay. Have you served on a jury  
24 where it was this kind of a case before?

25 PROSPECTIVE JUROR NO. 180: No.

1 MR. MANINGO: And I think you've already answered  
2 this, but you've never been foreperson?

3 PROSPECTIVE JUROR NO. 180: No, I haven't.

4 MR. MANINGO: Ms. Byrkit, right down here, same row.  
5 Would you want to be on this jury?

6 PROSPECTIVE JUROR NO. 192: I mean, yes or no. If  
7 I'm picked, great. If not, I'm good with that, too.

8 MR. MANINGO: It's okay to say no. You don't have to  
9 say well, yeah, I'll do it. I mean, if you don't want to be  
10 here, that's okay. You can say that.

11 PROSPECTIVE JUROR NO. 192: I mean, I'd rather not,  
12 but you know, it's my civic duty and I want to, you know, give  
13 the guy a fair trial and --

14 MR. MANINGO: Okay.

15 PROSPECTIVE JUROR NO. 192: -- and so, I'll take it  
16 or leave it.

17 MR. MANINGO: Okay. And do you feel like you could  
18 do that?

19 PROSPECTIVE JUROR NO. 192: Yes, I do.

20 MR. MANINGO: Okay. And I know you've already  
21 answered this, but the situation with your cousin, that  
22 wouldn't play into, into this trial?

23 PROSPECTIVE JUROR NO. 192: No, no.

24 MR. MANINGO: That wouldn't affect you?

25 PROSPECTIVE JUROR NO. 192: Not at all, uh-huh.

1 MR. MANINGO: Okay. And just pass it right on down  
2 to the end here, to Mr. Cianci.

3 PROSPECTIVE JUROR NO. 172: Close enough. Someone  
4 will get it right before the end of the day.

5 MR. MANINGO: I wrote it phonetically like that, too,  
6 to even try --

7 PROSPECTIVE JUROR NO. 172: That's okay.

8 MR. MANINGO: I wanted to be the first. You have a  
9 seven-year-old son?

10 PROSPECTIVE JUROR NO. 172: Yes, sir.

11 MR. MANINGO: Okay. Is that going to impact --

12 PROSPECTIVE JUROR NO. 172: No.

13 MR. MANINGO: -- any kind of emotional --

14 PROSPECTIVE JUROR NO. 172: No.

15 MR. MANINGO: -- way that you handle this case?

16 PROSPECTIVE JUROR NO. 172: Not at all.

17 MR. MANINGO: Okay. You'll be able to separate it  
18 completely from your personal life and just listen to the facts  
19 as they come out?

20 PROSPECTIVE JUROR NO. 172: Absolutely.

21 MR. MANINGO: And put it together. Okay.

22 PROSPECTIVE JUROR NO. 172: That's what I am here  
23 for.

24 MR. MANINGO: And is that somewhat what you do as --

25 PROSPECTIVE JUROR NO. 172: What I do basically to

1 kind of -- I defend people who were wrongfully terminated. I  
2 do negotiations, I sit in front of federal mediators, federal  
3 arbitrations. I present the case to all those, whether it be a  
4 mediator or an arbitrator, Human Resource director. That's  
5 basically what I do for a living.

6 MR. MANINGO: Sounds like an attorney.

7 PROSPECTIVE JUROR NO. 172: I am not one, nor do I  
8 claim to be one, nor do I want to be one. But, kind of, in a  
9 way. I do --

10 MR. MANINGO: I didn't mean to insult you.

11 PROSPECTIVE JUROR NO. 172: No, and there was. And I  
12 do deal with attorneys. McCracken (phonetic) is our labor law  
13 attorney. I deal basically with labor law and stuff like that,  
14 so.

15 MR. MANINGO: Okay. So you would feel probably  
16 somewhat comfortable with the process and the way it works?

17 PROSPECTIVE JUROR NO. 172: I have no problem with  
18 the process. The questions that have been asked of me, whether  
19 I want to be on a jury or not? It's the duty to be on one.  
20 It's a privilege to be on one.

21 My only regret is that I have people who, and when  
22 the Honor or His Honor asked the question, I didn't think it  
23 was relevant, but people who are terminated that I defend this  
24 week that will -- who were wrongfully terminated in my mind,  
25 that I could possibly get their job back, but now will have to

1 wait a couple more months before I can reschedule them. Just  
2 like you guys are scheduled.

3 MR. MANINGO: Right.

4 PROSPECTIVE JUROR NO. 172: But other than that, I  
5 have no problems.

6 MR. MANINGO: Okay. Now, you also understand, and I  
7 don't know much about the labor field and how the hearings are  
8 decided. But you know that in a criminal trial, there's a  
9 specific standard of proof which means, you know --

10 PROSPECTIVE JUROR NO. 172: A 100 percent?

11 MR. MANINGO: Well, no, no. We don't put numbers on  
12 it, and the Judge will give you the definition of what proof  
13 beyond a reasonable doubt means, okay. So you'll get that  
14 definition. But it's probably somewhat unique to criminal  
15 cases, meaning it's different from what you do.

16 PROSPECTIVE JUROR NO. 172: Okay.

17 MR. MANINGO: Will you be okay with reading the  
18 Judge's instructions and his definition and applying that  
19 standard?

20 PROSPECTIVE JUROR NO. 172: Absolutely.

21 MR. MANINGO: And not sort of apply --

22 PROSPECTIVE JUROR NO. 172: Apples and oranges, no.

23 MR. MANINGO: Okay.

24 PROSPECTIVE JUROR NO. 172: No problem.

25 MR. MANINGO: Okay, great. All right. Last chance.

1 Raise your hand, get my attention, do something. Is there  
2 anything here from any of you that you feel would cause you  
3 concern? I know I haven't got to speak with everyone of you  
4 individually. Yes, Ms. Raymond.

5 PROSPECTIVE JUROR NO. 131: Well, you've asked other  
6 people if they wanted to be on this jury and I, myself, no.

7 MR. MANINGO: Okay.

8 PROSPECTIVE JUROR NO. 131: I feel it's a very  
9 uncomfortable situation.

10 MR. MANINGO: Okay. Okay. And why is that?

11 PROSPECTIVE JUROR NO. 131: Maybe just from watching  
12 TV, I would identify maybe with the victim, although I know  
13 after the Judge's given orders, you have to based your decision  
14 on the evidence. But, still, it's uncomfortable.

15 MR. MANINGO: Okay. Okay. Ms. Carroll, I haven't  
16 spoke to you. Anything, any issues? I know I'm the third  
17 person to go, the Judge goes, the DA goes. So I don't want to  
18 repeat everything that's already been said. Is there anything  
19 that you wanted to bring up? Any issues?

20 PROSPECTIVE JUROR NO. 143: No.

21 MR. MANINGO: No. Mr. Parker, I haven't had a chance  
22 to speak with you. If there anything, any questions you might  
23 have or concerns about this process? Or I shouldn't say  
24 questions because I can't really --

25 PROSPECTIVE JUROR NO. 154: (Indiscernible),

1 MR. MANINGO: Okay. Okay. Nothing, no concerns,  
2 though, about you being able to serve as a fair juror?

3 PROSPECTIVE JUROR NO. 154: (Indiscernible).

4 MR. MANINGO: Okay, great. Anyone else? Okay.  
5 Thank you for your time and your attention and staying awake.  
6 May we approach?

7 THE COURT: Yes.

8 (Off-record bench conference from 2:01 p.m. to 2:04 p.m.)

9 THE COURT: All right. The record should reflect a  
10 conference at the bench. As a consequence of that conference,  
11 Mr. Schiffman, juror number 104, and Ms. Alvarez, juror number  
12 138, I'm going to thank and excuse you at this point. I'm  
13 going to send you back to the third floor, Jury Services, for  
14 further assignment. So you're -- thank you. Yeah.

15 We're going to call another name to fill seat number  
16 1 and seat number 7, respectively. Actually, seat 7 is going  
17 to be filled first and then seat number 1.

18 THE CLERK: Okay. Seat seven is 197, Birgit  
19 Velasquez, please.

20 PROSPECTIVE JUROR NO. 197: Which one was seven.

21 THE COURT: That's the top row, ma'am.

22 THE CLERK: And seat number one will be 199, Lovella  
23 Malicdem.

24 THE COURT: Ms. Winterbottom, can you be fair in  
25 judging this case based upon the facts that you hear from this

1 witness stand and from no other source?

2 PROSPECTIVE JUROR NO. 133: I'll do my best.

3 MR. KANGAS: Just a second, I'll get you a mic. Just  
4 checking my battery. It's number seven over there?

5 THE COURT: That's Ms. Winterbottom. And evidently  
6 based upon what Mr. Kangas's reaction, he didn't pick up your  
7 answer. And my question again, we're just looking for jurors  
8 who can -- everybody starts off even, judges the case based  
9 upon the evidence and not from prior life experience. And I  
10 want to be comfortable that you are that type of person in your  
11 own mind. Is that -- you say you'll do your best.

12 PROSPECTIVE JUROR NO. 133: Yeah, I said I'll do my  
13 best.

14 THE COURT: Is that --

15 PROSPECTIVE JUROR NO. 133: I -- just I've never been  
16 put in this kind of situation. So I don't know how I'm going  
17 to react when, you know, evidence starts unfolding.

18 THE COURT: Do you believe that you have the tendency  
19 to react more emotionally or more analytically?

20 PROSPECTIVE JUROR NO. 133: I'm usually pretty  
21 level-headed, but I mean --

22 THE COURT: Well, that is good.

23 PROSPECTIVE JUROR NO. 133: Yeah.

24 THE COURT: All right. Ms. Alberts, same question to  
25 you. Do you believe based upon all the information -- if we



1 could hand that microphone forward, right up here.

2 Do you believe that you could listen to the evidence  
3 from this -- what you hear from this witness stand and judge  
4 the case on that evidence?

5 PROSPECTIVE JUROR NO. 174: I believe I can try, but  
6 I think it would be very difficult for me to put aside what's  
7 happened.

8 THE COURT: So you believe it would be difficult to  
9 put aside?

10 PROSPECTIVE JUROR NO. 174: Yes, sir.

11 THE COURT: All right, Ms. Alberts, I'm going to  
12 thank and excuse you, send back -- send you back to Jury  
13 Services on the third floor for further assignment. We'll call  
14 another name. Have we called a name to fill seat number seven.  
15 This young lady, and I'm sorry, what was her name? Ms.  
16 Velasquez, is that right? Velasquez, okay. And your badge  
17 number is 197?

18 PROSPECTIVE JUROR NO. 197: Correct.

19 THE COURT: Okay. Let's also call a name to fill  
20 seat number one next.

21 THE CLERK: That would be 204 -- seat number 26, you  
22 mean?

23 THE COURT: No, we don't have seat -- yes, we do have  
24 seat one filled, I'm sorry.

25 THE CLERK: Seat 26 will be filled by 204, Darrius

1 Banks, please.

2 THE COURT: 204.

3 THE CLERK: Replacing Ms. Alberts.

4 THE COURT: Mr. Banks, come forward, please, sir.

5 And remind me again who we have in seat number one.

6 MR. HENDRICKS: 199, Ms. Malicdem.

7 THE COURT: 199, thank you. All right. These  
8 questions, and we just need to catch you three individuals, you  
9 three folks up.

10 Is -- let's get -- where's the microphone? We have  
11 it with Ms. Velasquez. Ms. Velasquez, how long have you been  
12 here in Nevada?

13 PROSPECTIVE JUROR NO. 197: Nine years.

14 THE COURT: What do you do for a living?

15 PROSPECTIVE JUROR NO. 197: I'm a hair stylist.

16 THE COURT: Married, single, kids?

17 PROSPECTIVE JUROR NO. 197: Married, one child, 25  
18 years old.

19 THE COURT: You run your own -- you have your own  
20 chair or tell me in broad scopes.

21 PROSPECTIVE JUROR NO. 197: I run my own business. I  
22 have my own salon.

23 THE COURT: Okay. Ever served on a jury before?

24 PROSPECTIVE JUROR NO. 197: No, sir.

25 THE COURT: Ever had a close family member or friend

1 or personally the victim of or accused of a crime?

2 PROSPECTIVE JUROR NO. 197: Yes, a close friend.

3 THE COURT: Which one, tell me.

4 PROSPECTIVE JUROR NO. 197: My personal close friend,  
5 he was -- yeah.

6 THE COURT: A victim of or accused?

7 PROSPECTIVE JUROR NO. 197: Accused.

8 THE COURT: Accused of a crime. And this friend,  
9 again, in a broad sense, how close a friend is it and when did  
10 it all happen?

11 PROSPECTIVE JUROR NO. 197: It happened about seven  
12 years ago. He was a very close friend of mine that took care  
13 of me when I first came to United States, kind of took me in  
14 the family. And he was a DA Investigator accused of shooting  
15 somebody on duty.

16 THE COURT: Here in Las Vegas or elsewhere?

17 PROSPECTIVE JUROR NO. 197: In California.

18 THE COURT: In California. As a consequence of that  
19 family -- the difficulty with the family friend, are you going  
20 to be able to, if you're selected to be a member of this jury,  
21 judge this case, or is that in some way going to influence,  
22 could it influence your decision?

23 PROSPECTIVE JUROR NO. 197: No, I believe in the  
24 justice system and everything is right.

25 THE COURT: So even with that life experience in your

1 past, you can -- you feel that you can fairly judge this case  
2 based upon the merits?

3 PROSPECTIVE JUROR NO. 197: I sure think so.

4 THE COURT: All right. Would you have a tendency to  
5 give more or less credence or weight to the testimony of an  
6 individual simply because they're employed as a police officer?

7 PROSPECTIVE JUROR NO. 197: No. My ex-husband is a  
8 police officer.

9 THE COURT: Is that a good or bad thing?

10 PROSPECTIVE JUROR NO. 197: Neutral.

11 THE COURT: Or neutral, okay. How about can you wait  
12 in forming your opinion as to the guilt or innocence in this  
13 case until after you've heard all the evidence, I've instructed  
14 you on the law and you've heard argument by the attorneys?

15 PROSPECTIVE JUROR NO. 197: Absolutely.

16 THE COURT: Anything in your past, you've listened to  
17 all the questions that have been asked here. Any question  
18 that's been asked by either side, information that you believe  
19 those side -- that side might want to know about you, but  
20 really haven't had a chance to talk about based upon our brief  
21 conversation here?

22 PROSPECTIVE JUROR NO. 197: No, I'm pretty boring,  
23 so.

24 THE COURT: Okay. I appreciate that. If you could  
25 hand the microphone down to chair number one. Is is Maldema?

1 Malcadema?

2 PROSPECTIVE JUROR NO. 199: Malicdem.

3 THE COURT: Ma'am, how long have you been here in  
4 Nevada?

5 PROSPECTIVE JUROR NO. 199: Three years.

6 THE COURT: And what do you do for a living? You  
7 work at CCDC?

8 PROSPECTIVE JUROR NO. 199: Yes.

9 THE COURT: As a nurse?

10 PROSPECTIVE JUROR NO. 199: Yes.

11 THE COURT: Are you married?

12 PROSPECTIVE JUROR NO. 199: Yes, with two kids.

13 THE COURT: All right. Have you ever served on a  
14 jury before?

15 PROSPECTIVE JUROR NO. 199: No, sir.

16 THE COURT: You've been here three years. Where did  
17 you come from?

18 PROSPECTIVE JUROR NO. 199: California.

19 THE COURT: Are you an RN or what --

20 PROSPECTIVE JUROR NO. 199: LPN.

21 THE COURT: LPN, okay. You've had -- have you had  
22 any close family members or friend either the victim of or  
23 accused of a crime?

24 PROSPECTIVE JUROR NO. 199: No, sir.

25 THE COURT: Is there any reason or would you have the

1 tendency to give more or less credence or weight to the  
2 testimony of a witness simply because they're a police officer?

3 PROSPECTIVE JUROR NO. 199: No.

4 THE COURT: Anything about your work at CCDC as a  
5 nurse -- now, you don't work for Metro, you work for an  
6 independent contractor as a nurse for Metro?

7 PROSPECTIVE JUROR NO. 199: Yes.

8 THE COURT: Anything about that type of professional  
9 involvement that might affect your ability to sit as an fair  
10 and impartial juror here?

11 PROSPECTIVE JUROR NO. 199: No, sir.

12 THE COURT: Can you judge this case based on what you  
13 hear from the stand, from the witnesses and from no other  
14 source?

15 PROSPECTIVE JUROR NO. 199: Yes.

16 THE COURT: All right. Can you wait in forming your  
17 opinion on this case until you've heard all the evidence,  
18 you've been instructed on the law and you hear arguments of the  
19 attorneys?

20 PROSPECTIVE JUROR NO. 199: Yes.

21 THE COURT: Yes? All right. And you've heard  
22 questions, all questions asked. Anything that's been asked by  
23 anybody in this room today that you want to offer in terms of  
24 your life experience that you think either side might want to  
25 know about you?

1 PROSPECTIVE JUROR NO. 199: Yes.

2 THE COURT: Is there anything in your life, anything  
3 about the nature of the charge or anything that you think  
4 either side might want to know about you?

5 PROSPECTIVE JUROR NO. 199: No, sir. No, no.

6 THE COURT: You've got a kind of -- would you  
7 characterize your boring life, too, like the last young lady?

8 PROSPECTIVE JUROR NO. 199: (No audible response)

9 THE COURT: Okay. Thank you very much. Can we get  
10 the microphone down to Mr. Banks, please.

11 Mr. Banks, how long have you been here in Nevada?

12 PROSPECTIVE JUROR NO. 204: Born and raise, 34 years.

13 THE COURT: What do you do for a living, sir?

14 PROSPECTIVE JUROR NO. 204: I work at the Rio and I  
15 coach varsity basketball at Desert Pines High School.

16 THE COURT: Okay. So what do you do at the Rio?

17 PROSPECTIVE JUROR NO. 204: Food server.

18 THE COURT: Food server and basketball coach.

19 PROSPECTIVE JUROR NO. 204: Yeah.

20 THE COURT: Married, single, kids?

21 PROSPECTIVE JUROR NO. 204: Married, two kids, two  
22 little girls.

23 THE COURT: All right. Any prior jury service?

24 PROSPECTIVE JUROR NO. 204: No, sir.

25 THE COURT: Would you -- any close family member,

1 friend, personally either accused or a victim of a crime in  
2 your life?

3 PROSPECTIVE JUROR NO. 204: In -- no, no, not really.

4 THE COURT: You --

5 PROSPECTIVE JUROR NO. 204: Not close, not close  
6 close.

7 THE COURT: Not close. A distant acquaintance of  
8 somebody?

9 PROSPECTIVE JUROR NO. 204: Right.

10 THE COURT: Anything about that situation that you  
11 think either side might be concerned about your ability to be  
12 fair and impartial?

13 PROSPECTIVE JUROR NO. 204: No, sir.

14 THE COURT: Would you have a tendency to give more or  
15 less credence to the testimony of an individual simply because  
16 they're employed as a police officer?

17 PROSPECTIVE JUROR NO. 204: No, sir.

18 THE COURT: Can you wait in forming your opinion on  
19 this case until after they all -- you've heard all the evidence  
20 in the case and has been -- you've been instructed and you've  
21 heard the argument?

22 PROSPECTIVE JUROR NO. 204: Yes.

23 THE COURT: All right. Here's my catchall again.  
24 Anything about your life experience you think either side might  
25 want to know about you, Mr. Banks?



1 PROSPECTIVE JUROR NO. 204: No.

2 THE COURT: Thank you very much. State, cause as to  
3 the three prospective.

4 MR. HENDRICKS: Since Mr. Banks has the microphone,  
5 I'll ask him a couple questions.

6 You said you had some kids; right?

7 PROSPECTIVE JUROR NO. 204: Yes, sir.

8 MR. HENDRICKS: How old?

9 PROSPECTIVE JUROR NO. 204: Two and four.

10 MR. HENDRICKS: Okay. Really little kids.

11 PROSPECTIVE JUROR NO. 204: Yeah.

12 MR. HENDRICKS: Okay. Now you said you coach  
13 basketball at Desert Pines; right?

14 PROSPECTIVE JUROR NO. 204: Yeah.

15 MR. HENDRICKS: Do you also teach there?

16 PROSPECTIVE JUROR NO. 204: No, I'm off campus. All  
17 the coaches are off campus, the varsity boys.

18 MR. HENDRICKS: Do you know Karen Robertus  
19 (phonetic)?

20 PROSPECTIVE JUROR NO. 204: No.

21 MR. HENDRICKS: Okay. Judge, I pass the panel for  
22 cause.

23 THE COURT: State passes the panel for cause. Mr.  
24 Maningo.

25 MR. MANINGO: Thanks, Judge. If we could pass it

1 back up to Ms. Malicdem. Ma'am, earlier today you had said  
2 that from working at CCDC, that you presume that they're all  
3 guilty.

4 PROSPECTIVE JUROR NO. 199: Yes. I presume that they  
5 committed the crime because they're -- they were there in the  
6 Detention Center.

7 MR. MANINGO: Okay. So your feeling is if someone's  
8 arrested, then they must have been guilty?

9 PROSPECTIVE JUROR NO. 199: They should then maybe  
10 guilty.

11 MR. MANINGO: Okay. Now you understand that our  
12 Constitution, our United States Constitution and the  
13 Constitution for the State of Nevada says that we have to  
14 presume that people are innocent until they have been proven  
15 guilty beyond a reasonable doubt.

16 PROSPECTIVE JUROR NO. 199: Yes.

17 MR. MANINGO: Okay. Now that means, you know, at  
18 this point, no evidence has been presented whatsoever, okay?

19 PROSPECTIVE JUROR NO. 199: Yes.

20 MR. MANINGO: So you would have to be able to look at  
21 Mr. Adams and say, that man is not guilty. As of right now, he  
22 is innocent.

23 PROSPECTIVE JUROR NO. 199: Yes.

24 MR. MANINGO: You -- that's different from what you  
25 feel because of your job; correct?

1 PROSPECTIVE JUROR NO. 199: Um-hum, yes.

2 MR. MANINGO: Okay. Because of your job, you feel  
3 like people are guilty if they're in that position?

4 PROSPECTIVE JUROR NO. 199: Yeah. Unless they're --  
5 for me, they committed the crime because they were doing the  
6 jail in the Detention Center.

7 MR. MANINGO: Okay.

8 PROSPECTIVE JUROR NO. 199: But unless they were  
9 proven that they're guilty. So they're not guilty yet.

10 MR. MANINGO: Oh, you're saying that they'd have to  
11 prove that they're not guilty?

12 PROSPECTIVE JUROR NO. 199: Yeah.

13 MR. MANINGO: Okay.

14 PROSPECTIVE JUROR NO. 199: By the Court.

15 MR. MANINGO: Okay. Your Honor, I would ask to  
16 excuse Ms. Malicdem.

17 THE COURT: Ms. Malicdem, I'm going to thank and  
18 excuse you, send you back to the third floor, please. Just  
19 leave that microphone in your chair. Call another name to fill  
20 seat number one, please.

21 THE CLERK: That would be 205, Sylvia Tran, please.

22 THE COURT: Ms. Tran, if you could come forward,  
23 please. Ms. Tran, how long have you been in Nevada?

24 PROSPECTIVE JUROR NO. 205: Seven years.

25 THE COURT: What do you -- I know you're taking care

1 of a baby and you've got -- you're breast feeding as well.

2 PROSPECTIVE JUROR NO. 205: I have -- I am a  
3 pharmacist, married with two kids. One is three and a half,  
4 the other is seven months old.

5 THE COURT: Okay. Ever served on a jury before?

6 PROSPECTIVE JUROR NO. 205: No.

7 THE COURT: Any -- and I try to be very respectful,  
8 not only of people's work, but their life situation. You're  
9 nursing a child right now. If you were picked to be a member  
10 of this jury, could you continue the routine that you had to do  
11 today as a consequence of kind of planning ahead and pumping to  
12 keep your baby nourished?

13 PROSPECTIVE JUROR NO. 205: Yes.

14 THE COURT: So you could do that?

15 PROSPECTIVE JUROR NO. 205: I can make arrangements.

16 THE COURT: Very good. Ever had a close family  
17 member or friend either accused of or the victim of a crime?

18 PROSPECTIVE JUROR NO. 205: No.

19 THE COURT: Would you have a tendency to give more or  
20 less credence to the testimony of a witness simply because  
21 they're a police officer:

22 PROSPECTIVE JUROR NO. 205: No.

23 THE COURT: What about waiting and forming your  
24 opinion till you've heard all the evidence and I've instructed  
25 you on the law; can you do that?

1 PROSPECTIVE JUROR NO. 205: Yes.

2 THE COURT: You've heard the questions asked by  
3 either -- or both sides at this point. Anything in your life  
4 experience that you think either side might want to know about  
5 you that might bear upon your ability to sit as a fair and  
6 impartial juror if you're asked to do so?

7 PROSPECTIVE JUROR NO. 205: I mean, I just feel that  
8 it's a sensitive topic. You know, I'm a mother, I feel  
9 passionate about certain things.

10 THE COURT: Sure. Can -- and passion is fine as long  
11 as you can fairly judge the case. As we begin the process,  
12 that everybody's on an equal playing field. Is that how you  
13 would characterize your position right now? You feel that way?

14 PROSPECTIVE JUROR NO. 205: Yes.

15 THE COURT: All right. State, as to Ms. Tran for  
16 cause.

17 MR. HENDRICKS: I have no questions, I pass.

18 THE COURT: You pass for cause?

19 MR. HENDRICKS: Yes.

20 THE COURT: Mr. Maningo, Ms. Tran for cause.

21 MR. MANINGO: Just very quickly, Ms. Tran, just to  
22 sort of clarify a little bit. I understand that you have -- do  
23 you have only one child?

24 PROSPECTIVE JUROR NO. 205: I have two kids.

25 MR. MANINGO: Two kids, okay. Now, we're just asking

1 you to be able to separate that and the emotional content of  
2 it, to judge, you know, what you hear as to whether or not  
3 something actually happened a certain way. Do you think you'll  
4 be able to do that way as sort of an observer?

5 PROSPECTIVE JUROR NO. 205: Yes.

6 MR. MANINGO: Or do you feel that you'll get too  
7 wrapped up emotionally?

8 PROSPECTIVE JUROR NO. 205: No.

9 MR. MANINGO: No?

10 PROSPECTIVE JUROR NO. 205: I mean, it's a sensitive  
11 topic --

12 MR. MANINGO: Yes.

13 PROSPECTIVE JUROR NO. 205: -- but I can still be  
14 impartial and listen to what I have to listen to before forming  
15 an opinion.

16 MR. MANINGO: Okay. Okay. And you think you'd be a  
17 good juror for this case?

18 PROSPECTIVE JUROR NO. 205: I can probably be a  
19 better juror, you know, at a different trial.

20 MR. MANINGO: But you would try to be a good juror in  
21 this case?

22 PROSPECTIVE JUROR NO. 205: Of course.

23 MR. MANINGO: Okay. I'll pass for cause, Judge.

24 THE COURT: All right. All parties having passed for  
25 cause, Ladies and Gentlemen, that concludes the challenge for

1 cause portion of the jury selection. We move immediately and  
2 seamlessly into the peremptory challenge portion of jury  
3 selection.

4 A peremptory challenge is a challenge recognized  
5 under law. I like to say, in explanation, that it's -- the law  
6 recognizes -- excuse me for just a moment.

7 (Pause in proceedings)

8 THE COURT: The law recognizes that as a consequence  
9 of how jury selection works, the parties know a little bit  
10 about you as individuals, you know very little about the case,  
11 that's by design. So the system builds in a safeguard. It's  
12 called the peremptory challenge. Each side has a limited  
13 number of challenges that they can execute peremptorily. They  
14 don't have to state a reason for it. They basically indicate  
15 decisions that they make based upon these brief conversations  
16 that they've had with you. They go back and forth in making  
17 those decisions. They enter them on a piece of paper that I've  
18 just handed the bailiff.

19 After they've made those decisions, they bring that  
20 up to me, I make some entries on my seating chart that we've  
21 been visually trying to maintain and we excuse some folks and  
22 we move some folks around and then we move into the next phase  
23 of the trial, into the instruction -- or excuse me, the opening  
24 statement phase of the trial.

25 So that's what's happening. Even though you aren't

1 being asked any questions, the attorneys are conferring among  
2 themselves and making those decisions.

3           As we do that, or as they do that, I like to have  
4 some -- a brief conversation, at least an initial conversation  
5 with the jury to give you an idea of what you can look forward  
6 to if you are selected.

7           I talked about, before lunch, about my  
8 responsibilities as a Judge and how distinct they are from your  
9 responsibilities as a juror. One of my additional  
10 responsibilities as a Judge is to make sure you're capable and  
11 able to do your job. So I'm -- my job is to make sure you can  
12 hear, see and understand everything as it happens here in  
13 court. I want you to pledge to me that you can be proactive  
14 also in that effort.

15           If you can't hear or see something that's happening  
16 that you need to hear or see, I need you to raise your hand and  
17 indicate to me by that, Judge, I can't see. To the extent that  
18 I'm capable, I'll move you around inside the -- inside this  
19 room so you can do that. I just need you to understand that  
20 you have that freedom. You can say, Judge, I need a little  
21 help.

22           Mr. Kangas touched upon it earlier. We have the  
23 microphone system in the courtroom. You can see them, you've  
24 seen Dick move around in the room, shifting the microphones to  
25 make sure everything's picked up. He records that. If you



1 can't hear what's being said, what I do is I commonly tell the  
2 witness to scoot up closer to the microphone, speak louder,  
3 whatever it takes to get the witness to speak up.

4           We also have microphones, headphones that we give to  
5 jurors routinely if they need that additional assistance, that  
6 amplification. All you have to do is ask and I'll give it to  
7 you.

8           Those chairs that some of you are seated in in the  
9 jury box, those are your tax dollars at work, they're the  
10 lowest bidder. And some people tell me, Judge, these are very  
11 uncomfortable chairs, that they're not adjustable in lumbar  
12 support or in height. Some people, I've been told, who are  
13 under 5'6" or so have difficulty sometimes touching the ground  
14 with their feet.

15           I have little footstools that we keep in the back to  
16 give people who are -- find themselves in that situation. I  
17 have pillows in the back in my chambers that I give folks to  
18 give them that little extra lumbar support.

19           We are in a 21st Century courthouse, courtroom which  
20 sometimes means things break and nobody has a clue on how to  
21 fix them. That includes the HVAC system, our air conditioning.  
22 Sometimes it gets a little warm, sometimes it gets a little  
23 cold. If you find yourself on the cold side of that equation,  
24 just give me a hint that you might need something. I have --  
25 literally, I have throw blankets in the back that I give out to

1 jurors.

2           If you find yourself already in that situation, some  
3 of you already have coats on or sweaters. Bring them with you  
4 when we reconvene tomorrow so you're comfortable.

5           All again so I can help you do your job, that you're  
6 not so uncomfortable, that you're listening to the evidence and  
7 you're considering all the evidence as it's presented.

8           I've already told you about how the break system  
9 works and that's very important because sometimes we get into  
10 the evidence and something unanticipated happens and somebody  
11 needs a break. Just give me the sign for break and I'll make  
12 that -- I'll do that as quickly as I possibly can.

13           I instruct you now, know, if you're selected to be a  
14 member of this jury, independent or factual or legal  
15 investigation is allowed. Why -- what do I say or why do I say  
16 that? And sometimes it's common sense. You need to understand  
17 that if you're selected to be a member of this jury, you base  
18 the decision of the jury upon, again, this witness stand,  
19 what's heard from here and no other source.

20           There's so much technology out there right now that  
21 people -- you probably, many of you probably have in your  
22 pocket the ability to access the internet, this is a Wi-Fi  
23 building, access the internet at will.

24           There was actually a situation not too long ago, a  
25 few months ago back east, where a juror was in a jury box in a

1 criminal case, as reported -- I wasn't there, but it was  
2 reported in the media -- twittering about the fact that they'd  
3 been selected to be a member of a jury, what kind of case it  
4 was, what the evidence was and making comment about the  
5 testimony of a witness on the twitter, right as it's happening.  
6 Now how a judge wouldn't see that happening, I'm not exactly  
7 sure, but the bottom line of it is that's not appropriate.

8           I've already told you why it's important for you to  
9 keep the information and evidence you're hearing to yourself  
10 until you go to the jury room to consider it. So that's why  
11 you can't do any independent investigation. I don't want you  
12 to, say you hear a term from a witness that you don't  
13 understand and you want further clarification on that, I don't  
14 want you to pull out your cell phone at the break and Googling  
15 a term to try to adduce any legal analysis.

16           If there's a location that's discussed here, and  
17 based upon the brief information that you already have, you  
18 know that there is some locations that are going to be at issue  
19 here, and you find yourself as a consequence of your normal  
20 routine, commute to and from this building, passing that area.  
21 I'm asking you to change your direction, your commute. I don't  
22 want you going by the locations at issue in this case and  
23 making an independent investigation, stopping at an  
24 intersection and looking around, saying oh, here's the traffic  
25 light, there's the 7-11 or whatever it might be that's

1 relevant, you don't do that. Again, for the same reason. You  
2 draw your information from what you hear on this witness stand  
3 and from no other source.

4           The way, based upon the formality of a jury trial,  
5 the only way you can communicate with me is through the  
6 Bailiff. I told you about that very briefly earlier. And I  
7 hope it's kind of self-evident why. You need to make sure that  
8 everybody in the process understands what any -- whatever  
9 questions or concerns you might have.

10           So if something comes up during the course of the  
11 trial that you need to communicate with me, it's a personal  
12 matter that's developed or you realize that you might know  
13 something about the case that you haven't previously disclosed,  
14 you would write that information out and hand the note to Dan  
15 in the notebooks that we're going to hand you.

16           Or you can even come up to him at the break as you're  
17 walking past him because he sits there, that's his job, and  
18 say, Bailiff or Officer, I need to communicate some  
19 information. He basically listens to what you have to say and  
20 then he brings that information to me and in a conference with  
21 the parties, we consider that information and what, if  
22 anything, needs to be done regarding that disclosure.

23           I tell everybody and it's important to understand,  
24 that doesn't mean that you've done anything wrong, and I'll get  
25 into that a little bit later. But that's how it works. You've

1 got to -- you can't just come up to me and say, Judge, can I  
2 see you in your office or Judge, can I see you in the hallway  
3 and talk about whatever it is that might be of concern to you.  
4 You've got to maintain that formality for purposes of  
5 maintaining that independence in that record.

6           As I stated, anticipate four to five days for  
7 purposes of commitment to the process. We anticipate getting  
8 into opening statements today and into the evidence probably  
9 today. We start at 10:00 a.m. in the morning, I have normal  
10 calendars in the morning. Those start at 8:00 and then we run  
11 to 10:00 for those, they usually take me an hour and a half,  
12 two hours and then I can be in the jury trial. I try to work  
13 effectively and efficiently. I don't want to interrupt your  
14 schedules anymore than necessary.

15           About 10:00 a.m. to noonish. I like to look for a  
16 natural part or portion, a natural break in the process,  
17 whether it be the completion of a witness's testimony, they're  
18 on direct or cross-examination, some natural break in the  
19 process, to take the lunch break. That's why I say noonish.  
20 It could be 10 minutes before, it could be 10 minutes after, so  
21 to speak. An hour and 15 minutes for lunch is the routine.  
22 Then we reconvene in the afternoon and run about 90 minutes,  
23 take an afternoon break, 15, 20 minutes, usually 15 minutes.  
24 Then we're back in and we run till about 5:00, 5:15, again,  
25 depending on where we are. And you can anticipate that will be

1 the routine in terms of planning your schedules.

2 After the case, obviously, is submitted to the jury,  
3 you've heard argument and you're deliberating on the case, it's  
4 up to the jury to decide on how they want to handle that part  
5 of the process.

6 THE MARSHAL: Okay, counsel needs to approach.

7 THE COURT: Yes.

8 (Off-record bench conference)

9 THE COURT: All right. That's handled. That's  
10 called the bench or sidebar. Obviously, they're approaching to  
11 discuss with me privately some information. It's information  
12 that they need to discuss with me and you need not really be  
13 concerned with what that is. No one obviously -- no one's  
14 hiding anything from you. It was just communication that they  
15 have with the Court independently.

16 The parking situation. You've got these little white  
17 badges on that you go from the Jury Services. If you're  
18 selected to be a member of this jury, we're going to replace  
19 those little plastic badges with a different one that Dan will  
20 hand you.

21 Your parking situation, probably, when you got out of  
22 your car this morning, if you followed the directions on the  
23 back of your jury summons, was a long walk. And some of you  
24 probably didn't want to do that walk. Some of you probably  
25 parked over, judging from doing this every week, people park

1 all over the place down because they don't want to walk as far.

2           You're -- if you're selected to be a member of this  
3 jury, the parking situation will change considerably for the  
4 better. We move you to a lot directly across the street. So  
5 rather than walking five blocks from the City lot over at  
6 Fremont Street, you're put a half a block -- you know, right  
7 across, frankly right across the street. Makes things a lot  
8 better for you. So that may make you -- may help you a little  
9 bit.

10           Those are really the instructions that I have right  
11 now. Mr. Cianci, yes.

12           PROSPECTIVE JUROR NO. 172: I just have one question.  
13 You talked about places. During the beginning you gave the  
14 charges and you mentioned Johnston and Middle School.

15           THE COURT: Let's get the microphone.

16           PROSPECTIVE JUROR NO. 172: Yeah, when you presented  
17 the charges, you mentioned the charges, you mentioned Johnston  
18 and Middle School.

19           THE COURT: Yes, sir. I didn't mention them, but the  
20 DA did.

21           PROSPECTIVE JUROR NO. 172: Oh. Was that the one in  
22 North Las Vegas? Okay, because I live right behind it.

23           MR. HENDRICKS: It's not for the record.

24           THE COURT: Okay. For the record, Mr. Hendricks is  
25 indicating that Johnston Middle School is not in North Las

1 Vegas.

2 PROSPECTIVE JUROR NO. 172: Oh, okay. I thought you  
3 said Johnston, my bad, sorry.

4 THE COURT: That's okay.

5 MR. HENDRICKS: I think it's Johnson and it's located  
6 in that Charleston, Alta, Buffalo area.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 172: I just live behind  
9 Johnston Middle School, so I wanted to make sure.

10 THE COURT: Okay. That's fine. Just hold onto that.  
11 Those are -- and as we get to it, as I told you earlier,  
12 there's 32 of you Ladies and Gentlemen here. Many of you will  
13 be headed down to the third floor for additional assignment or  
14 talking to the Jury Services in a few minutes.

15 I have more instruction and in terms of how to look  
16 at where this case is going to go and presentation after I get  
17 you, those of you who are selected to be members of this jury.  
18 Right now, if you want to take a drink of your water, coffee,  
19 everybody just sit back and relax. We'll let the parties, the  
20 attorneys do what they need to do and as soon as they're done,  
21 we'll make some entries on the record. Dan, do you want to  
22 grab that mic?.

23 If you want to stand up, stretch.

24 (Pause in proceedings)

25 THE COURT: All right. Ladies and Gentlemen, we're



1 going to need to take a recess. It is your duty not to  
2 converse amongst yourselves nor with anyone else on any subject  
3 connected with this trial. Further, you may not read, watch or  
4 listen to any report of or commentary on this trial by any  
5 medium of information including, without limitation, newspaper,  
6 television, radio. And you may not form or express any opinion  
7 on any subject connected with this case until it's finally  
8 submitted to you.

9           This will be our afternoon recess, approximately 15  
10 minutes, Ladies and Gentlemen. We'll be in recess. Dan will  
11 probably want you to stage outside in the hall, much like right  
12 before lunch. We'll be in recess 15 minutes.

13           (Out of the presence of potential jurors)

14           THE COURT: The record should reflect we're outside  
15 the presence of the jury. I'm going over this one more time,  
16 gentlemen, because I got an issue here.

17           (Pause in proceedings)

18           THE COURT: All right, I found it. I actually did  
19 not strike Mr. Parker, juror 154. So when I went through, I  
20 was counting, I had 15 and I'm going, well, that's -- that's  
21 where I dropped the ball.

22           All right. The record, again, should reflect we're  
23 outside the presence of the jury. We're also missing Mr.  
24 Adams who is in the back using the facilities. Mr. Maningo,  
25 the record should further report -- we don't have Adams, we

1 don't have Sharon, we're going to wait. Why don't you guys  
2 come on up here and let's make that I -- assuming Mr. Parker  
3 stays struck, then I'll show you what the panel looks like.

4 (Off-record bench conference)

5 THE COURT: All right. The record should -- let's  
6 wait for Sharon. Actually, gentlemen, why don't you take, do  
7 whatever personal break you need and then when Sharon gets back  
8 in a few minutes, we'll make the record on the Batson  
9 challenge, okay?

10 (Court recessed at 2:32 p.m. until 2:41 p.m.)

11 (Outside the presence of prospective jurors)

12 THE COURT: Okay. And this is C-241003, State of  
13 Nevada plaintiff vs. Michael -- excuse me, Edward Michael  
14 Adams. The record should reflect the presence of the  
15 representatives of State and defense, outside the presence of  
16 the prospective panel.

17 Mr. -- minutes should further reflect that Mr.  
18 Maningo approached and made a contemporaneous objection when he  
19 noted the peremptory challenge for Juror number 154, Mr.  
20 Parker. And Mr. Maningo, you have the floor.

21 MR. MANINGO: Oh thank you, Judge. I was just  
22 asserting a Batson challenge as to that juror. He is an  
23 African-American juror. And the Supreme Court has stated that  
24 the defense attorneys are in error when we wait for what has  
25 been traditionally thought of as a pattern for more than one to

1 occur. And that if we lose the challenge, we do not make the  
2 challenge on the first person of color who is excused.

3 THE COURT: Okay.

4 MR. MANINGO: So I am making that challenge as --  
5 regarding Mr. Parker.

6 THE COURT: Who wants to make the record on behalf of  
7 the State?

8 MR. HENDRICKS: I will, Judge.

9 THE COURT: Okay.

10 MR. HENDRICKS: Judge, as Mr. Maningo previously  
11 pointed out, there are at least three or four African-Americans  
12 on this panel. There was only one that we had stricken from  
13 the panel, and that was based upon a couple of different race  
14 neutral reasons.

15 Well, first of all, they haven't established that  
16 there has been a clear pattern that we were striking  
17 African-Americans from the panel. There's one. The rest of  
18 them remained.

19 But the race neutral reasons were clear, I'm sure to  
20 the Court and also to Mr. Maningo, that this is an individual  
21 who had been arrested prior to coming into court. He claimed  
22 that he was carrying a weapon, and he was wrongly accused of  
23 that, and the case was eventually dismissed.

24 He said that he had been a victim of shootings,  
25 burglaries, and I believe had other friends that had been

1 arrested before. The State, based upon those race-neutral  
2 reasons, felt uncomfortable with leaving him on this panel,  
3 having previously been arrested and accused of a crime to which  
4 he said he was wrongly arrested.

5 And so those are the reasons why we didn't feel  
6 comfortable leaving him on the panel. And like I said, there  
7 was no pattern. The rest of the African-Americans were kept  
8 on.

9 THE COURT: All right. Mr. Maningo, anything else?

10 MR. MANINGO: Not regarding that, Judge.

11 THE COURT: All right. I don't -- the Court does not  
12 find that there has been a demonstrated pattern of bias on  
13 behalf of, or strike -- the striking by the State if members of  
14 this voir dire that are African-American. So the challenge is  
15 noted and overruled. Mr. Maningo, anything else?

16 MR. MANINGO: Yes, Judge. Just to make part of the  
17 record, because this was done at the bench and I don't know if  
18 it was recorded.

19 The defense did at the end of our voir dire move for  
20 four challenges for cause. The first one was Mr. Schiffman,  
21 number 104. That was granted by the Court. We also have Ms.  
22 Alvarez, number 138, also granted by the Court.

23 We had Ms. Alberts, number 174. That was granted by  
24 the Court. And then we had Ms. Winterbottom, number 133. That  
25 was not granted by the Court. And the defense did use their

1 first peremptory on Ms. Winterbottom.

2 THE COURT: All right. That's noted for the record.  
3 Anything from the State's side regarding the execution of those  
4 challenges?

5 MR. HENDRICKS: No. And when we approached the  
6 bench, Mr. Maningo had approached the Court with some concerns  
7 about those individuals. And I agreed with Mr. Maningo about  
8 the first two. The other two had been wavering, and said that  
9 they could be fair.

10 The Court erred -- or the Court decided to be very  
11 cautious in regards to Mr. Maningo and his client's rights, and  
12 questioned those individuals afterwards. And one individual  
13 said she was still wavering, and made some comments in regards  
14 -- she doesn't know whether she can be fair or not. And the  
15 Court decided, yes, I'm going to go ahead and have her removed.

16 THE COURT: That was Ms. Alberts, yeah.

17 MR. HENDRICKS: Right. And then the one other one  
18 said yeah, I think I can be fair. And then of course, she was  
19 struck anyway. So she wasn't left on the panel in any event.

20 THE COURT: Right. She's not currently on the panel.  
21 But that -- I think that restatement is substantially accurate.  
22 Number 133 indicated, to the Court's satisfaction, that she  
23 would do her best to be fair and impartial. Ms. Alberts, 174,  
24 indicated that she didn't believe she could be after my inquiry  
25 -- my final inquiry. And so I excused her, sent her on her

1 way. All right. Anything else?

2 MR. HENDRICKS: I think Ms. -- I went through -- I  
3 wanted to make sure Mr. Maningo -- he's had all these photos.  
4 These are all photos he's had before. And some of those photos  
5 I'm using in my opening --

6 THE COURT: All right.

7 MR. HENDRICKS: -- statement.

8 THE COURT: It's important that if a power point's  
9 being presented to the trier of fact that each side have an  
10 equal opportunity to review that power point and lodge any  
11 objection. I also need a physical copy of that power point to  
12 be lodged as a Court's exhibit for purposes of maintaining the  
13 record, either in a six or eight-pack format. Mr. Hendricks,  
14 I'm sure you'll make that happen?

15 MR. HENDRICKS: I will, Judge. And I know that  
16 that's part of something that you do, and I think it's  
17 appropriate. And I will get that done in regards to opening,  
18 closing, and rebuttal. We'll have a copy of all those things  
19 so that the Court has those items.

20 THE COURT: All right. Mr. Maningo, have you had an  
21 opportunity to look at -- at least initially, to look at the  
22 power point presentation. And do you want to launch any  
23 contemporaneous objection at this time?

24 MR. MANINGO: Yes and yes, Judge. I just reviewed  
25 with Mr. Scow and Mr. Hendricks at least I think most of the

1 power point presentation. I have no objections regarding  
2 slides that show evidence that they expect to be presenting  
3 throughout.

4 I do however have an objection with each one of the  
5 slides depicting my client's face. There is a mug shot. There  
6 are also numerous shots taken of my client in his jail clothes  
7 with his back up against the jail wall where they're showing  
8 his face, I guess for the -- in order to show his facial hair,  
9 or something else.

10 I know that the State can try the case however they  
11 see fit and whatever they think is best. But this is not an  
12 identification case, which is what I'm going to be opening on.  
13 ID is not an issue at all. We're giving it up as soon as I get  
14 to standup. There's DNA fingerprints and everything else.

15 So I'm not quite sure why we need to have so many  
16 pictures of my client's face, especially when he's wearing his  
17 jail shirt and he's incarcerated. So I'm objecting to those.

18 THE COURT: I would be concerned about any picture  
19 that might depict the defendant wearing jail -- what would be  
20 commonly described as jail clothes.

21 MR. HENDRICKS: Well Judge, all it is is from the  
22 upper chest, up. It's not a picture of him that's in anything  
23 that says CCDC. Mr. Maningo of course knows they're jail  
24 clothes. You know they're jail clothes, I know they're jail  
25 clothes.

1 THE COURT: But you don't see anything in the --

2 MR. HENDRICKS: How is --

3 THE COURT: -- photograph that says CCDC? Or --

4 MR. HENDRICKS: No, of course not.

5 THE COURT: -- they're not black and white striped  
6 pajamas, or?

7 MR. HENDRICKS: No.

8 MR. SCOW: Do you want to see some of them, Judge?

9 THE COURT: All right, that wouldn't hurt. I might  
10 ask you to --

11 MR. HENDRICKS: The other thing --

12 THE COURT: I might ask you to --

13 MR. HENDRICKS: Just for the record, Judge --

14 THE COURT: -- strike them.

15 MR. HENDRICKS: While I appreciate Mr. Maningo's  
16 concession that yeah, it's not going to be a case of identity,  
17 but it is, especially in regards to what takes place between  
18 the initial interaction between our victim and the defendant,  
19 and the eyewitnesses who can now describe this particular  
20 individual by certain characteristics.

21 Some of our witnesses will describe him as being bald  
22 on top with hair shaved around the sides. Now as you can see  
23 him sitting here today, he is completely different than what he  
24 appeared to -- as back on January 11th when he was arrested.  
25 She describes there being kind of a reddish goatee, or facial



1 hair. Mustache, beard. He doesn't have that anymore; he's  
2 drastically changed his appearance.

3           They also describe him as having had a band-aid over  
4 his left eye. Which now a month later, you can still see  
5 scarring above the left eye in one of those photos. He's also  
6 described by the victim as having extremely crooked teeth. One  
7 of the photos shows his crooked teeth.

8           So one is in regards to the top of his head, which  
9 shows he has a bald head, which they describe.

10           THE COURT: Are there any --

11           MR. HENDRICKS: One is the eye.

12           THE COURT: Okay. Any -- okay, I understand. You're  
13 allowed to try your case. Any chains, anything of obvious  
14 indication that he is in custody at the time of taking the  
15 photograph? Show me the picture that's the concern.

16           MR. HENDRICKS: I don't know --

17           THE COURT: That's the picture?

18           MR. HENDRICKS: No, not yet.

19           THE COURT: And Dick, I want you to capture this,  
20 please.

21           MR. HENDRICKS: That's the first one.

22           THE COURT: Okay.

23           MR. HENDRICKS: And as you can see, Judge, you should  
24 know that his appearance is drastically different.

25           MR. MANINGO: Well, I mean if you look at the last

1 picture, that's --

2 THE COURT: Hang on. All right. So it's the first  
3 picture that we've captured at 3:03:45. That's the first  
4 picture of the defendant. I -- all right. It's a facial shot.  
5 All right.

6 MR. SCOW: Forehead.

7 THE COURT: Then the top of his head. Close-up of  
8 his face.

9 MR. SCOW: Circles the scar.

10 THE COURT: Okay. Teeth.

11 MR. SCOW: That's the full. I think that was the  
12 last one.

13 MR. HENDRICKS: Yeah.

14 THE COURT: Nothing to indicate that it's CCDC. Mr.  
15 Maningo, anything else?

16 MR. MANINGO: Nothing further.

17 THE COURT: All right.

18 MR. MANINGO: I --

19 THE COURT: I have noted there is nothing that  
20 indicates custody status of the defendant. They do appear to  
21 be photographs that would aid the trier of fact, and addressing  
22 one of the issues obviously of identity. I'm not going to tell  
23 the State how to try their case.

24 So the objection to those series of photographs is  
25 noted for the record. And again, there's no foundational

1 challenge that they aren't a true and accurate depiction of the  
2 defendant, they've been altered. It's just that they -- it's a  
3 standard relevance analysis where they're more prejudicial than  
4 probative.

5 MR. MANINGO: Yes, sir.

6 THE COURT: All right. And I find that they are not  
7 more prejudicial than probative, so the State would be  
8 permitted to use them. Anything else?

9 THE CLERK: Your Honor?

10 MR. HENDRICKS: Not --

11 THE CLERK: Can I have exhibit number for those  
12 (indiscernible)?

13 THE COURT: That's power point slide number --

14 THE CLERK: I mean, are they actually exhibits?

15 MR. SCOW: It's slide number 20. And all the  
16 previous ones are based on that same picture.

17 THE COURT: And are they actual exhibits,  
18 contemporaneous exhibits that the jury's going to have?

19 MR. SCOW: They should be in there, yes. These  
20 pictures are in that packet.

21 THE COURT: So there's nothing in this power point  
22 presentation that hasn't been already marked independently from  
23 the photographs? All right. Anything else?

24 MR. HENDRICKS: Judge, another thing is -- and I know  
25 Mr. Maningo said that identification not an issue. I don't

1 know what -- I have some indication, because he's requested  
2 specific jury instructions of where he's going with the  
3 defense. But he has not told me where he's going to go with  
4 this defense at this point. So I don't know. So I have to  
5 present it as, so yeah, identification's still an issue.

6 And especially given the fact that he provided us  
7 with a timely witness notice. And some of these witnesses have  
8 been interviewed and said that they are going to be alibi  
9 witnesses for the defendant. Which I know Mr. Maningo doesn't  
10 think so, but that's what our interviews have revealed.

11 MR. MANINGO: Yeah.

12 MR. HENDRICKS: So --

13 MR. MANINGO: Which is incorrect. And I filed no  
14 alibi notice. And --

15 THE COURT: All right. I --

16 MR. MANINGO: -- that won't be part of the defense.

17 THE COURT: I don't try -- I don't tell either side  
18 how to try their case. You have to -- yeah. And identity is  
19 an element to the offense that the State must prove beyond a  
20 reasonable doubt.

21 So I'm going to allow you -- and I don't find  
22 basically doing a relevance analysis that the photographs that  
23 have been marked, and you anticipate showing to the trier of  
24 fact are more prejudicial than probative. They don't show  
25 chains, they don't show -- there's no big CCDC.

1           So I believe that there's grounds for you to be able  
2 -- sufficient support for you to be able to use them.

3 Objection's noted. Anything else?

4           MR. HENDRICKS: Nothing from the State, Judge.

5           THE COURT: Mr. Maningo, anything else?

6           MR. MANINGO: No, Judge. Nothing.

7           THE COURT: Okay. Let's get them in here. It's  
8 (indiscernible).

9           MR. MANINGO: Oh. Could I -- if I could just ask one  
10 quick --

11          THE COURT: Sure.

12          MR. MANINGO: -- housekeeping question. What time  
13 does this Court typically stop? Just so I can --

14          THE COURT: About five-ish.

15          MR. MANINGO: -- so I can do childcare --

16          THE COURT: 5:00, 5:00'ish, 5:30. If you can --

17          MR. MANINGO: -- calls and --

18          THE COURT: I'll tell you what. I try to be as  
19 accommodating as possible. If you tell me, Judge, I got to  
20 pick up my kid at 5:30, or I got -- you know, I've got PASS at  
21 -- you know, I try to the extent that I'm capable give you that  
22 latitude.

23          MR. MANINGO: Okay.

24          THE COURT: So are you telling me right now you need  
25 to go home -- you need to be out of here at 5:15?

1 MR. MANINGO: 5:00'ish, yes.

2 THE COURT: 5:00'ish. Then you just remind me if I  
3 seem to be into a grove.

4 MR. MANINGO: Okay. Great.

5 THE COURT: Okay.

6 MR. MANINGO: Thanks, Judge.

7 THE CLERK: And Your Honor, did we announce the  
8 (indiscernible)?

9 THE COURT: No. Well, 13 and 14 will be the  
10 alternates.

11 THE CLERK: And we're starting at 9:30.

12 THE COURT: Can we start at 9:30 tomorrow? I told  
13 them 10:00. But I think the one juror that had the interview  
14 is no longer an issue; is that correct?

15 MR. HENDRICKS: He's not on there?

16 THE COURT: I don't remember. Frankly I --

17 MR. HENDRICKS: I wasn't keeping track of numbers.

18 MR. MANINGO: He was Dustin Payne. He is on the jury  
19 actually.

20 THE COURT: Then 10:00 it is. I told him 10:00, he  
21 has that interview with the State at 9:30 -- or 9:00. And I  
22 don't want to -- you know. I've already interrupted enough --  
23 we've interrupted enough schedules. 10:00's the call.

24 MR. MANINGO: And I know Mr. Scow and I have a  
25 calendar call tomorrow morning also. So we need to take care

1 of that.

2 THE COURT: So 10:00's the call. I'm already kind of  
3 mentioned that to them, so that will be the plan. Danny, line  
4 them up. Rack them, stack them.

5 THE CLERK: The calendar is showing 9:30.

6 THE COURT: The calendar is showing 9:30, but it's a  
7 10:00 call.

8 (Pause in proceedings)

9 THE MARSHAL: Jury is present, please.

10 (In the presence of the prospective jurors)

11 THE COURT: All right. This is C-241003, State of  
12 Nevada plaintiff vs. Edward Michael Adams. The record should  
13 reflect the presence of representatives of the State and  
14 defense. All members of the prospective panel appear to be  
15 present. Do the parties stipulate to the presence of the  
16 entire panel; State?

17 MR. SCOW: Yes, Judge.

18 THE COURT: Defense?

19 MR. MANINGO: Yes, sir.

20 THE COURT: All right. Peremptory challenges having  
21 been executed and provided to the Court, ladies and gentlemen,  
22 I'm going to read a series of names. Would these individuals  
23 -- if you hear your name, please just stand, and remain  
24 standing at your seat.

25 Ms. Tran, Ms. Raymond, Ms. Winterbottom, Ms.

1 Velasquez, Ms. Carroll, Mr. Harris, Ms. Lisy-Meikle, Ms.

2 Aguas, Mr. Oyamot, Ms. Clayton, Mr. Parker, Ms. Lovelace --

3 UNKNOWN FEMALE SPEAKER: Which one, Your Honor? I'm  
4 sorry.

5 THE COURT: Clayton number 194, right here.

6 UNKNOWN FEMALE SPEAKER: Did you call Velasquez, or  
7 Vasquez?

8 THE COURT: Vasquez. I'm sorry, Velasquez. You are  
9 -- I need you to stand up. Thank you. I have Mr. Parker  
10 standing; thank you. Ms. Loveless, are you standing as well?  
11 Mr. Viernes, you're standing please. Mr. Cianci, please stand.  
12 Ms. Byrkit, Mr. Stein, and Ms. Ramsey. And folks, if I've read  
13 your name, take up all your stuff. Go over -- stand by Officer  
14 Reichart, by Dan's desk, please.

15 Now it might seem kind of strange, but I need to keep  
16 everybody else in order. Okay? So I'm going to move those of  
17 you who are still seated around a little bit.

18 Mr. Washington, I'm going to move you down to seat  
19 number 1. Ms. Callowhill, you're following him to seat number  
20 2. Mr. Wheeler, you're in seat number 3. Mr. Beirne, you're  
21 out, right? Mr. Beirne, you're out. If I didn't read your  
22 name I apologize.

23 Mr. Marvin, you're up behind you in seat number 4.  
24 Ms. -- sorry.

25 PROSPECTIVE JUROR NO. 151: Sheikewitz.



1 THE COURT: Yes, you're still here. You're in seat  
2 number 5 directly behind you. Ms. Lopez, you're up in the box  
3 in seat number 6. Ms. Clayton, you're up next to her in seat  
4 number 7. That still remains top row. Mr. McKenzie, you're up  
5 in seat number 8. That's the last chair, top row.

6 Mr. Payne, you're up and in the box in chair number  
7 9. Mr. Cooper, you're up and in the box in chair number 10,  
8 that's next to Mr. Payne. Mr. Banks, you're up and in the box  
9 in seat number 11. Mr. Perkins, you're up in seat 12. Ms.  
10 Laba, you're up in seat number 13. And Mr. Carter, you're up  
11 in seat number 14. Yeah, doing great.

12 Ladies and gentlemen of both State and defense, is  
13 this the jury you picked; State?

14 MR. HENDRICKS: It is, Judge.

15 THE COURT: Defense?

16 MR. MANINGO: That's correct, Judge.

17 THE COURT: Thank you very much. Ladies and  
18 gentlemen both seated and standing behind the bar; that's you  
19 folks. I want to thank you for your time, your patience,  
20 attention. I'm sending you back to the third floor jury  
21 services.

22 It's Monday. Even though it's 3:15, there's lots of  
23 work going out the door. So you'll probably get reassigned.  
24 But I do want to thank you for your patience here in Department  
25 18. You are excused.

1           We're going to have marked as Court's exhibits next  
2 in order, the jury panel selection seating chart and peremptory  
3 challenges executed by parties. Okay, the record should  
4 reflect we're outside the presence of the balance of the  
5 prospective jury panel. Ladies and gentlemen, you are the jury  
6 selected to

7           Hear this case. I need you to all please stand  
8 again, raise your right hand to be re-sworn.

9                               (Jury panel sworn)

10           THE CLERK: You may be seated.

11           THE COURT: Now ladies and gentlemen, you are  
12 admonished that no juror may declare to any fellow juror any  
13 fact related to this case of his or her own knowledge. Now if  
14 any juror discovers during the trial or after the jury has  
15 retired that he or she, or any other juror has personal  
16 knowledge of any fact of controversy in this case, you must  
17 disclose that situation to myself in the absence of the other  
18 jurors.

19           This means that if you learn during the course of the  
20 trial that you were acquainted with any of the facts in the  
21 case or witnesses in the case that you have no previously again  
22 disclosed, you must declare that fact. You do that through the  
23 bailiff.

24           So I like to think this instruction is -- it states  
25 more common sense. You know as a consequence of the jury

1 selection process very little about this case. You've been  
2 given general information, you've been given some names.

3           So as witnesses come forward during the course of the  
4 taking of testimony, should you realize that you recognize  
5 those folks, maybe there's somebody that lives in your  
6 neighborhood that you don't really know their name, but you do  
7 the wave as you're driving to and -- you know, out of the  
8 complex during the day, or somebody you have a casual  
9 relationship with, you just didn't realize that was the  
10 individual everybody was talking about.

11           Doesn't meant that you've done anything wrong or  
12 failed to disclose accurately information about your life  
13 experience. You simply realize that, write a note or contact  
14 Officer Reichart, Dan, at a break, and indicate that that's the  
15 conversation of the situation that's developed or that you've  
16 realized. And then in conference with the parties, we decide  
17 what if any action need be taken. Please understand that  
18 doesn't mean you've done anything wrong.

19           The other side of that admonition is also that you  
20 have a continuing obligation to report to me if somebody --  
21 another member of the jury says, you know, last witness, that  
22 was my next-door neighbor, second cousin, and I really don't  
23 like them or I really like them a lot; something about the fact  
24 that another member of the jury might have personal knowledge  
25 that they hadn't previously disclosed. You're under an

1 obligation to provide that information to me as well.

2           Now we've already talked about the fact that during  
3 the course of the trial, attorneys for both sides, witnesses,  
4 court personnel other than the bailiff are not allowed to speak  
5 or converse with you. And you understand the reasons why.  
6 This is not a personality or a popularity contest. You  
7 understand why they're not allowed to speak with you and what  
8 might happen in the consequence of going to and from the  
9 courtroom on a daily basis.

10           So don't throw any -- don't get angry with anybody  
11 should they not show you the common courtesy. You might even  
12 see, ladies and gentlemen, as you're getting off the elevator  
13 or onto the elevator that because now you're wearing that red  
14 badge, you're going to be treated a little differently. You  
15 might see people wearing suits that look like lawyers quiet  
16 down. They may be talking about their case, they see you get  
17 on the elevator; they might shut up.

18           It's not because they're hiding anything. It's  
19 because they're trying to show you the deference. They  
20 recognize that you're wearing the jury badge and that they're  
21 going to shut up while you're on the elevator, because you have  
22 a job to do, and they don't want to be part of that process to  
23 interrupt that process.

24           You need to wear that jury badge as a consequence of  
25 what you do for that reason. It identifies you in this

1 building in the role as a juror. If you come in in the morning  
2 from -- you're trying to get up here in a rush, that badge  
3 should allow you to go to the front of the line because  
4 sometimes it's very -- it's kind of crazy busy down there.

5           You should be permitted to go up to the marshals at  
6 the gate and say, I'm juror in Department 18, or any other  
7 jury, frankly, and move through the security process --  
8 expedited through the security process. We've had some  
9 frustration with that. Some jurors have reported to me in the  
10 past that they haven't been given that deference.

11           But should you find yourself time pressured tomorrow,  
12 or at any point you need to move through that security, just go  
13 to the front of the line and say, marshal I've got to -- I'm a  
14 juror in Department 18, and they should expedite you through  
15 that for that reason.

16           Now what I'm about to go in to is intended to serve  
17 only as an introduction to the trial, and it's not a substitute  
18 for the detailed instructions that I'll give you at the end.

19           Now this is a criminal case commenced by the State of  
20 Nevada, which sometimes I might refer to as the State, against  
21 Mr. Adams. This case is based upon an Information. The clerk  
22 will now read the information to the ladies and gentlemen of  
23 the jury, and state the plea of the defendant to that document.

24           (Information read to jury, not transcribed)

25           THE COURT: Ladies and gentlemen, this case is based

1 upon the information which has just been read to you by the  
2 clerk. You should distinctly understand that this information  
3 is simply a charge and is not in any sense evidence of the  
4 allegation it contains.

5           The defendant has plead not guilty to the charge.  
6 The State therefore has the burden of proving each essential  
7 element of the crime charged beyond a reasonable doubt.  
8 Remember as the defendant sits here now he is not guilty  
9 because no evidence has been presented.

10           The purpose of this trial is to determine whether the  
11 State will meet it's burden, and it is your primary  
12 responsibility as jurors to find and determine the facts. And  
13 under our system of criminal procedure, you are the sole judges  
14 of those facts.

15           You are to determine the facts from the testimony  
16 that you hear and other evidence, including exhibits introduced  
17 in court and it is up to you to determine what inferences may  
18 be properly drawn from that evidence.

19           Now at times, I may sustain or overrule objections  
20 made. You must not consider any objection to which -- that I  
21 have sustained and which I have instructed you to disregard.  
22 You -- if you have seen or heard anything out of the courtroom  
23 that is not evidence, it must also be disregarded.

24           You must not be influenced in any degree by personal  
25 feelings for or sympathy for, or prejudice against the State or

1 the defendant. Both sides are entitled to the same fair and  
2 impartial consideration.

3 In considering the weight and value of the testimony  
4 of any witness, you may take into consideration the appearance,  
5 attitude, behavior of the witnesses, the interest of the  
6 witness in the outcome of the case, if any, the relation of the  
7 witness to the defendant or the State, the inclination of the  
8 witness to speak truthfully or not, the probability or  
9 improbability of the witness statements and all facts and  
10 circumstances in evidence.

11 Thus, you may give the testimony of any witness just  
12 such weight and value as you believe the testimony of the  
13 witness is entitled to receive. Again ladies and gentlemen,  
14 you are the sole judges of the facts. You decide what the  
15 facts are.

16 Now there are two types of evidence. There is direct  
17 and circumstantial evidence. Direct evidence is commonly  
18 referred to in many situations. It's like an eyewitness,  
19 somebody who comes in here and testifies to you they heard,  
20 saw, smelled, touched something. That's a direct -- that's  
21 direct evidence.

22 Circumstantial evidence is different. Circumstantial  
23 evidence is a proof of a chain of independent facts that prove  
24 a separate fact. The analogy that I use in explanation for  
25 jury is that say when you walk into this room about a half-hour

1 ago after our lunch -- or our afternoon break that when you  
2 looked out those windows, you saw it beginning to cloud up, and  
3 the wind began to pick up.

4           That when you walk out in an hour or so after our  
5 afternoon work, you notice out those same windows that there's  
6 water on the exterior of the windows, that you look out and you  
7 see that the cars below might be wet, the pavement might be  
8 wet, that the people walking down below have their umbrellas  
9 out.

10           You could conclude based upon those two separate  
11 independent observations that it's probably rained in the time  
12 you were in this window of this room. You wouldn't have seen  
13 it rain as a consequence of your inability to look out the  
14 building. But you could conclude those two -- that fact from  
15 those two independent observations.

16           That in a very basic sense is all circumstantial  
17 evidence is. And remember as triers of fact, it's up to you to  
18 decide what weight to give either direct or circumstantial  
19 evidence.

20           As I said before, one of my jobs is to make sure that  
21 you can do your job. So I ask you to be proactive. If you  
22 cannot hear or see something that's happening from this witness  
23 stand, raise your hand so I can move people around, move you  
24 around in the jury box to the extent necessary, or have the  
25 witness speak up.



1           You may take notes. Dan in a few minutes is going to  
2 hand out a notebook and give you pencils, pens for you to do  
3 that. I caution you that the taking of testimony or jury  
4 trials in the real world can be very dynamic events. They --  
5 testimony moves along with some speed and deliberation. I  
6 caution you not to get so wrapped up in the taking of one  
7 particular point that you miss the next question that's asked  
8 the witness, and the answer to that question.

9           Also remember that the statements, the words out of  
10 the attorneys are not evidence. The evidence is what the  
11 witness says in response to the question. So listen to the  
12 question, it offers meaning to the answer. Listen to the  
13 answer because the answer is the evidence that you must rely  
14 upon in making the decision in this case.

15           Now the way this works. In a few minutes, we're  
16 going to begin with opening statements. Each side has an  
17 opportunity to present to you what they believe to be -- well I  
18 analogize it to the index of a book or a roadmap. Opening is  
19 supposed to be that type of information, information that these  
20 -- the sides believe will help you understand where the  
21 evidence is about to take you. Again, the words of the  
22 attorneys are not evidence, but again it's a roadmap.

23           After the -- each side has an opportunity to present  
24 an opening statement, we'll get into the evidence. The State  
25 has the burden of proof. They call the first witnesses.

1 That's called their case -- State's case in chief. They  
2 present witnesses, the witness takes the stand, is sworn, and  
3 there's called what's a direct examination of the witness. The  
4 witness in essence is just asked questions that the calling  
5 side, in that case the State, believes is relevant, important  
6 for you to hear.

7           After the witness has gone through a direct  
8 examination, they have -- there's ability to do a  
9 cross-examination. Remember again that there is no burden on  
10 the defense side in a criminal case to do anything at all. But  
11 they have the ability to do a cross-examination of every  
12 witness.

13           And again, same situation. Slightly different rules,  
14 but same situation. They ask the witness who's on the stand  
15 questions that they believe are important for you as the jury  
16 to understand.

17           After cross-examination is complete, then the calling  
18 side has the ability to do a redirect examination. And the  
19 other side, the non-calling side has the ability to do  
20 recross-examination, and that's how it goes back and forth.

21           What you're going to see as a practical matter as the  
22 witnesses are called and we move through that process is a  
23 quick narrowing of the focus of the questions. Because the  
24 rules require that any question asked on redirect, recross  
25 relate only back to the previous portion of the previous

1 testimony. So everything should focus fairly quickly, and  
2 shorten up.

3           After the witness has gone through direct,  
4 cross-examination, redirect, recross, and the witness is  
5 complete and the attorneys indicate that the witness can be  
6 excused, the jury, you, ladies and gentlemen, have the ability  
7 to ask questions if you feel it's necessary. The Supreme Court  
8 has set up a procedure how that would happen. And this is how  
9 it works.

10           But before I get into how it works, let me give you a  
11 couple of points. It's the primary -- the asking of a lot of  
12 questions by a jury is not encouraged unless you deem it a  
13 necessity. It's the primary responsibility of the attorneys to  
14 ask questions. But again, if you believe a question that is  
15 relevant and important that needs to be asked a witness has not  
16 been asked, you can ask that question.

17           Understand that any question asked by a jury must be  
18 one, factual. And it must meet the same strict legal rules  
19 that any question asked either side must meet. As a  
20 consequence of how this works, there are things that -- there  
21 is information that -- in forms of questions that I have to  
22 basically review the question with the parties. Some can be  
23 asked, some cannot be asked.

24           If the question is asked I look at the question, I  
25 show it to the sides here at the bench. We review it. I'll

1 read the question to the witness. The witness will be directed  
2 to answer the question, and the jury will be given a chance to  
3 do a follow-up question if they wish to do so.

4 Then each side will have an opportunity to ask  
5 follow-up questions as a consequence of the question posed by  
6 the jury. Do not draw undo influence, or don't believe -- or  
7 don't give a question asked by a jury greater weight simply  
8 because it's a question that's been thought of and asked by a  
9 jury.

10 I ask questions, or read questions to witnesses that  
11 are posed by juries all the time. Don't believe that just  
12 because it's a question that one of you ladies and gentlemen  
13 thought of, it deserves greater attention, or greater focus  
14 than any of the questions asked by either side, because it does  
15 -- it must be balanced with all of the questions asked the  
16 witness.

17 Also, should I based on conference at the bench  
18 determine that a question cannot be asked for whatever reason,  
19 don't draw any adverse inference. Don't think anybody's trying  
20 to hid anything from you; that's not the purpose.

21 Again, the rules require analysis of every question  
22 asked as a necessary mechanism in the way this works. I can't  
23 sit with you and have a conversation, and say, okay, juror, you  
24 want to ask X, Y, Z. Can we change it around a little bit here  
25 and there and tighten up the question; I can't do that for you.

1 All I can do is make a decision on the way the  
2 question is worded and posed. And if I can't -- if I ask it,  
3 it's asked. If I can't ask it, I mark it and give it to the  
4 clerk, and we move past it. I can't sit here and help you  
5 fashion a question. So again, don't get angry with anybody if  
6 a question is not asked. It's not intended that anything be  
7 hidden from you as a consequence of how that works.

8 So, other practical points from doing this a while.  
9 I cannot say, one, to witness -- witness one is complete, and  
10 you're thinking, I'd like to ask witness one a question but I'm  
11 not quite ready to raise my hand and inject myself into that  
12 process.

13 Once witness one is out the door, and we're into  
14 witness two, I cannot, absent extraordinary circumstances --  
15 frankly, strike that. I cannot call witness one back, and put  
16 witness one back on the stand if you decide after witness  
17 number two that you'd like to ask witness number one a  
18 question.

19 The request of -- the question has got to be  
20 contemporaneous with the witness being on the stand, and it's  
21 got to be at the same time. So if you believe that there's a  
22 question that you want to have asked that hasn't been asked,  
23 and I'll give you a chance, raise your hand.

24 What you're going to see me do as I -- I'm going to  
25 say something to the effect of, is there anything else for this

1 witness? And you're going to see me do a pass, a visual pass  
2 of you, because I'm going to be looking for somebody doing  
3 this. Now, maybe. I need you to be proactive again; raise  
4 your hand.

5 I'll give you the time you need if you think you want  
6 to ask a question, or write out that question, or think about  
7 it before you write it out. I'll give you the time you need so  
8 you can do that. I just need you to understand that once the  
9 witness is up, I can't bring them back. All right? So that's  
10 how it works.

11 The questions are asked, the witness leaves, and the  
12 next witness is called. And that's -- and it moves along. It  
13 can move along fairly rapidly as the process -- as we go  
14 through the process. And it works the same for every witness.

15 State has the burden of proof again, they call their  
16 witnesses, they present their case in chief. Defense has an  
17 equal opportunity if they wish to do so, but they're under no  
18 obligation whatsoever to do anything to present a case in chief  
19 as well.

20 After the evidence, both case in chief is presented,  
21 then the other side has the ability to present what's known as  
22 rebuttal evidence, depending on whether or not as a consequence  
23 of what you've heard they believe there's additional witnesses  
24 that need to be called. Each side has an opportunity to  
25 present rebuttal evidence.

1           After all of the evidence is in and the evidence is  
2 closed, then we move into the instruction portion of the trial.  
3 I produce a copy of instructions. It's basically an  
4 8-and-a-half by 11 pieces of paper with the jury instructions  
5 numbered for you. I make photocopies of the jury instructions  
6 for you. I hand them to you and then I go through those  
7 instructions with you. Basically, I read those instructions  
8 with you.

9           And as much as frankly I would like to have a  
10 conversation with you about the laws that applies (sic) in  
11 every case, the instructions are of such importance that I  
12 reduce them to writing, the instructions are what they are. I  
13 read them to you after I've instructed you on the law, you're  
14 holding onto that law.

15           Then we move into the argument phase. State goes  
16 first, they present their closing argument. Defense has an  
17 equal opportunity to present closing argument because the State  
18 has the burden, they have what's called right of rebuttal, and  
19 they finish the argument.

20           It's after argument is complete, the evidence is  
21 closed, you've been instructed on the law, and you have heard  
22 the argument. The argument again is designed to bring together  
23 the law that you've been instructed on and the facts that  
24 you've heard to arrive on an appropriate verdict based upon  
25 that information.

1           It's at that point that I swear the officers to take  
2 charge of you as a jury. You move back into the jury  
3 deliberation room, and you begin your process to deliberate the  
4 facts of the case as a panel. So that's kind of in a nutshell,  
5 in ten minutes what you're going to be looking at in the next  
6 four days or so.

7           Just as I indicated in opening statement, closing  
8 arguments of counsel are not evidence. They're just intended  
9 to give you an idea or some direction based upon what they have  
10 heard, and they understand the law to be on what the  
11 appropriate verdict based upon that law and fact is. It is up  
12 to you to decide what the facts are in this case.

13           The -- I've talked about it's important for you to  
14 understand. You can't talk to each other about the facts of  
15 the case until the case is charged. You're probably going to  
16 be going back into the jury room earlier than when the case --  
17 when you're charged with the case.

18           When you go back there or when you go out to lunch --  
19 again you can go out to lunch with each other, you just can't  
20 talk about anything that's happened in court, nothing. You  
21 wait in that effort until you're all in the room together and  
22 you've heard all the evidence, and again you've been  
23 instructed. So you can't talk to each other about the case at  
24 any point.

25           Do not let anybody else talk to you about the case.



1 Should you head out on a break or a lunch and somebody attempt  
2 to contact you and discuss this case with you, you need to pull  
3 away from that conversation immediately and report that contact  
4 back to the bailiff so I know what's happening, because he'll  
5 bring that information to me so I can inquire.

6           Don't go home this afternoon or this evening, or at  
7 any point during the trial and call up your next -- your  
8 trusted friend, your advisor, your family lawyer, your  
9 next-door neighbor over a barbeque or a planned social event  
10 that you might have and say, I've just been charged as a member  
11 of this jury -- picked to be a member of this jury, it's a  
12 criminal case, and then begin to discuss the facts.

13           You can't talk to your wife, your husband, your  
14 significant other. You can't talk to anybody about this case.  
15 And you hold that information to yourself, you keep it to  
16 yourself until you are charged with the case and you are able  
17 to talk about it as a jury.

18           Do not read any news stories, articles, listen to any  
19 radio or TV reports about the case. This is an open and public  
20 courtroom. Those doors are open, our constitution says open  
21 and public trials, and that's exactly what we have here.  
22 People can come and go from this courtroom at any point at any  
23 time.

24           There are people who are paid by the news bureaus, by  
25 the TV, by the newspaper to be in this building and find out

1 what's happening in this building. So they come and go as they  
2 please.

3 As a consequence of that, should you see anything in  
4 the paper or see anything on the news about this case, you are  
5 to disregard that information. Same reason as I've been  
6 talking to you about from the beginning. You draw your  
7 information in making this important decision from what you  
8 hear from this witness stand, and from no other source.

9 I've already talked about not visiting the scene or  
10 doing any independent legal investigation. So you understand  
11 why you can't do that.

12 The parking situation I've already touched on. Dan's  
13 going to hand you a piece of paper that's going to change your  
14 parking situation for the better.

15 We'll start at 10:00 in the morning, run till  
16 noon-ish -- run for an hour and 15 minutes for lunch take an  
17 afternoon break, and run until about 5:00. You have already  
18 got -- I've already told you about how to indicate to me that  
19 you need a quick break. Happens fairly routinely.

20 Dan, let's hand out the notebooks if we can, and  
21 hands out the pens or paper -- or the pencils. The notebooks  
22 you are being handed will have a number on the top. That is  
23 your designated seat number at this time. So that badge number  
24 that you have, that three digit badge number has been replaced  
25 by 1 through 14.

1           So keep that notebook that you have a specific number  
2 on, that's your notebook for the pendency of this trial.  
3 You're going to leave that here in the building. Dan protects  
4 that information -- keeps that information private. But you  
5 get your own notebook back as you go through the process so you  
6 can keep that consistency. Everybody got a pen, got a pad?  
7 Pencils? What do we need? Okay.

8           State, prepared for opening statement?

9           STATE'S OPENING STATEMENT

10          MR. HENDRICKS: Yes. Thank you, Judge. May it  
11 please the Court, Mr. Maningo, Mr. Scow, ladies and gentlemen.  
12 December 14th, 2007, almost two years ago, Joseph and Louise  
13 Valles had the worst, their absolute worst nightmare come true.

14          As their 13 year-old daughter Amber Valles was  
15 walking home from school that day in the afternoon hour, she  
16 was approached from behind by the man that sits before you in  
17 court today. She was threatened with a gun, she was told that  
18 she had to go with him. The defendant took her to a vacant  
19 apartment nearby, and she was raped. She was raped both  
20 vaginally, and she was raped anally.

21          Now as I told you, the man responsible for this is  
22 the individual that sits before you here today in court. What  
23 you are going to find out is that Amber had no idea who Edward  
24 Adams was before that date. She had never met this man, she  
25 didn't know his name, she had never seen this man, she knew

1 nothing about this man. Of course after he raped her, this is  
2 someone that she is going to spend the rest of her life trying  
3 to forget.

4           What did he do on December 14th. Like I said, he  
5 followed her home from school. He was sitting on a wall  
6 smoking a cigarette, saw her walking across the street. He  
7 goes behind her. And as he approaches from behind, he grabs  
8 her arm or her hand, and basically threatens her and says,  
9 you're going with me.

10           He's wearing a hoodie, puts his hand inside of the  
11 hoodie. He has his hand pointed like he has a gun, and tells  
12 her I've got a gun. So Amber complies with these threats.

13           As I stated, Amber is taken to a nearby vacant  
14 apartment in that area of Buffalo and Charleston here in Clark  
15 County. You're going to find out that that apartment was  
16 located at the 1111 Apartments, and it's apartment number 204  
17 in that Charleston, Buffalo area.

18           You're going to find out that this apartment was not  
19 owned or rented by this man. This man had absolutely no  
20 business being inside of that apartment at any time, much less  
21 on the afternoon of December 14th. He never lived there, he  
22 never rented that place. It was vacant because there was fire  
23 damage and water damage, and it had been vacant for months.  
24 Yet the defendant knew where it was, and that's where he took  
25 this little girl.

1           You're going to find out he had access to this vacant  
2 apartment because he jammed paper or some type or material  
3 inside of that little area so that the door would not fully  
4 close. She will describe to you that as he arrived at that  
5 apartment, he was able to just push the door open and enter  
6 inside.

7           You are also going to find out that inside of that  
8 apartment, and Amber's going to tell you this as she was forced  
9 inside of there, there was a black leather couch, and there  
10 were jar candles located throughout that vacant apartment. She  
11 is also going to describe that there was tennis shoes, these  
12 black and white Nike tennis shoes located inside that  
13 apartment.

14           Now, of course these are photos that are taken later  
15 on after she reports that she was raped. These are photos that  
16 are taken by the crime scene analyst that goes out to the scene  
17 afterwards. And all of these things that she states and the  
18 evidence will show are all corroborated by the evidence that's  
19 going to be presented. As I said, you'll find that there was a  
20 black couch in there, a black leather couch. There were  
21 candles, there were those shoes.

22           You're also going to find out from her that there was  
23 this dirty white towel located inside of that apartment, and  
24 there was this blue tape that was wadded up. And you'll find  
25 out the significance of that in a minute.

1           You can also see in that photo that there is, and we  
2 will present evidence that there were these jar candles located  
3 inside of that apartment. You're going to find out like I said  
4 the significance of that towel later on, and also the  
5 significance of those blue wads of tape located right there  
6 next to the couch.

7           In regards to this couch, she's going to tell you  
8 about what took place on that leather couch, what took place on  
9 the floor next to that leather couch, and what took place as  
10 she was bent over that black leather couch.

11           As they entered inside of that apartment, the  
12 defendant lit a candle because there was no power on in that  
13 apartment at that time. Like I told you, no one was renting  
14 it, and he had absolutely no business being in there. He then  
15 orders her to take off her clothes, to which she complies.

16           You have to keep in mind that this is a young girl  
17 who two months earlier was just 12 years-old, and now had just  
18 turned 13 years of age. She was in 7th grade at the time, and  
19 went to Johnson Middle School. He ordered her to take off her  
20 clothes, she complied. He then took off his own clothes. And  
21 then the sexual assaulting began.

22           He started out with jamming his fingers inside of his  
23 vagina. He then tried to force his penis inside of her vagina.  
24 And then he stopped, and then he put her up on that leather  
25 couch. Once again jammed his fingers inside of her vagina,

1 forced his penis or tried to force his penis inside of her  
2 vagina, and then he just kept going.

3 He bent her over the couch, forced his fingers in  
4 again, tried forcing his penis in again, but that wasn't enough  
5 for him. He just kept going. He bent her over the couch, and  
6 then started putting his fingers or his penis, or some unknown  
7 object inside of her anus, into this young child's rectum.

8 Now during this time, you can imagine what was going  
9 through her mind. And she is going to tell you, stop, please  
10 stop, it's hurting me; please stop, it's hurting me. She's  
11 going to tell you that she was a virgin. That she had never,  
12 ever had sex before. This was the first time anything like  
13 that had ever happened, at the hands of this man that sits  
14 before you here today.

15 As she's saying, please stop, it's hurting me, and  
16 crying for help, what does he do? He grabs the blue tape  
17 that's in there. And you're going to find out that this wasn't  
18 a thick, thick masking duct tape. It was a thinner painter's  
19 type tape. But he grabbed it anyways, he tried putting it over  
20 her mouth to keep her from crying out as he's telling her to  
21 shut up.

22 He also wraps it around her wrists to try and keep  
23 her from fighting back. But you're also going to hear from  
24 Amber that it wasn't very strong, and she broke it loose. And  
25 you're going to see that that blue tape was located by the

1 crime scene analyst exactly where she described she was being  
2 taped up. And that's the blue tape in the photo.

3 She is also going to describe that while he was doing  
4 this, he took out some lotion and started rubbing it on his  
5 penis and masturbating. Providing himself a little lubrication  
6 so he can either jam it inside of her vagina or jam it inside  
7 her rectum. And she'll tell you that's what he was doing.

8 And you're actually going to find out that there was  
9 a little lotion packet located right next to that couch area.  
10 And the crime scene analyst will describe what they retrieved  
11 from that item.

12 That white towel I talked about, after he was done  
13 raping her repeatedly, over and over and over, and after he had  
14 ejaculated -- and you'll find out that when the detective  
15 eventually interviews this child, he asks her, "Do you know if  
16 he ejaculated or not?" And she didn't even know what that was.  
17 Had no idea what ejaculation meant. You're going to find out  
18 about that ejaculation, and where it ended up in regards to the  
19 inside of her body, the outside of her body, and her clothes.

20 But after he was done raping her both vaginally and  
21 anally, he told her to go get that dirty towel, and start  
22 cleaning herself up. Wipe herself up to try and get rid of the  
23 evidence that was left there. Some dirty towel that was left  
24 in this vacant apartment.

25 Unbeknownst to him, she wasn't going to be able to



1 clean everything up, because there was things that he left  
2 inside of her, in a couple different parts inside of her body.  
3 She couldn't clean up the blood that was now coming out of her  
4 vagina. She couldn't clean up the blood that was now flowing  
5 from her rectum. And you're going to find out about that when  
6 the nurse comes in and testifies about the damage that this man  
7 caused to this little thirteen year-old child.

8           She will tell you as she laid there and this was  
9 happening, she did not fight him, bite him, kick him in the  
10 groin, or anything like that. She laid there and said, "I just  
11 hope he lets me go so I can see my mom and my dad again."  
12 That's what she was praying for. She told her rapist, "Just  
13 let me go, I won't tell anyone. Just please let me go, just  
14 please let me go home."

15           He says to her, "You better not tell anyone or I'll  
16 end up going to jail." Fortunately for her, her prayers were  
17 answered. After this man got what he wanted, she was  
18 eventually released.

19           You will find out that during this rape he had taken  
20 her phone away, and taken the battery out. At the end of this  
21 rape when he actually agreed to let her go, he threw the phone  
22 at her, and she was allowed to leave. She gathered up her  
23 underclothes, stuck them inside her backpack, and fled as the  
24 defendant threw her phone at her.

25           You're going to find out from Amber's mother, Louise,

1 that she was calling her while this was taking place. And  
2 Amber could not answer because the defendant had taken her  
3 phone. She now has her phone back. She's fled this apartment,  
4 and now she's heading towards a place where she thinks she's  
5 going to be safe.

6 She ends up going near the McDonald's located in that  
7 area. And her mom is repeatedly calling her, over and over and  
8 over. And she's now able to answer that call. And all she can  
9 say as she's crying and sobbing is, "Mom, please come get me."

10 When her mom shows up and they begin talking, she  
11 says to her mother what had happened. And she put it in a way  
12 that only a child can put it. She says to her mom, "Mom he put  
13 his thing inside of me."

14 So you can imagine Louise Valles immediately called  
15 9-11 because her daughter had just been raped. And now what  
16 takes place is the gathering of evidence. This 911 call is one  
17 of those calls that you're going to hear when the mother comes  
18 in and testifies when she's trying to tell the 911 operator  
19 what had just happened to her daughter, and trying to get  
20 details about this man, about what he looks like and where he's  
21 headed.

22 She's taken to UMC. And that's a photo of Amber as  
23 she's about to begin her first examination as a woman, as a  
24 child. The first time she's ever examined in her private parts  
25 by a doctor. And why is that her first examination? Because

1 this man decided that he was going to take what he wanted, and  
2 that's what he did.

3 So she goes in and talks with the nurse. She  
4 describes digital penetration to both her vagina and to her  
5 anus. She's going to describe penal penetration to both her  
6 vagina and her anus.

7 Now in regards to her anus, she is going to say she  
8 wasn't sure whether it was an unknown object, whether it was  
9 his penis, or whether it was his fingers, because she was bent  
10 over the couch, and he was standing behind her trying to do  
11 these things to her as she was bent over.

12 Now during this medical exam, you're going to find  
13 out from the nurse that there was abrasions on her vagina  
14 located at 6:00. And you will find out where that is as far as  
15 location on the vagina, called the posterior fourchette, and  
16 there was oozing from that abrasion, fluids coming out of her,  
17 blood is now coming out of her.

18 The results, the hymenal laceration with bleeding.  
19 And you will find out what exactly that hymen is and how it's  
20 damaged, and how it was damaged in this particular case, and as  
21 I stated before that this young girl was a virgin at the time,  
22 and there was damage to that hymenal tissue that surrounds her  
23 vaginal orifice.

24 There is also going to be physical evidence that  
25 shows there was an anal laceration at 1:00, 6:00, and at 11:00.

1 In three different spots this man caused damage to this young  
2 girl's rectum and anus area because he was forcing either his  
3 penis or his fingers, or something else into her anus.

4 Now in regards to this evidence collection from the  
5 medical exam, you're going to find out that what the nurse does  
6 during this exam is take swabs from Amber's vagina. A little  
7 Q-tip goes inside of there to try and get evidence that can  
8 somehow be linked back to a possible perpetrator.

9 Swabs are taken from her vagina, swabs are located  
10 from her cervix, which is located inside of that orifice. And  
11 swabs are also taken from Amber's anus. And you will find out  
12 a little later why that's so important.

13 Now in regards to the description of the suspect,  
14 keep in mind Amber had no idea who this individual was. Had  
15 never met him before, had never spoken before, had never seen  
16 him before. And she had to give a description of who the  
17 perpetrator was.

18 At the time there hadn't been any evidence collected  
19 from the crime scene. And at the time, there had not been any  
20 evidence collected and compared to a DNA sample from her body,  
21 from the removal -- from those swabs, and other things that  
22 were taken from her during her exam.

23 So she's now trying to provide a description to the  
24 detectives about who her perpetrator was. And this is what she  
25 tells them, and this is what she tells the nurse that also

1 interviewed her as she was being probed and prodded in regards  
2 to that exam. 25-45 years of age, bald head. There was a  
3 band-aid on the left side of his head or his forehead. He had  
4 crooked teeth, a goatee, and there were black and white shoes,  
5 possibly Nike, located at the crime scene.

6 Now, the cops didn't know who the perpetrator was on  
7 that date on December 14th. They eventually located an  
8 individual, and I'll tell you how. An individual -- that same  
9 person that's in the courtroom here, they located him about  
10 January 10th, 11th, 12th, somewhere in that time frame. And  
11 they took photos of this individual.

12 Keep in mind this description that she gives on  
13 December 14th. Bald head, 25 to 45 years of age. Keep in mind  
14 this is a young child describing approximately how old someone  
15 much older than her is. Bald head, possible scar located on  
16 the left side of his head, right above the left eye possible  
17 scar. Keep in mind this is January 11th. No longer a band-aid  
18 located there because it's now healed up, and it's now a scar.

19 Crooked teeth, one thing that she said the suspect  
20 had. Crooked teeth. Goatee, mustache, beard, facial hair,  
21 kind of reddish. Black and white Nike tennis shoes located at  
22 the crime scene. Keep in mind these are all items that were  
23 picked up after she gives her description of this guy.

24 Now what you are also going to find out is that there  
25 were two other witnesses. We don't know who this guy is yet.

1 This is December 14th. Two other witnesses who were out there  
2 at the same time that he's kidnapping this young girl. Two  
3 other eye witnesses you're going to find out 12 and 13  
4 years-old. You're going to find out -- did they do the  
5 appropriate thing? That's left up for you to decide.

6 But they are going to come in and testify, and here  
7 is what they're going to say. 12 year-old Jonathan Cerboni  
8 describes to the cops white male adult, holding Amber by the  
9 right arm. His hand was in his pocket like he had a gun,  
10 exactly what Amber's going to describe for you. At the time we  
11 thought we should call but they did not.

12 He was bald but had hair around his head, something  
13 hanging from the left side of his head about 5'11, between 190  
14 and 220 pounds, and at the time Amber had a scared look on her  
15 face. Not just one eye witness, two. Keep in mind we don't  
16 have fingerprints or DNA, or anything yet.

17 Eyewitness number 2, Angela Abarzua, 13 years-old.  
18 Saw Amber with an adult male, recognized that it was not her  
19 father, because she had met Amber's father before. Something  
20 different that day; she usually says hi and hugs me. Had never  
21 seen the man before. The man was holding her by the hand or  
22 wrist, like pulling her. The man walked Amber up into a yard  
23 to avoid us as we were walking on the sidewalk.

24 The man was wearing a hoodie, and tennis shoes. I  
25 was going to call, but I didn't want to be blamed if we were

1 wrong. And you'll also find out that she was shown a photo  
2 lineup of six different individuals, one of which was the  
3 defendant. She picked out two individuals that looked like the  
4 suspect, one of which was this man.

5           Now, like I said, this is evidence that we're going  
6 to present to you. Evidence that at the time they had --  
7 December 14th, they're collecting all the eye witness  
8 identifications, they're collecting stuff from Amber's body.  
9 But they're also going to the crime scene which they originally  
10 could not locate because Amber was turned around and described  
11 a different apartment.

12           So they thought hum, there's something wrong here.  
13 She wasn't able to describe the right place. So the detective  
14 was getting a little curious. But they did go back and find  
15 that that same apartment was there. They spoke with the  
16 apartment manager, and there was a vacant apartment. It was  
17 described as having fire damage, water damage, and a black  
18 leather couch.

19           And you're going to hear from the apartment manager  
20 that that apartment had been vacant and this man had never  
21 rented it. This man never belonged inside of it, had no  
22 business being there.

23           Now, they go in and start retrieving evidence. And I  
24 told you about those little jars, those glass candle jars.  
25 They were lifting fingerprints from those. They were lifting

1 fingerprints from this little lotion packet here, because the  
2 victim -- Amber had described him putting lotion on himself,  
3 masturbating in front of -- lubricating himself up so he could  
4 start putting it in her anus, and also inside her vagina.

5           That's what was left in regards to the fingerprint  
6 dusting and stuff like that. And you're going to find out that  
7 little packet right there was dusted for fingerprints. And you  
8 can imagine who's fingerprints those were. This guy's.

9           So now they know. Edward Adams. Now we can put a  
10 face to our suspect. Even though we had all of these witness  
11 identifications, now is when they put together the six-pack  
12 lineups with six different individuals that look similar to one  
13 another to make it difficult for the witness to pick out.

14           Once they have this name almost a month later, Edward  
15 Adam's photo is put in with five other guys that look very  
16 similar to him. It's shown to Amber Valles, and who do you  
17 think she picks out? There is the man that raped me. On a  
18 scale of 1 to 10, it's a 10. I'm absolutely positive that's  
19 the guy that raped me.

20           As I told you before, they presented it to that other  
21 young lady, and she was able to pick out two individuals that  
22 looked like the guy who was dragging, and taking Amber off  
23 somewhere. And she picked out one other individual, and this  
24 guy right here.

25           Now I already told you about the swabs and the exam



1 that Amber had to go through. The reason for that is so they  
2 could retrieve the evidence, whether it be epithelial cells,  
3 whether it be sperm cells, whether it be skin cells, whatever  
4 it may be.

5           They retrieve those items so that they can test them  
6 when they have a known exemplar -- a known individual, a sample  
7 from that person. After this guy is identified after the photo  
8 lineups, they then do a search warrant, get a buckle swab out  
9 of his mouth, and then they start doing the DNA comparison.

10           Well we know his fingerprints were there, we know  
11 he's been identified by the witnesses. And now, the final nail  
12 in the coffin here. What was found in regards to the DNA  
13 evidence? Edward Adams' sperm was found on Amber's vaginal  
14 swab. This man's sperm was located inside this little girl's  
15 vagina.

16           Edward Adams' sperm was found on Amber's cervical  
17 swab located even deeper inside of her vagina. There was a DNA  
18 mixture of two different individuals, that being Edward Adams  
19 and Amber Valles in regards to epithelial or skin cells, or DNA  
20 that the DNA expert will explain to you.

21           There was an inner thigh swab of a fluid, or a  
22 colored fluid on her leg which showed a DNA mixture of Edward  
23 Adams' and our victim, Amber Valles. How about the rectal and  
24 anal swabs that they took from her at the hospital? A DNA  
25 mixture of Edward Adams and Amber Valles.

1           Didn't stop there. There is also going to be  
2 evidence presented that some of those items that were retrieved  
3 from Amber at the hospital when she was subjected to that exam.  
4 You're going to find out about her clothing.

5           You're also going to find out about that towel that I  
6 talked about, the towel that was taken from the apartment, that  
7 she is going to testify that the defendant said, wipe yourself  
8 up with this dirty towel that was found in that apartment.

9           What was located on that dirty towel? A DNA mixture  
10 of the defendant Edwards Adams, and Amber Valles, epithelial  
11 mixture of both of them, and sperm from Edward Adams.

12           Now she was wearing white pants at the time, and she  
13 was wearing a pink T-shirt. Those were also tested. Those  
14 were items that were left at the hospital, and they were  
15 collected by the detective and sent over to the DNA lab. And  
16 what did it show? Epithelial fractions from Amber Valles, and  
17 a sperm fraction from Edward Adams on both the victim's pants  
18 and on her shirt.

19           So what the State submits to you is that this man was  
20 identified by at least a couple different individuals as being  
21 the kidnapper and rapist. There was fingerprints located at  
22 the crime scene placing this man there, a man who had no  
23 business being in that apartment, an apartment -- vacant  
24 apartment that the victim described as being the place where  
25 she was sexually assaulted.

1 Not only the identification and the fingerprints, but  
2 the DNA. His cells, his sperm located all over her clothes,  
3 and located inside her vagina and inside her anus.

4 This is a man who did not know this young girl. This  
5 is a man, and the evidence will show, that was sitting outside  
6 of a junior high school waiting for a victim. This is a man  
7 that grabbed this 13 year-old girl off of the street in broad  
8 daylight, threatened her with a gun, grabbed her, took her to a  
9 vacant apartment, and raped her over and over and over again.

10 The evidence will show you that she did not know this  
11 man, had nothing to do with this man, and she was an innocent  
12 victim who was repeatedly raped at the hands of this man.

13 Now ladies and gentlemen, at the close of this trial  
14 I'm going to ask you to hold him responsible, hold him  
15 accountable for every one of his actions. Every single action.  
16 Every single thing that he did to that young, 13 year-old  
17 virgin girl.

18 I'm going to ask you at the close of this trial to  
19 find him guilty of kidnapping, first-degree kidnapping with a  
20 deadly weapon, battery with an intent to intent to commit  
21 sexual assault with a deadly weapon, all of those separate  
22 counts of sexual assault on a minor under 14 years of age with  
23 a deadly weapon.

24 And I'm going to ask you to find him guilty of open  
25 or gross lewdness for exposing his penis and masturbating in

1 front of her just prior to inserting his penis into her vagina,  
2 or into her rectum.

3 At the close of this trial, I'm going to say please  
4 hold him accountable for all of his actions. Then I'm going to  
5 ask you to find him guilty of each and every one of those  
6 charges. Thank you.

7 THE COURT: Mr. Maningo.

8 MR. MANINGO: Thank you, Judge.

9 DEFENSE'S OPENING STATEMENT

10 MR. MANINGO: Well the prosecution's story certainly  
11 sounds like a nightmare, like a nightmare straight out of one  
12 of these crime show dramas. Unfortunately however, it is as  
13 inaccurate and fictional, and as much fantasy as those TV shows  
14 as well.

15 This is not a case about an abduction. This is not a  
16 case about a kidnap. This is a case about a teenager who goes  
17 thrill seeking after school, and when confronted by her mother  
18 decides that it's easier to tell a lie than to take  
19 responsibility.

20 It doesn't excuse the actions of Mr. Adams, because  
21 at the time he's 25 years-old. 25 years-old is too old, and it  
22 is still against the law. And there is a charge for that, an  
23 appropriate charge for that. There was no use of a deadly  
24 weapon, and there was no sexual assault. This is a consensual  
25 act between two people, and that's what the evidence is going

1 to show you.

2 Now on December 14th of 2007, Amber was with some  
3 friends out in front of her school, underneath a tree where  
4 they hang out. And she was going to -- the initial plan was  
5 that she was going to stay the night at one of her friend's  
6 house; her friend is Cierra. And Cierra had called her mom and  
7 asked if she had permission to have her friend come over, her  
8 friend being Amber. Cierra's mom said tonight's not a good  
9 night, it's not going to work out.

10 So rather than call her mom and have her come pick  
11 her up, Amber decided, well you know what, I can't stay at your  
12 house, but I'm going to go off on my own. I'm going to go on  
13 my own, I'm going to walk home. I'll eventually call my mom to  
14 get picked up, or I'll make my way there. But I'm not going to  
15 go to your house Cierra, and I'm not going to call my mom, even  
16 though she's got her cell phone on her and everything else.

17 So she takes off. And she goes through a field  
18 that's next to the school, and then ends up on a public street.  
19 I believe it's Alta at this point. And she's on a sidewalk  
20 where not just Mr. Adams is there who's across the street, but  
21 also a number of her other schoolmates are there. Now, keep in  
22 mind, this is the middle of the middle of the day. Broad  
23 daylight, public sidewalk. Other kids she goes to school with  
24 are right there.

25 Now Mr. Adams is across the street. She approaches

1 Mr. Adams, and they begin a conversation. They begin talking.  
2 Eventually they begin flirting with one another, and they begin  
3 walking together.

4 Now, there's no car involved. Mr. Adams doesn't have  
5 a car. Middle of the day, light out, no car where you could  
6 lure someone in and then drive off quickly. The two of them  
7 begin walking on foot together. Now you're going to see a map  
8 later on as the evidence comes out, and you're going to see  
9 that where they made contact from that point all the way to  
10 where they go, which is 1111 Warbonnet Way.

11 It's about a 25-minute walk. So they're walking  
12 public streets in broad daylight for 25 minutes together. No  
13 one jumps in to help what Amber will describe to you as a  
14 distressful situation. Her friends, like this Jonathan Cerboni  
15 who's on the street, who supposedly witnesses this and says  
16 that Amber looked very scared.

17 She was being dragged away by a man who looked like  
18 he had a gun against her will. And so what does Jonathan do?  
19 Not a darn thing. He doesn't use his cell phone, which every  
20 teenager has nowadays, and call 911. He doesn't call his own  
21 mom, he doesn't go back into the school that's right there and  
22 say, hey, I think there's a problem. Does that make any sense?  
23 I mean, this is one of their big eyewitnesses they're talking  
24 about.

25 Also on that public street, Angela -- and I'll

1 probably mispronounce this, but it's Abarzua, is the other  
2 teenager who's there on the street. And whatever story she  
3 tells now in court, it sounds like it's going to be different  
4 from what she told the lead detective in this case.

5           Because what she tells the lead detective that she  
6 witnessed is that Amber was chasing down Mr. Adams from behind,  
7 following him, that she was having a hard time keeping up with  
8 him as he was walking down the street away from her. This is  
9 what Angela tells the detective, this is what she witnesses.

10           Now suddenly I guess she's going to come in and tell  
11 a different story. We'll have to wait and see. But the  
12 detective already wrote down in his report what he interviewed  
13 her about.

14           The two of them walked together about 25 minutes.  
15 They end up at this abandoned apartment complex. Or not the  
16 entire complex, but this unit. There was a fire in this  
17 building, and the building had been abandoned. It was shut  
18 down. There was no running water whatsoever, there was no  
19 electricity.

20           This is not a place where anyone was living. And Mr.  
21 Adams, as you'll hear when the arrest was made, you will hear  
22 from the police, that he had his own residence. This is not  
23 someplace where he was squatting, or anything else. It seems  
24 that a number of other people had been in and out of this  
25 apartment.

1           Some evidence of that is that they found prescription  
2 medication bottles on the counter belonging to someone by the  
3 name of I think it's Roda Wate (phonetic). Has nothing -- she  
4 has nothing to do with anyone in this case. But for some  
5 reason her prescription meds are there. There's other items  
6 that appear at this scene.

7           It seems that this is a place where everyone in the  
8 neighborhood -- well, I shouldn't say everyone. But a number  
9 of people in the neighborhood probably knew was abandoned, and  
10 wasn't being used. It wasn't something that Mr. Adams had set  
11 up there, or anything else. There seems to have been quite a  
12 bit of traffic in this complex. The two of them go to this  
13 place, both making bad decisions admittedly. They have a  
14 consensual encounter, and then they go their separate ways.

15           Now, think about this. Mr. Hendricks described, you  
16 know, how brutal this encounter was, and used the word rape  
17 over and over and over. After this happens, supposedly at  
18 gunpoint, Mr. Adams, I guess then takes Amber's cell phone,  
19 fully functional, working, not broken. You'll hear from her  
20 that the battery was pulled apart, that he actually put it back  
21 together.

22           But either way -- and he hands her this cell phone,  
23 and says okay, that's it. I'm going to let you go. Here's a  
24 phone where you can call 911, where you can call the police,  
25 where you can call your mom, where you can call your best



1 friend. But that's the story. That's the story of what  
2 happened.

3           You'll hear that when she does leave and goes on her  
4 way, that she doesn't do any of those things. She doesn't call  
5 911 or the police. She doesn't even call her mom. The first  
6 contact made with her mother is made by the mother, the mother  
7 who's worried because her daughter, who was supposed to be  
8 either going to her friend Cierra's house or coming straight  
9 home, had done neither. Mom calls Amber.

10           Now, according to the State's story, she had just had  
11 this horrible nightmare experience, and then was blessed with  
12 getting her phone back at least, and she doesn't even use it to  
13 call anybody? Instead, she's just headed off down towards the  
14 McDonald's, and the gas station that are in the area.

15           Now her mom calls. And her mom calls and says, where  
16 have you been? And she's angry, and Amber knows. And she --  
17 Amber tells the detective during her interview this. She knows  
18 that when her mom calls, her mom is mad. Because she's been  
19 worried sick, she doesn't know where her kid is. Any parent  
20 would probably feel the same.

21           So Amber says, yes. When my mom called, I answered.  
22 I knew she was mad, I knew she was upset. So I told her, hey,  
23 just go pick me up at the McDonald's, and I'll tell you what  
24 happened. And this is the point as I mentioned earlier where  
25 she decided that telling a lie was a lot easier than taking

1 responsibility.

2           Let's clear something up right now. Because you just  
3 watched about 30 minutes of slides about identification. I'll  
4 tell you right now, this is not a who-done-it. Edward Adams  
5 was there with Amber Valles on December 14th of 2007. He was  
6 there. You saw all these slides, and heard all this -- about  
7 all this evidence that will be coming out through the trial.  
8 And it is true, it will be. But let's talk about it.

9           You are going to hear DNA evidence from clothing and  
10 towels, and stuff like that. And all that DNA evidence is  
11 going to show you is that Mr. Adams was there. Guess what? As  
12 of about two minutes ago, you already know that.

13           You're going to be shown fingerprint evidence. And  
14 you're going to be shown experts who come in here, and they  
15 talk about fingerprints, and they're going to give you all  
16 kinds of explanations. And you know what that's for? To show  
17 that Mr. Adams was there. Once again, you're already going to  
18 know that.

19           You're going to hear about descriptions that match  
20 Mr. Adams. They should match Mr. Adams, because it was already  
21 him. You already know that. You're going to hear about a  
22 photo lineup, and probably more slides, and more pictures. And  
23 it all goes to the same issue, which isn't an issue at all,  
24 identification. Mr. Adams was there.

25           So let's talk about the evidence that you're going to

1 hear and see now that goes to the real issue. And that issue  
2 is what was going on in a teenager's head. Okay, that's what  
3 it is. Consent, or not consent. That's the issue for this  
4 trial. That's what the evidence needs to lean towards.

5           And the only way you can get to that is by looking  
6 inside Amber's head, and trying to figure out what was going  
7 on. Now, exploring the mind of a teenager is never an easy  
8 task, so you look at the evidence that surrounds it. And here  
9 is some of the evidence that you are going to hear, and you are  
10 going to talk about.

11           As already mentioned, time and place. This so-called  
12 abduction takes place on a public street without any vehicle in  
13 order to make a getaway, or get anywhere quickly. The entire  
14 thing is done on foot, in public. They pass several public  
15 markets, intersections, storefronts. And not once does anybody  
16 see any young girl in distress where they need to help, where  
17 they need to call 911, where they need to call a patrol  
18 officer.

19           You will hear that the mom was upset. You will hear  
20 that from her, and from Amber. And that she is the one that  
21 made the phone call to contact Amber, not that Amber contacted  
22 her after this event. You will hear that no one saw a gun.  
23 Period. There was no description of a gun. No one can talk  
24 about what this gun looked like.

25           No gun was ever found. Not at the scene where they

1 found this towel and tape, and all this other stuff that goes  
2 to identification. No gun was found on Mr. Adams when he was  
3 arrested. No gun was ever found at his residence, or in his  
4 car. There is no gun. That's something you did not see a  
5 slide of because it doesn't exist. And yet it's charged on  
6 every one of these counts. Amber herself will tell you she  
7 never saw a gun, and yet you have the charge of use with a  
8 deadly weapon.

9           You'll hear from those two young witnesses that we  
10 talked about earlier, Angela and Jonathan. And you'll hear  
11 from Jonathan that he thought Amber was very scared, that --  
12 he's the one witness who will talk about how she seemed  
13 distressed, that he was -- she was being dragged away by a man  
14 that was not her father. He seemed to have something in his  
15 pocket, something that was threatening.

16           But you'll also hear the evidence that he never did  
17 anything. And what he actually says is, I forgot to call  
18 anyone about it. Is that something that you forget to call  
19 about? And Angela, who contradicts both Jonathan and Amber,  
20 tells the detective, Amber was the one running to keep up with  
21 him. He wasn't dragging her. He wasn't even touching her.

22           You'll also hear that the detective in this case, as  
23 part of this investigation, canvassed the area. And what he  
24 came across was what he described as a physically fit, young  
25 black male adult who lived in the nearby area. And according

1 to this witness, he saw two people who matched the description  
2 of Amber and Mr. Adams together.

3 He walked right by them, close enough that he was  
4 able to exchange greetings and say, hey, what's up. And what  
5 he noticed was that they acted perfectly normal. No one was in  
6 distress, no one was emotional, no one was crying. That's what  
7 this witness says. An independent witness. Nothing to do with  
8 this case whatsoever. No connections, no motives.

9 Now, you're going to be asked to see if that matches  
10 with what Amber tells you. Because what Amber's going to tell  
11 you, and her story all along has been, as soon as he grabbed  
12 me, from the first second to the last, I was crying, I was  
13 shaking, I was highly emotional.

14 And yet we have this independent witness who sees  
15 them on the street and says, no, he wasn't dragging her. He  
16 wasn't acting like a gun, he didn't see a gun. None of that  
17 was even mentioned. They were just walking down the street  
18 together.

19 Mr. Hendricks mentioned a few times about after the  
20 two of them had sex that there was blood flowing and there was  
21 flowing blood, and these types of things. Amber when  
22 interviewed by the detective, which is right after this event,  
23 it's the same day, is asked whether or not she has any injuries  
24 or whether there's any bleeding, any vaginal bleeding or  
25 anything like that, and she says no.

1           She talks about cleaning herself off with a towel.  
2 And there isn't a bunch of blood on this towel. The detective  
3 who then goes and investigates this scene says that in his  
4 report, that there doesn't even seem to be enough blood or  
5 bodily fluid to be consistent with having sexual acts in the  
6 areas as described. There's no blood flowing anywhere.

7           You'll hear that she does have abrasions in her  
8 vaginal area. Those are -- an abrasion is like a scrape. That  
9 there is hymenal tissue, which surrounds the inside of the  
10 vagina. It is not -- you'll hear from the State's own  
11 witnesses that this is -- it's not the old wife's tale of an  
12 intact hymen or a broken hymen, or anything like that.

13           Instead, it's just the lining of tissue that goes  
14 around the outside. And there can be injuries to it. There  
15 can be sexual intercourse that leaves no injuries. There can  
16 be consensual intercourse that leaves abrasions. By itself,  
17 this exam is not going to show what was going on in the mind.

18           You'll get to see pictures of the towel and the  
19 testing of the towel, and you'll see that there wasn't blood  
20 flowing all over the place or anything like that. You will  
21 also hear from the detective in this case who will talk about  
22 some inconsistencies, and things that don't quite make sense.

23           Amber tells everybody that afterwards, Mr. Adams took  
24 the towel, walked over to the kitchen sink, ran the water, ran  
25 the towel under the water, and then told her to get cleaned up.

1 That apartment didn't have electricity or running water for  
2 months. It didn't even work. Why would Amber say that? Why  
3 does Amber truly believe that maybe, that she saw that, that  
4 she saw water running? Because it's physically impossible.  
5 And yet, she swears by it.

6 She told the detective about these shoes, the  
7 description of the shoes. And when the detective ran over to  
8 the scene, he found the shoes that she described. The problem  
9 is, that the shoes had been there for so long that they were  
10 cobwebbed over.

11 These are not shoes that -- well, I guess this  
12 wouldn't make sense either. Mr. Adams brings someone this  
13 (sic) abandoned apartment complex, sexually assaults them, and  
14 then takes off his shoes, leaves them there? That doesn't make  
15 sense either way.

16 But anyways, the shoes that you kept seeing pictures  
17 of, the shoes that are being described, are shoes that have  
18 been sitting in that apartment with cobwebs in them, and not  
19 touched. And who points out this strangeness? The lead  
20 detective in this case.

21 You'll hear from the lead detective who talks about  
22 this blue tape. At one point, originally Amber had said, yes,  
23 there was this blue tape at the apartment. And when I tried to  
24 say no, he taped my mouth with it, and then he taped my wrists  
25 and everything else. Well, a number of problems with this.

1 First of all, the interview and the forensics were  
2 done immediately afterwards. And there were no injuries to her  
3 wrists, no marks on her wrists, nothing on her face, nothing  
4 that would show that she was taped up or bound in any way.

5 The detective even says, you know, did you wash your  
6 face or anything? Because we can check for adhesive to see if  
7 there was adhesive. And she said no, they told me not to wash  
8 or anything, so everything's fine. And you won't hear any  
9 evidence about any of that.

10 Then the detective goes to this scene and he finds  
11 this blue tape, this blue tape which is actually being used to  
12 hold this old rickety table together. And it's not duct tape  
13 or electrical tape, or anything strong like that. It's very  
14 papery. It's like for outlining for painting. And the  
15 detective notes in his report how easy it is to just tear it,  
16 that it's not something that you would bind someone with.

17 Now, that was Amber's original story. She also  
18 testifies at a hearing in court under oath. And during that  
19 entire hearing, she never mentions anything about tape or being  
20 bound by tape, or anything like that. So I guess we'll have to  
21 wait and see what she says at trial, and which way she decides  
22 to go with it.

23 These are the things that you're going to hear  
24 throughout the presentation of the evidence. And the only  
25 thing we're asking you to do is to keep not only your eyes and



1 ears open throughout, but keep your minds open. Keep your  
2 minds open until you've heard everything, until you've seen it  
3 all, and then make your decision.

4 And the reason we ask you to do this is because you  
5 are not an angry mom. You are not a witch hunt. You are an  
6 American jury. And we trust you with the most important  
7 decisions there are.

8 And we trust that once you've considered everything  
9 and taken a look at it all, that you will realize that this was  
10 not a kidnap, that there was no use of a deadly weapon; there  
11 wasn't even a deadly weapon involved. That this was not a  
12 sexual assault done against anyone's will. But that this was a  
13 bad decision made by two people, and a charge for that will be  
14 available to you at the end of the trial. Thank you for your  
15 attention.

16 THE COURT: Parties approach.

17 (Off-record bench conference)

18 THE COURT: All right. Ladies and gentlemen, the  
19 conference at the bench, I'm going to let you go for this  
20 evening. It is your duty not to converse among yourselves or  
21 with anyone else on any subject connected with this trial.

22 Further, you may not read, watch, or listen to any  
23 report of or commentary on this trial by any medium of  
24 information, including without limitation newspaper,  
25 television, radio. You may not form or express any opinion by

1 any subject connected with this case until it's finally  
2 submitted to you.

3 As I indicated earlier, we'll do a 10:00 call.  
4 Officer Reichart's got some directions for you in terms of  
5 making your parking situation easier. He's also going to have  
6 some ideas on where he would like you to stage tomorrow  
7 morning. We will be in recess again until tomorrow morning, 10  
8 a.m. Follow Officer Reichart, please. Are you going to take  
9 them out the back?

10 THE MARSHAL: I can take them (indiscernible).

11 THE COURT: Okay. At ease. Follow Officer Reichart,  
12 ladies and gentlemen.

13 (Outside the presence of the jury)

14 THE COURT: The record should reflect we're outside  
15 the presence of the jury. As the conference at the bench  
16 indicated, we'll get into evidence tomorrow morning. Is that  
17 agreed, Mr. Scow?

18 MR. SCOW: Yes, Judge.

19 THE COURT: Mr. Maningo? All right. Anything -- any  
20 additional record need to be made as a consequence of opening  
21 statement, either side? State?

22 MR. HENDRICKS: No, Judge.

23 THE COURT: Defense?

24 MR. MANINGO: No, sir.

25 THE COURT: All right. We'll see you tomorrow

1 morning, 10:00 a.m.

2 MR. MANINGO: Thank you, Judge.

3 (Off the record at 4:40 p.m. until 4:42 p.m.)

4 (Outside the presence of the jury)

5 MR. MANINGO: Defendant's here; do you want him?

6 THE COURT: Yes. We can get the defendant in here as  
7 well?

8 MR. MANINGO: We need the defendant.

9 THE COURT: I want to talk about an OSC on Juvenal  
10 Castillo-Martinez, Juror number 202 who failed to return after  
11 lunch. That's all. I just need to make a record on --

12 MR. MANINGO: Oh.

13 THE COURT: He -- yeah, evidently, Mr. Castillo  
14 didn't come back. So I wanted to make any initial -- any  
15 additional record that either side thought was necessary. I  
16 have no idea why he didn't show up. There could be a perfectly  
17 logical reason, or he could have just blown us off completely;  
18 who knows. Do you care?

19 MR. MANINGO: No. I'll leave it to the Court's  
20 discretion.

21 THE COURT: All right. Well, we're on the record in  
22 this case, outside the presence of the jury, representatives of  
23 State and defense are also noted for the record. It should  
24 further reflect that Juror number 202, Juvenal  
25 Castillo-Martinez was absent at jury call after lunch.

1           As a consequence, we moved past him in jury  
2 selection, requiring us to pull additional jurors. It's my  
3 understanding Mr. Maningo that you're not requesting any  
4 additional inquiry Mr. -- is that correct?

5           MR. MANINGO: That's correct, Judge.

6           THE COURT: Mr. Scow, Mr. Hendricks, any additional  
7 inquiry on your side as a consequence of why Mr. Martinez  
8 failed to appear -- Castillo-Maartinez failed to appear?

9           MR. HENDRICKS: No, Judge.

10          THE COURT: I'm going to direct that Jury Services  
11 inquire for Mr. Castillo, why he failed to appear, and offer an  
12 explanation to this Court. I am not sending this to the chief  
13 judge for an order to show cause at this time based upon the  
14 position of parties, but I want to know why Mr. Castillo  
15 decided not to come back. All right? Thank you, gentlemen.

16          MR. MANINGO: Thanks, Judge.

17          MR. HENDRICKS: Thank you, Judge.

18          (Court recessed at 4:44 p.m., until Tuesday,

19               November 3, 2009, at 10:00 a.m.)  
20  
21  
22  
23  
24  
25

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CERTIFICATION

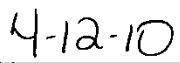
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**ORIGINAL**

APR 14

5 AM '10

THE STATE OF NEVADA,

Plaintiff,

vs.

EDWARD MICHAEL ADAMS,

Defendant.

CASE NO. C-241003

DEPT. NO. 18

**Transcript of  
Proceedings**

BEFORE THE HONORABLE DAVID BARKER, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 2**

TUESDAY, NOVEMBER 3, 2009

APPEARANCES:

FOR THE PLAINTIFF:

CRAIG L. HENDRICKS, ESQ.  
Chief Deputy District Attorney

RICHARD H. SCOW, ESQ.  
Deputy District Attorney

FOR THE DEFENDANT:

JEFFREY S. MANINGO, ESQ.  
Deputy Public Defender

COURT RECORDER:

RICHARD KANGAS  
District Court

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CLERK OF THE COURT

APR 18 2010

RECORDED

1 LAS VEGAS, NEVADA, TUESDAY, NOVEMBER 3, 2009, 10:03 A.M.

2 (Outside the presence of the jury).

3 THE COURT: Okay, this is C-241003, State of Nevada,  
4 plaintiff, versus Edward Michael Adams. Record should reflect  
5 the presence of representatives of the State, defense, outside  
6 the presence of the jury.

7 Anything to come before the court, either side,  
8 before we bring the jury in? We've got them in the hall and  
9 Juror No. 6 who we were waiting for did arrive, so we're good  
10 to go as the panel was constituted yesterday. State, do you  
11 have anything?

12 MR. HENDRICKS: Outside the presence? I don't.

13 THE COURT: Defense.

14 MR. MANINGO: No, Judge.

15 THE COURT: All right. Bring them in.

16 (In the presence of the jury).

17 THE MARSHAL: Jury's present, please.

18 THE COURT: Thank you. This is C-241003, State of  
19 Nevada, plaintiff versus Edward Michael Adams. Record should  
20 reflect the presence of representatives of the State, defense,  
21 all members of the jury panel appear to be present. Do the  
22 parties stipulate to the presence of the entire panel?

23 MR. SCOW: Yes, Judge.

24 THE COURT: Mr. Maningo?

25 MR. MANINGO: Yes, sir.



1 THE COURT: All right. We are in State's case in  
2 chief. Call your first witness.

3 MR. HENDRICKS: State calls Amber Valles.

4 THE CLERK: Please step forward to the witness stand  
5 and just keep standing and then I'll swear you in. Raise your  
6 right hand.

7 AMBER VALLES, STATE'S WITNESS, SWORN

8 THE CLERK: And then speak up for us, and then you  
9 may be seated and then state your name for us, full name.

10 THE MARSHAL: Pull way up. You have to stay right on  
11 top of this because you got a real soft voice.

12 THE WITNESS: Okay.

13 THE MARSHAL: They'll make you say everything twice  
14 if --

15 THE CLERK: State your name, please.

16 THE WITNESS: Amber Valles.

17 DIRECT EXAMINATION

18 BY MR. HENDRICKS:

19 Q How old are you?

20 A 15.

21 Q What grade are you in?

22 A Ninth.

23 Q I won't ask you what school you're attending now, but  
24 I am going to ask you what school you were attending when you  
25 were 13 years old?

1 A Johnson Junior High.

2 Q And where is that located?

3 A On Alta and Buffalo.

4 Q Did you live near there back when you were 13 years  
5 old?

6 A Yes.

7 Q Okay. And what's your date of birth?

8 A 10/12/94.

9 Q Now, back on December 14th of 2007, how old were you?

10 A 13.

11 Q And you had just turned 13 two months prior in  
12 October, right?

13 A Yes.

14 Q Okay. And you had just started in seventh grade in  
15 August or September?

16 A Yes.

17 Q Now, do you remember December 14th of 2007?

18 A Yes.

19 Q Do you remember whether or not you went to school  
20 that day?

21 A Yes.

22 Q Did you?

23 A Yes.

24 Q Do you remember what time you got out of school?

25 A 2:15.

1 Q And is that the normal time that school let out?

2 A Yes.

3 Q What did you do after you were out of school?

4 A I called my mom.

5 Q And why did you do that?

6 A Because we were planning on -- I was planning on  
7 going to my friend's house spending the night.

8 Q And who's your friend?

9 A Cierra.

10 Q And how old's Cierra?

11 A 13 at the time.

12 Q And was she in the same grade as you?

13 A Yes.

14 Q And how long had you known her?

15 A A couple weeks, maybe.

16 Q Did you know her that well?

17 A No.

18 Q But you were going to go spend the night at her  
19 house?

20 A Yes.

21 Q Was that her idea or your idea?

22 A Both, I don't know.

23 Q Did you ever end up spending the night at her house?

24 A No.

25 Q Why not?

1 A Because she had called her mom, and her mom said no.

2 Q So you didn't spend the night over there?

3 A No.

4 Q About what time did that phone call take place?

5 A About 2:20.

6 Q Now, let me ask you before we go any further, and  
7 I've shown counsel -- previously shown defense counsel what's  
8 been marked State's Proposed Exhibit 8.

9 MR. HENDRICKS: May I approach the witness, Judge?

10 THE COURT: You may.

11 MR. HENDRICKS: Thanks.

12 BY MR. HENDRICKS:

13 Q Do you recognize the person that's shown in State's  
14 Proposed Exhibit 8?

15 A Yes.

16 Q Who's that?

17 A Me.

18 Q And how hold were you?

19 A 13.

20 Q Do you like that picture?

21 A No.

22 Q Why not?

23 A Because it -- I don't know, I just don't like it.

24 Q How come?

25 A It's ugly.

1 Q It's ugly? Do you look different now?

2 A Yes.

3 Q Okay. Do you like how you look now?

4 A Yes.

5 MR. HENDRICKS: Judge, at this point I'd move for the  
6 admission of State's Proposed Exhibit 8.

7 THE COURT: Any objection?

8 MR. MANINGO: No objection.

9 THE COURT: It's admitted.

10 (Exhibit 8 admitted).

11 BY MR. HENDRICKS:

12 Q So that's what you looked like back when you were 13,  
13 right?

14 A Yes.

15 Q Okay. Now, you said you didn't go spend the night  
16 over at Cierra's, correct?

17 A Yes.

18 Q Did you talk with your mom after that?

19 A No.

20 Q Was she supposed to pick you up or were you going to  
21 walk home at that point?

22 A I was going to walk.

23 Q Had you walked home before?

24 A Yes.

25 Q How often?

1 A Not very often.

2 Q Mom usually picked you up?

3 A Yes.

4 Q Okay. You decided to walk home that day?

5 A Yes.

6 Q What time did you start walking home?

7 A About 2:30, maybe.

8 Q Had you stayed at school for a little while with

9 Cierra?

10 A Yes.

11 Q About how long?

12 A About ten minutes.

13 Q Now, were other kids getting out of school at the

14 same time?

15 A Yes.

16 Q And were they leaving?

17 A Yes.

18 Q Okay. So at the time that you were leaving school,

19 were there still a lot of kids around?

20 A No.

21 Q Had most of them gone.

22 A Yes.

23 Q Okay. Now, when you -- how far away was your house

24 from the school at that point?

25 A About three or four blocks.

1 Q That's it?

2 A Yeah.

3 Q Okay. And you were going to walk home?

4 A Yes.

5 Q Were you alone at that time?

6 A Yes.

7 Q Now, which way do you start heading home?

8 A Through the field.

9 Q And when you say through the field, is that part of

10 the school?

11 A Yes.

12 Q Okay. And you started walking in that area?

13 A Yes.

14 Q Is that in the direction towards your house at the

15 time?

16 A Yes.

17 Q And you said you were alone, right?

18 A Yes.

19 Q Okay. Tell us what you did?

20 A I walked through the field and out of the gate and

21 then to the light.

22 Q What streets are we talking about?

23 A Alta and Buffalo.

24 Q And then where did you go?

25 A I crossed over Buffalo and started walking down Alta.

1 Q And is that still headed towards your house?

2 A Yes.

3 Q Were you making any phone calls at that point?

4 A When I was walking through the field I had talked to  
5 my dad.

6 Q And what's your dad's name?

7 A Well, I just told him at that I was walking home and  
8 to have my mom call her friend.

9 Q Who's her friend?

10 A Nancy.

11 Q And why did you have your dad do that?

12 A Because she had called my phone and she couldn't get  
13 ahold of my mom.

14 Q Who couldn't get ahold of your mom?

15 A Nancy.

16 Q But you wanted your dad to know where you were at?

17 A Yeah, I told him I was walking.

18 Q And is -- was it your intention to head straight  
19 home?

20 A Yes.

21 Q Were you able to get home that afternoon?

22 A After awhile, yes.

23 Q Did something happen in between the time you left  
24 school and the time you eventually got home?

25 A Yes.



1 Q Do you understand that's what we're going to talk  
2 about today, right?

3 A Yes.

4 Q Now, you said that you were in that Alta and Buffalo  
5 area, correct?

6 A Yes.

7 Q At some point did you come in contact or see someone  
8 that's present here in the courtroom this morning?

9 A Yes.

10 Q Can you please point to that person and tell us what  
11 he's wearing today.

12 A He's right there in white shirt with a tie.

13 MR. HENDRICKS: May the record reflect identification  
14 of the defendant?

15 THE COURT: It will.

16 BY MR. HENDRICKS:

17 Q Now, let me ask you, Amber, does that person that you  
18 recognize as the same person you saw back on December 14th of  
19 2007, does he look the same today?

20 A Yes.

21 Q How so?

22 A His face is the same, I don't know.

23 Q And is that what you recognize about him?

24 A Yes.

25 Q Okay. Now, where is it that this -- the defendant is

1 at when you first see him?

2 A Across the street on the other side of Alta.

3 Q So the first time you see him, how far away are you  
4 from him?

5 A I'm not sure. Like --

6 Q You're across a whole intersection away from him?

7 A Yes.

8 Q Okay. What's he doing?

9 A Sitting on the wall smoking a cigarette.

10 Q And is that something you noticed?

11 A Yes.

12 Q Could you see what he looked like from where you were  
13 at?

14 A Yes.

15 Q Now, when you first saw him did you think he was a  
16 good looking guy?

17 A No.

18 Q An attractive guy?

19 A No.

20 Q Someone that you just couldn't wait to meet?

21 A No.

22 Q Did you even give it a thought at that time?

23 A No.

24 Q Now, you said you crossed the street, correct?

25 A Yes.

1 Q Was that headed in the direction towards him or away  
2 from him?

3 A Away from him.

4 Q You never walked towards him, did you?

5 A No.

6 Q What did he do?

7 A Well, as soon as I got to the light, he had got off  
8 the wall and crossed over to the same side I was.

9 Q What were you thinking when he did that?

10 A I was just praying --

11 Q Why?

12 A -- and saying -- because I was scared. I was by  
13 myself and no one really was around.

14 Q Could you see anyone else out there?

15 A No.

16 Q What about cars?

17 A Yes, cars.

18 Q Was it still daylight?

19 A Yes.

20 Q Okay. But you said you were scared?

21 A Yes.

22 Q Okay. Do you keep walking?

23 A Yes.

24 Q In what direction?

25 A Down Alta --

1 Q And is that --  
2 A -- towards my house.  
3 Q Okay. Now, what is the defendant doing?  
4 A He's walking behind me.  
5 Q Do you remember what he was wearing?  
6 A Yes.  
7 Q What?  
8 A A black hoody and blue pants, like -- I don't  
9 remember.  
10 Q Okay. Like blue pants, you think?  
11 A Yeah.  
12 Q Okay. When you say a hoody, what do you mean by  
13 that?  
14 A Like a pullover with pockets and a hood.  
15 Q Where are the pockets located?  
16 A In the front, like across his stomach.  
17 Q What was it -- did you notice anything about his --  
18 his face or his head?  
19 A It had a Band-Aid on it.  
20 Q Do you remember where that Band-Aid was?  
21 A Over his eyebrow.  
22 Q Okay. Is that something you remember?  
23 A Yes.  
24 Q Anything else about his face?  
25 A No.

1 Q Did he have facial hair?

2 A Yes.

3 Q How would you describe it?

4 A Like a goatee type thing.

5 Q Okay. Did he have hair on his head or was he bald?

6 A A little bit of hair, but not much.

7 Q Is that something that you recognized?

8 A Yes.

9 Q Now, you're still walking towards your home, correct?

10 A Yes.

11 Q And do you eventually or does the defendant  
12 eventually make contact with you?

13 A Yes.

14 Q How does that happen?

15 A He came up behind me and put his arm on my shoulder  
16 and turned me around.

17 Q What were you thinking when he did that?

18 A Just -- I don't remember. Just scared.

19 Q Did he say anything to you?

20 A He said don't scream, not to yell, that he had a gun.

21 Q Now, you've had conversations with your mom about  
22 what happens when you're dealing with strangers, right?

23 A Yes.

24 Q Was there any conversation about what you were  
25 supposed to do when you came in contact with strangers?

1 A Yes.

2 Q What did you guys talk about?

3 A Just if anyone ever came up to you, just to run and  
4 yell.

5 Q Were you thinking about that when he said he had a  
6 gun?

7 A No.

8 Q Why not?

9 A Just -- just wanted like so he wouldn't kill me.

10 Q Did he threaten to kill you?

11 A Yes.

12 Q Did you believe him?

13 A Yes.

14 Q Why?

15 A I don't know.

16 Q You said he had on a hoody, right?

17 A Yes.

18 Q You said he -- he told you he had a gun, right?

19 A Yes.

20 Q Was there anything that he did that made you think he  
21 had a gun?

22 A He had his hands in his pocket and --

23 Q Were they situated in any way that would indicate  
24 that he had a gun?

25 A Yes.

1 Q Was that a yes?

2 A I don't know.

3 Q Okay. Did his hands stay in his pocket?

4 A One of them did.

5 Q Do you remember which hand it was?

6 A His left.

7 Q And it stayed in his pocket the entire time?

8 A Yes.

9 Q And is that why you thought he had a gun?

10 A Yes.

11 Q Now, you didn't scream, right?

12 A Yes.

13 Q Yes, you did or yes, you didn't?

14 A No.

15 Q Okay. Did he say anything else to you?

16 A You mean when we were walking or when?

17 Q Well, let me ask you this. You said that he had his  
18 hand in the -- in the hoody, his left hand in his hoody the  
19 whole time. You said that he grabbed your shoulder and turned  
20 you around and then made those threats to you, right?

21 A Yes.

22 Q Okay. Did he grab any other part of your body at the  
23 time?

24 A My hand.

25 Q Do you remember which hand?

1 A My left hand.

2 Q And he grabbed it with his hand?

3 A Yes.

4 Q And then what happened?

5 A And then he just like turned around and started  
6 walking back towards my school.

7 Q Is that somewhere where you wanted to go?

8 A No.

9 Q Was that in the opposite direction of your home?

10 A Yes.

11 Q What were you thinking at that point?

12 A Just praying that I would get home and that nothing  
13 would happen and --

14 Q Now, right at that point were there any other kids or  
15 anyone out standing near you?

16 A Jonathan was walking on that side of the street.

17 Q How far away was Jonathan when you first saw him?

18 A Maybe like 25 steps, maybe, 10.

19 Q Was there anyone with Jonathan?

20 A Yes.

21 Q Who?

22 A I don't know.

23 Q Was it a male or a female?

24 A I don't know. I didn't really know who they were.

25 Q Did you know Jonathan that well?



1 A Yes, sort of.

2 Q Sort of?

3 A Yeah.

4 Q Had you had a class with him or been in school with  
5 him at any point?

6 A Yes.

7 Q Now, you and Jonathan weren't tight close friends,  
8 were you?

9 A No.

10 Q You just recognized him from school?

11 A Yeah, he was like my neighbor.

12 Q But you didn't know him that well?

13 A No.

14 Q Did you scream to Jonathan?

15 A Not scream, but just like mouthing to him.

16 Q What did you mouth to him?

17 A Like help me --

18 Q How did you do that?

19 A -- a bunch of times.

20 Q Tell me what you did.

21 A Just like was crying, and I was -- and I told him  
22 help me, but not even whispering, just with my mouth.

23 Q Why didn't you scream it out?

24 A Because he might have killed me or did something,  
25 hurt me.

1 Q Now, did you think 12-year-old Jonathan was going to  
2 be able to protect you if you screamed out to him?

3 A Probably not.

4 Q Was the guy that was walking you back in the  
5 direction of the school, was he a little bit bigger than  
6 Jonathan?

7 A Yes.

8 Q A lot bigger than Jonathan?

9 A Not really.

10 Q Now, you said someone else was with Jonathan, right?

11 A Yes.

12 Q Did you even know that person?

13 A No.

14 Q Now, at some point did you walk past Jonathan and  
15 that other person?

16 A Yes.

17 Q Do you walk right next to him or are you off the  
18 sidewalk at that point?

19 A No, there was a house there, and we walked up into  
20 the grass and around.

21 Q Who walked you up into the grass?

22 A The man that grabbed me.

23 Q He walked you away from the sidewalk?

24 A Away from where Jonathan was like towards a house?

25 Q In a different direction from where they were at?

1 A Yes.

2 Q Okay. So does Jonathan and this other person pass  
3 you?

4 A Yes.

5 Q Where do you go from there?

6 A Kept walking up Alta until we got to the light.

7 Q Now, when you said walking up, how is it happening  
8 that you're walking with him? Are you in front of him, behind  
9 him, on the side of him or what?

10 A On the side. He was like holding my hand.

11 Q Is he leading you or are you leading him?

12 A He was leading me.

13 Q Did you even know where you were going?

14 A No.

15 Q So you couldn't have been leading him, could you?

16 A No.

17 Q Did he tell you where you were going?

18 A No.

19 Q Now, do you remember running into anyone else as you  
20 were walking?

21 A No.

22 Q Not that you can remember?

23 A No.

24 Q Certainly not anyone that you were familiar with,  
25 right?

1 A No.

2 Q So do you eventually end up somewhere?

3 A Yes.

4 Q And where was that?

5 A In an apartment.

6 Q Now, is that an apartment that you had been to  
7 before?

8 A No.

9 Q And let me ask you, had you ever seen this -- this  
10 man before?

11 A No.

12 Q Did you even know his name?

13 A No.

14 Q Is had you ever called him on the telephone?

15 A No.

16 Q Did you find him so attractive that you wanted to go  
17 to this apartment with him?

18 A No.

19 Q Did you want to have anything to do with this guy?

20 A No.

21 Q So you end up at this apartment. Do you remember  
22 where the apartment was located at?

23 A On Charleston and Buffalo.

24 Q Do you -- was there a name associated with those  
25 apartments or do you remember?

1 A I don't remember.

2 Q Okay. Was it a first floor apartment or a second  
3 floor apartment?

4 A Second.

5 Q And did you go inside the apartment?

6 A Yes.

7 Q And how is it that you got inside there?

8 A He opened the door.

9 Q Did he use a key?

10 A No.

11 Q How did he open it?

12 A Just opened it.

13 Q Did you go inside?

14 A Yes.

15 Q Did you want to go inside?

16 A No.

17 Q What were you thinking as he's taking you inside that  
18 apartment?

19 A I just was praying that I'd get home and that he'd  
20 let me go and nothing was going to happen.

21 Q What did you think was going to happen?

22 A I don't know.

23 Q You didn't know? Was he saying anything to you?

24 A No.

25 Q Were you saying anything to him?

1 A No.

2 Q Why not?

3 A I don't know.

4 Q Now, once you got inside the apartment what happened?

5 A He closed the door and locked it. And he told me to  
6 sit on the couch.

7 Q Let me stop you there. What did you see inside the  
8 apartment when he got you inside of there?

9 A There was a couch.

10 Q What color?

11 A Black.

12 Q What else?

13 A And there was candles.

14 Q Do you remember where they were located?

15 A On the counter.

16 Q Anywhere else?

17 A I don't remember.

18 Q Okay. Did he do anything with those candles?

19 A They were lit.

20 Q They were already lit before you even got there?

21 A Yes.

22 Q Okay. What else did you see inside that apartment?

23 A There was a black bag and some shoes.

24 Q What did the shoes look like?

25 A They were like running shoes, like --

1 Q Do you know what brand of shoes, if you remember?

2 A Nikes.

3 Q Okay. Those shoes were already there before you went  
4 inside the apartment, right?

5 A I think so.

6 Q Okay. You said that there was a black bag inside  
7 that apartment?

8 A Yes.

9 Q Now, did it look like someone was living there?

10 A Possibly. Someone could have been.

11 Q Was there a lot of -- a lot of furniture in there?

12 A No.

13 Q What else was in there other than that black couch,  
14 the bag and those -- those Nike shoes you saw and the candles?  
15 Do you remember anything else?

16 A No.

17 Q Now, did he take you around to look at the whole  
18 apartment?

19 A No.

20 Q Did you just remain in what area?

21 A Yes.

22 Q And what area was that?

23 A The front room.

24 Q And you said he took you inside there. And did he  
25 say anything to you at that point?

1 A No, just to sit on the couch.  
2 Q Did you do that?  
3 A Yes.  
4 Q What were you thinking then?  
5 A I don't know. I don't remember.  
6 Q Now, did you have a phone with you?  
7 A Yes.  
8 Q Did you call anyone at that point?  
9 A No.  
10 Q Was anything done with your phone?  
11 A Yes.  
12 Q What was that?  
13 A He took the battery out of it.  
14 Q Do you remember what type of phone it was?  
15 A Yes.  
16 Q What kind?  
17 A A Chocolate.  
18 Q And he took the battery out of that?  
19 A Yes.  
20 Q Did you see what he did with it?  
21 A No.  
22 Q Now, so you weren't able to call anyone at that  
23 point, right?  
24 A No.  
25 Q Did you see any other individuals inside that



1 apartment?

2 A No.

3 Q Did he say anything else to you as you were sitting  
4 on that couch?

5 A No.

6 Q What happened next?

7 A He told me to take off my clothes.

8 Q Did you do that?

9 A Yes.

10 Q Did you want to?

11 A No.

12 Q Why not?

13 A Because I didn't --

14 Q Okay.

15 A No, I just --

16 Q Now, let me ask you, had you ever even had sex with a  
17 boy?

18 A No.

19 Q Had you ever even kissed a boy?

20 A No.

21 Q And you didn't even know this guy, did you?

22 A No.

23 Q Now, you've previously testified at a preliminary  
24 hearing. Do you remember that?

25 A Yes.

1 Q Okay. And you were -- you were telling the attorney  
2 at that point that once you got to the apartment, there was  
3 discussion about this gun or he may have done something with a  
4 gun. Do you remember that?

5 A Yes.

6 Q Did you see him do anything in regards to his hands,  
7 the hoody in any part of that apartment?

8 A Yes.

9 Q What did you see him do?

10 A He took something out of his pocket and put it like  
11 underneath the couch cushion.

12 Q Now, did you see what that was?

13 A No.

14 Q Now, how was the lighting in there?

15 A It was -- it was dark besides the candles.

16 Q Did he turn on any lights?

17 A No.

18 Q Did he turn on any music?

19 A No.

20 Q Was there any TV in there to watch?

21 A No.

22 Q Did he get you a soda to drink or anything like that?

23 A No.

24 Q No. Now, you said that he had you take your clothes  
25 off, right?

1 A Yes.

2 Q What did he do after he had you do that?

3 A He told me to get on the floor.

4 Q Did he have his clothes on at that point?

5 A No.

6 Q Who took off his clothes?

7 A He did.

8 Q Did you got on the floor?

9 A Yes.

10 Q Would you describe that apartment as being a clean  
11 apartment?

12 A No.

13 Q Now, he didn't take you back into a bedroom and have  
14 you lay down on a bed, did he?

15 A No.

16 Q Told you to get down on the dirty floor, right?

17 A Yes.

18 Q And you did that, right?

19 A Yes.

20 Q Now, he was completely naked at that point?

21 A Yes.

22 Q What did he do to you?

23 A He got on top of me and he -- he put his fingers  
24 inside my vagina.

25 Q Is that something you wanted him to do?

1 A No.

2 Q What did that feel like when he was doing that to  
3 you?

4 A It hurt.

5 Q Did you tell him that it hurt?

6 A Yes.

7 Q What did he say to you?

8 A He just told me to -- just to shut up.

9 Q Okay. Did he do anything else after he hut his  
10 fingers inside of you?

11 A Yes.

12 Q What else?

13 A He put his penis inside of me.

14 Q And what did that feel like?

15 A It hurt.

16 Q Is that something you wanted him to do?

17 A No.

18 Q At some point did he take his penis out of your  
19 vagina?

20 A Yes.

21 Q Then what did he do to you?

22 A He told me to get on the couch.

23 Q Did you do that?

24 A Yes.

25 Q How were you positioned on couch?

1 A Sitting up like I am.  
2 Q Did he start doing anything else to you?  
3 A Yes.  
4 Q What else?  
5 A He put his fingers inside me.  
6 Q Did you say anything to him again?  
7 A Yes.  
8 Q What did you say?  
9 A I told him to stop, that it hurt.  
10 Q Did he stop?  
11 A No.  
12 Q What else did he do?  
13 A He put his penis inside.  
14 Q Is that while you were on the couch?  
15 A Yes.  
16 Q So he put his penis inside of you a second time?  
17 A Yes.  
18 Q Did you say anything to him at that point?  
19 A Yes. That it hurt and to stop.  
20 Q He didn't stop, did he?  
21 A No.  
22 Q At some point did he then take his penis out of you?  
23 A Yes.  
24 Q Then what did he do to you?  
25 A He told me to get back on the floor.

1 Q Did you comply with that demand?

2 A Yes.

3 Q How were you positioned on the floor?

4 A On my back.

5 Q Where was he?

6 A On top of me.

7 Q And what did he do to you?

8 A He put his penis inside me and then his fingers.

9 Q Are those things that you wanted to have done to you?

10 A No.

11 Q You said that it hurt, right?

12 A Yes.

13 Q What did it feel like?

14 A I don't know, just -- it just hurt really bad.

15 Q Would it be fair to say that it's something that you  
16 had never felt down there before?

17 A Yes.

18 Q Now, does he take his penis and his fingers out of  
19 you a third time?

20 A Yes.

21 Q Then what does he do to you?

22 A He stood me up on like the side of the couch and like  
23 bent me over it.

24 Q Did he stick his fingers back in your vagina again?

25 A In my butt.

1 Q In your butt this time?

2 A Yes.

3 Q Is that something that you wanted him to do?

4 A No.

5 Q Now, let me ask you, you're bent over the side of the  
6 couch, right?

7 A Yes.

8 Q Where he's at?

9 A Behind me.

10 Q Are you at any point turning around and looking at  
11 him?

12 A No.

13 Q Why not?

14 A I don't know.

15 Q Okay. Now, do you -- you said that you felt  
16 something go inside of your butt, right?

17 A Yes.

18 Q Do you know what it was or could you tell what it  
19 was?

20 A No.

21 Q Now, you had never had some guy put his fingers or  
22 his penis or anything else in your butt, had you?

23 A No.

24 Q So you couldn't tell whether it was his finger, his  
25 penis or something else, could you?

1 A No.

2 Q At some point was that taken out of your butt?

3 A Yes.

4 Q Then what did he did to you?

5 A He told me to get dressed.

6 Q At any point did he put his fingers or his penis back  
7 inside of you?

8 A No.

9 Q Now, at some point you were interviewed by a  
10 detective, correct?

11 A Yes.

12 Q And he asked you whether you knew whether the  
13 defendant had ejaculated or not, right?

14 A Right.

15 Q Do you remember that?

16 A Yes.

17 Q And back when you were 13 did you even know what that  
18 was?

19 A No.

20 Q At this point now that you're 15, do you know what  
21 that means?

22 A Yes.

23 Q And why is it that you know what it means now?

24 A Because I've taken health --

25 Q Okay.



1 A -- and they taught us.

2 Q Now, as you sit here today thinking back on December  
3 14th, do you know whether he ejaculated or not?

4 A No.

5 Q You don't know?

6 A No.

7 Q Now, let me ask you, did he put a condom on before he  
8 put his penis inside of you?

9 A No.

10 Q Did he tell you, hey, I'm going to put a condom on  
11 because we're going to have sex?

12 A No.

13 Q Did he say, "Hey, I better use a condom because I  
14 don't want to get you pregnant?"

15 A No.

16 Q Did you ever see a condom?

17 A No.

18 Q Did you ever see him put a condom on before went  
19 inside of you?

20 A No.

21 Q Ever see him put a condom on before he bent you over  
22 the couch and stuck something inside of you?

23 A No.

24 Q No conversation about a condom at all, was there?

25 A No.

1 Q Did you even know what a condom was back then?

2 A I don't know.

3 Q Okay. Now, after he tells you to put your clothes  
4 back on, what are you thinking at that point?

5 A I don't know.

6 Q What were you wearing?

7 A That day?

8 Q That day.

9 A White pants, a tannish shirt.

10 Q What else?

11 A A pink undershirt.

12 Q Okay. What clothes did you put back on after he told  
13 you to put your clothes on?

14 A My pants and one of my shirts and my bra.

15 Q Now, let me ask you, before you put your clothes back  
16 on, did he have you do something else?

17 A Yes.

18 Q What did he have you do?

19 A He had -- he gave me a towel and told me to wipe  
20 myself down.

21 Q Do you know where that towel came from?

22 A No.

23 Q Now, was it -- well, did you see where he got the  
24 towel from?

25 A The kitchen.

1 Q That's where he got it from?

2 A Yes.

3 Q Now, do you know if the towel was wet or dry or --

4 A It was damp.

5 Q Do you know how it got damp?

6 A No.

7 Q Now, so when he told you to wipe yourself up, did you  
8 do that?

9 A Yes.

10 Q Now, could you tell if -- if you were injured or  
11 bleeding at that point?

12 A No.

13 Q You didn't know?

14 A No.

15 Q You found out later on, right, what had happened to  
16 you?

17 A Yes.

18 Q What was done with that -- that towel?

19 A After?

20 Q Do you know what was done with that towel?

21 A No.

22 Q Now, during this time that he was telling you to shut  
23 up, did he do anything else to make it so that you couldn't  
24 speak?

25 A He put tape over my mouth and my hands.

1 Q Is that something that you wanted him to do?

2 A No.

3 Q That isn't something that you said hey, you're such a  
4 good looking guy, let's head back to this vacant apartment and  
5 could you tape me up, too?

6 A No.

7 Q You never said that to him, did you?

8 A No.

9 Q Now, this tape, what color was it?

10 A Blue.

11 Q What did he do with it?

12 A He put it over my mouth.

13 Q Where else?

14 A And around my wrists.

15 Q Did you see where he got the tape from?

16 A No.

17 Q Was it strong tape?

18 A No.

19 Q Did you do anything with that tape?

20 A I ripped it off.

21 Q Ripped it off your mouth?

22 A My -- I just pulled it apart from my hands and it  
23 ripped.

24 Q Okay. What about the tape over your mouth?

25 A I took it off.

1 Q Did he say anything after that?

2 A I don't remember.

3 Q Did you stay quiet after that?

4 A No, I just kept saying to stop and it hurt and --

5 Q Okay. Now, you said you got dressed. Did you put  
6 all of your clothes back on your body or not?

7 A No.

8 Q What did you put back on your body?

9 A My pants, one of my shirts.

10 Q And those are the things that you've already  
11 described, right?

12 A Yes.

13 Q Okay.

14 MR. HENDRICKS: May I approach the witness, your  
15 Honor?

16 THE COURT: Yes.

17 MR. HENDRICKS: Thanks.

18 BY MR. HENDRICKS:

19 Q And Amber, I'm going to show you what's been marked  
20 as State's Proposed Exhibits 62, 63. If you could just take a  
21 look at those and can you tell me do you recognize what's shown  
22 in those photos?

23 A Yes.

24 Q Okay. And what's shown in --

25 MR. HENDRICKS: Judge, I don't believe defense

1 counsel has any objection to the State moving to admit State's  
2 Proposed Exhibit 62 and 63.

3 THE COURT: Offering 62 and 63. Any objection?

4 MR. MANINGO: No objection.

5 THE COURT: Hearing no objection, it'd be admitted.

6 (Exhibits 62 and 63 admitted).

7 MR. HENDRICKS: Thanks, Judge. Thanks, Counsel.

8 BY MR. HENDRICKS:

9 Q Tell us what's shown in No. 62?

10 A My pants.

11 Q Okay. And what's shown in 63?

12 A My shirt.

13 Q Now, you described -- this is 62. You described a  
14 pair of white pants that you were wearing that day, right?

15 A Yes.

16 Q Now, when you put those pants on in the morning and  
17 headed off to school, was that bloodstain inside of them?

18 A No.

19 Q But those were your pants, right?

20 A Yes.

21 Q You haven't seen those pants since, have you?

22 A No.

23 Q And you said that wearing kind of a tan shirt, right?

24 A Yes.

25 Q Is that the same shirt that you were wearing that

1 day?

2 A Yes.

3 Q Now, obviously, when you left for school in the  
4 morning it didn't have those markings on there, did it?

5 A No.

6 Q And was it that dirty?

7 A No.

8 Q But that's the shirt that you were wearing, correct?

9 A Yes.

10 Q And were these items taken from you at the hospital?

11 A Yes.

12 Q And you haven't seen that shirt since, have you?

13 A No.

14 Q Now, when he's doing all this stuff to you, he didn't  
15 -- he didn't ever kiss you or anything, did he?

16 A No.

17 Q Did he ever tell you how pretty you were and how nice  
18 you looked that day?

19 A No.

20 Q Nothing like that?

21 A No.

22 Q You said that he told you to get the towel and wipe  
23 yourself -- wipe yourself up, clean yourself up, right?

24 A Yes.

25 Q Now, do you know whether you were bleeding at that

1 point or not?

2 A No.

3 Q You didn't look down at your vagina or your butt, did  
4 you?

5 A No.

6 Q Did you have a conversation with him after this was  
7 all done?

8 A Yes.

9 Q Did he say anything to you? And if so, what?

10 A He said that I better not call the cops or anything.

11 Q He told you not to call them?

12 A Yes.

13 Q Did you say anything to him?

14 A I told him that I wouldn't. Just -- I just wanted to  
15 be home with my family.

16 Q Why did you tell him that?

17 A So that he would let me go.

18 Q Why didn't you tell him, "Hey, as soon as I'm out of  
19 here, I'm going to 911, call the cops, and I'm going to get you  
20 in trouble and tossed in jail?" Why didn't you tell him that?

21 A Because he might not let me go.

22 Q Were you trying to act calm then?

23 A Yes.

24 Q Were you scared?

25 A Yes.



1 Q Did he eventually let you leave?

2 A Yes.

3 Q What were you thinking as you walked out that door?

4 A Just walk as fast as I can, and just so I can be  
5 home.

6 Q Where did you start walking?

7 A Toward or down Charleston towards Buffalo.

8 Q Now, did you get your phone back?

9 A Yes.

10 Q What did he do with that phone before you got it  
11 back?

12 A He just had it in his hand.

13 Q Okay. Did he hand it back to you or what did he do  
14 with it?

15 A He like threw it at me.

16 Q Did he say anything to you as he threw it at you?

17 A He told me not to call anyone to come get me until I  
18 got to McDonalds.

19 Q Did you go along with what he said?

20 A Yes.

21 Q Now, once you got to McDonalds were you going to make  
22 a phone call?

23 A Yes.

24 Q Who were you going to call?

25 A My mom.

1 Q Why?

2 A So she could come pick me up.

3 Q Now, as you walked out of there, did your phone ring?

4 A Yes.

5 Q Who was it?

6 A My mom.

7 Q And what did you tell her?

8 A I told her just to meet me at the McDonalds and be  
9 there as fast as she can, and I'll tell her everything when we  
10 -- when I saw her.

11 Q Were you upset when you were talking to her?

12 A Yes.

13 Q Were you crying at that point?

14 A No.

15 Q Did she eventually show up?

16 A Yes.

17 Q How soon?

18 A We met there about the same time. It was about three  
19 minutes, maybe.

20 Q And once she got there, what did you tell her?

21 A I told her that -- I said, "He -- he put his thing in  
22 me," and she just got on the phone and called the cops.

23 Q Is that what you wanted her to do?

24 A Yes.

25 Q How did you feel once you were with your mom?

1 A Safe and that -- and that everything was okay now.

2 Q Did the police eventually arrive?

3 A Yes.

4 Q And did you speak with any police officers right  
5 there at the McDonalds area?

6 A No.

7 Q Were you actually picked up at McDonalds or somewhere  
8 else?

9 A It was at the convenience store right next to  
10 McDonalds.

11 Q You said you didn't speak with a police officer  
12 there?

13 A No.

14 Q Okay. Were you taken somewhere?

15 A To my house.

16 Q And what -- who took you to your house?

17 A My mom.

18 Q Did you speak with the police officers at your house?

19 A Yes.

20 Q Do you remember if you gave a taped statement then or  
21 was it later?

22 A Later.

23 Q Now, were you taken somewhere after you went to your  
24 house?

25 A Yes.

1 Q And where were you taken?  
2 A To the hospital.  
3 Q And do you know why you were taken there?  
4 A Yes.  
5 Q How come?  
6 A So they could exam me.  
7 Q And did they do that?  
8 A Yes.  
9 Q Do you remember what was done to you when you were  
10 there?  
11 A Yes.  
12 Q Can you tell us about that?  
13 A She swabbed like my insides, the nurse did.  
14 Q And when you say your insides, what are you talking  
15 about?  
16 A Inside like my vagina.  
17 Q Did she swab anywhere else that you can remember?  
18 A No.  
19 Q Did she swab any other part of your body?  
20 A My mouth, I think.  
21 Q Anywhere else?  
22 A I don't remember.  
23 Q Okay. Did you tell the lady or the nurse about what  
24 had happened to you?  
25 A I don't remember.

1 Q Do you remember if she asked you questions about what  
2 happened?

3 A No.

4 Q Okay. Did you speak with a detective at the  
5 hospital?

6 A Yes.

7 Q Do you remember who that detective was?

8 A Yes.

9 Q Who was it?

10 A Detective Lebario.

11 Q Okay. Was that a taped interview?

12 A Yes.

13 Q Did you tell him what happened?

14 A Yes.

15 Q Did you try and remember everything that happened to  
16 you?

17 A Yes.

18 Q Did you make all of this up?

19 A No.

20 Q Did you lie to him?

21 A No.

22 Q Did you think that you were in trouble with your mom  
23 or your dad?

24 A No.

25 Q Now, this guy that sits before you here today, he's

1 not your boyfriend, right?

2 A No.

3 Q Not someone that you had ever known before, right?

4 A No.

5 Q It's not someone that you wanted to go and have sex  
6 for your first time with, was it?

7 A No.

8 Q Now, you didn't know what this guy's name was, right?

9 A No.

10 Q Now, you gave a description to the detective as to  
11 what he looked like, right?

12 A Yes.

13 Q Did you also give a description to the detective  
14 about where this stuff happened?

15 A Yes.

16 Q Now, were you eventually taken out with the detective  
17 to try and find this place again?

18 A Yes.

19 Q Was it that same evening?

20 A Yes.

21 Q Could you find it?

22 A No.

23 Q You weren't able to find that exact same apartment?

24 A No.

25 Q Now, eventually, weeks later did you speak with the

1 detective again about a photo line up?

2 A Yes.

3 Q And were you shown photos of a group of individuals?

4 A Yes.

5 Q And did you see the picture of the person that had  
6 done this to you?

7 A Yes.

8 Q And did you say anything to the detective when you  
9 saw that photo?

10 A I told him that that was him.

11 Q And how sure were you?

12 A A hundred percent.

13 Q I couldn't hear you?

14 A Hundred percent.

15 Q Now, in regards to that photo line up, it's State's  
16 Proposed Exhibit 68.

17 MR. HENDRICKS: May I approach the witness?

18 THE COURT: You may.

19 MR. HENDRICKS: Thanks.

20 BY MR. HENDRICKS:

21 Q Do you recognize that?

22 A Yes.

23 Q Is that that same photo line up that was shown to you  
24 on around January 11th or 12th, around that time frame of 2008?

25 A Yes.

1 Q And what number individual did you pick out?

2 A Five.

3 Q And did you actually sign your name underneath that?

4 A Yes.

5 Q Now, you say that's the same individual that did all  
6 these things to you on December 14th, right?

7 A Yes.

8 Q And you said that's the same individual that's here  
9 in the courtroom here today, right?

10 A Yes.

11 Q Now, looking at that person in that photo and that  
12 person in court, do they look the same?

13 A No.

14 Q What's different?

15 A The facial hair.

16 Q Anything else?

17 A No.

18 Q Now, you had given a description about the facial  
19 hair and the Band-Aid and bald. Did you give further  
20 description in regards to his mouth or his teeth?

21 A Yes.

22 Q What did you say about that?

23 A They were like nasty in all different ways.

24 Q Nasty in all different ways?

25 A Yeah.



1 Q What does that mean?

2 A Like they were just nasty like they hadn't been  
3 brushed or --

4 Q Were they straight?

5 A I don't remember.

6 Q Okay. Do you remember speaking with the detective  
7 about that?

8 A Not really.

9 Q Okay.

10 A No.

11 Q Now, in regards to --

12 MR. HENDRICKS: And Judge, at this point I believe  
13 defense counsel doesn't have any objection to State admitting  
14 State's Proposed Exhibit 68.

15 THE COURT: Any objection to 68?

16 MR. MANINGO: No objection.

17 THE COURT: It's admitted.

18 (Exhibit 68 admitted).

19 BY MR. HENDRICKS:

20 Q Now, he asked you on a scale of one to ten how  
21 confident are you that number five was the same guy that did  
22 this stuff to you. Do you remember being asked that?

23 A Yes.

24 Q What did you tell him?

25 A That I was ten.

1 Q And what else?

2 A That I was completely positive that it was the  
3 picture or it was him.

4 Q I've previously shown defense counsel what's been  
5 marked for identification purposes, it's State's Proposed  
6 Exhibit 9, 10, 12, 13, 14, 15, 16, 17, 18, 19 and 20.

7 MR. HENDRICKS: May I approach, your Honor?

8 THE COURT: You may.

9 MR. HENDRICKS: Thank you.

10 BY MR. HENDRICKS:

11 Q I'm going to now show you, Amber, these proposed  
12 exhibits. If you could look through all of those real quick,  
13 and then I'm going to ask you some questions afterwards, okay?  
14 Do you recognize what's in those photos?

15 A Yes.

16 Q Okay.

17 MR. HENDRICKS: Judge, I don't believe defense  
18 counsel has any -- has any objection to admission of the  
19 aforementioned State's Proposed exhibits.

20 MR. MANINGO: That's correct, no objection.

21 THE COURT: 9, 10, 12, 13, 14, 15, 16, 17, 18, 19 and  
22 20, so no 11. Other than that offered.

23 MR. HENDRICKS: (Indiscernible).

24 THE COURT: Any -- and hearing no objection, those  
25 documents will be admitted.

1 MR. HENDRICKS: Thanks, Judge.

2 (Exhibits 9, 10, 12, 13, 14, 15, 16, 17, 18, 19 and 20  
3 admitted)

4 MR. HENDRICKS: Thanks, Judge.

5 BY MR. HENDRICKS:

6 Q State's Exhibit 9, if you could I'm going to go ahead  
7 and show you these and go ahead and describe what you see in  
8 there, okay. What's that?

9 A An apartment.

10 Q Is that the apartment where he took you?

11 A Yes.

12 Q Do you know what apartment number that was?

13 A No.

14 Q No. 10. Okay, can you tell us what this is?

15 A A doorway.

16 Q And is that at the same apartment that he took you  
17 into?

18 A Yes.

19 Q 12. What's located in that photo?

20 A A couch.

21 Q What color is it?

22 A Black.

23 Q Is it that the same leather couch, black leather  
24 couch that you described earlier?

25 A Yes.

1 Q What else is in that photo?

2 A Shoes.

3 Q Are those the same shoes that you described earlier  
4 as Nike shoes?

5 A Yes.

6 Q Anything else in that photo?

7 A Tape.

8 Q What color?

9 A Blue.

10 Q That the same blue tape that he wrapped around your  
11 wrists and around your mouth?

12 A Yes. And candles.

13 Q Now, were those candles located right there on the  
14 floor or were they somewhere else when he was doing this to you  
15 or do you remember?

16 A They were somewhere else.

17 Q Okay. No. 13, what's in that photo?

18 A A candle.

19 Q What else?

20 A And a shoe.

21 Q 14.

22 A A towel.

23 Q Do you know if that's the same towel that he had you  
24 wipe yourself up with?

25 A Yes.

1 Q And is the couch also in there?

2 A Yes.

3 Q Can you tell if there's any candles located up on the  
4 counter, as you previously described?

5 A Yes.

6 Q Okay. 15.

7 A Couch, tape and candles and a towel.

8 Q And what?

9 A Towel.

10 Q Is that the same thing in 16?

11 A A towel and tape. Couch.

12 Q Okay, now you when you -- you said that he had bent  
13 you over one corner or one end of the couch, was it on this end  
14 of the couch?

15 A Yes.

16 Q 18.

17 A The couch.

18 Q 19.

19 A Towel, the tape and candles.

20 Q And 20.

21 A The shoes.

22 Q Now, just to go back a little bit. When he was doing  
23 this stuff to you, you said that he had taken his clothes off,  
24 right?

25 A Yes.

1 Q And did you ever see whether or not he touched  
2 himself?

3 A Yes.

4 Q How so?

5 A It was just like rubbing himself.

6 Q On what part of his body?

7 A His penis.

8 Q And is that something that you saw?

9 A Yes.

10 Q Now, did he ever put anything on his penis?

11 A Yes.

12 Q What was it?

13 A Like a lotion type thing.

14 Q And you saw him do that?

15 A Yes.

16 Q Now, when did he put that lotion on? Was it when he  
17 was touching himself or prior to putting himself inside of you?

18 A Both.

19 Q Just a couple final questions. When he was holding  
20 your hand and taking you to this apartment as you were walking,  
21 did he say anything else to you other than, you know, "I've got  
22 a gun, I'll kill you," and stuff like that?

23 A Yes.

24 Q What else?

25 A He told me that he needed me to watch his -- or his

1 son or his niece or something.

2 Q Did that seem weird to you?

3 A Yes.

4 Q Now, you didn't have any agreement to go babysit for  
5 this guy you'd never met, right?

6 A No.

7 Q Some guy that you just saw off the street, right?

8 A Right.

9 Q Now, did that seem weird that he said that to you?

10 A Yes.

11 Q Do you know why he said that to you?

12 A No.

13 Q Now, just to make it clear, you had never met this  
14 man before that day, correct?

15 A No.

16 Q You didn't even know his name?

17 A No.

18 Q You had -- did you find him attractive?

19 A No.

20 MR. MANINGO: Objection. This has all been asked and  
21 answered.

22 THE COURT: Sustained.

23 BY MR. HENDRICKS:

24 Q Did you have consensual sex with this man?

25 A No.

1 Q Thanks.

2 MR. HENDRICKS: Nothing further, Judge.

3 THE COURT: Cross-examination.

4 MR. MANINGO: Thank you.

5 CROSS-EXAMINATION

6 BY MR. MANINGO:

7 Q Hi Amber. We've talked before, correct?

8 A Yes.

9 Q Okay. And it will be very similar to that. If you  
10 have any questions or you don't understand any of my questions,  
11 stop me and we'll -- we'll work it out, okay.

12 A Okay.

13 Q Okay.

14 (Off-record colloquy).

15 BY MR. MANINGO:

16 Q Now, you understand what day we're -- we're talking,  
17 right?

18 A Yes.

19 Q December 14th of 2007?

20 A Yes.

21 Q Okay. You were with your -- your friends Anthony and  
22 Cierra?

23 A Yes.

24 Q Okay. And -- and school had just let out, right?

25 A Yes.



1 Q And at that time how do you usually get home?

2 A My mom.

3 Q Okay, she comes to pick you up?

4 A Yes.

5 Q Okay. And on that day you called your mom and told  
6 her that you were going to walk home yourself?

7 A Yes.

8 Q Okay. And that was so that she didn't come over to  
9 the school and waste her time?

10 A Well, she was already there.

11 Q Okay. And what you'd hoped to do was -- was maybe go  
12 to your friend Cierra's house?

13 A Yes.

14 Q Okay. And your plan was that if Cierra's mom said  
15 yes, you would go there. If she said no, then you would just  
16 walk home on your own?

17 A Yes.

18 Q Cierra's mom actually said no that night, correct?

19 A Yes.

20 Q Okay, so then you took off on your own?

21 A Yes.

22 Q Okay. After Cierra's mom had -- had said that it  
23 would not be a good idea to stay the night, you didn't call  
24 your mom back, correct?

25 A No.

1 Q Okay. You didn't tell her of what the plan was or  
2 that the plans had changed or anything like that?

3 A No.

4 Q Okay. You had your cell phone with you?

5 A Yes.

6 Q Okay. And it was working?

7 A Yes.

8 Q Okay. At this point you walked across the field  
9 that's like connected to your school?

10 A Yes.

11 Q Okay. And at that puts you out where, on Alta?

12 A Yes.

13 Q Okay. Once you end up on -- on Alta, that's when you  
14 see Mr. Adams, correct?

15 A Yes.

16 Q Okay. And he's across the street?

17 A Yes.

18 Q Okay. You had stated that you noticed that he  
19 started following you right away?

20 A Yes.

21 Q Okay. And you were aware of it right away?

22 A Yes.

23 Q Okay. And I think you testified that very quickly  
24 you -- you started praying and that you were already scared.

25 A Yes.

1 Q Okay. And at this point he hadn't even spoke to you,  
2 correct?

3 A Yes.

4 Q Okay. So now, you're already praying and -- and  
5 you're scared. Do you then call your mom?

6 A No.

7 Q Okay. Do you -- did you call the police, then?

8 A No.

9 Q Do you know what number to call if there's an  
10 emergency?

11 A 911.

12 Q Okay. And you didn't call 911?

13 A No.

14 Q Okay. Now, in is on Alta, right?

15 A Yes.

16 Q Okay. This is the middle of the day?

17 A Yes.

18 Q So it's light out?

19 A Yes.

20 Q There are other people on the street?

21 A Cars.

22 Q Okay, cars. Well, there's also -- you also  
23 eventually see people that you went to school with.

24 A Yes.

25 Q Okay. Jonathan Cerboni is actually on the street.

1 A Yes.

2 Q Okay. There are other people with him, correct?

3 A Yes.

4 Q Okay. There are businesses along the street.

5 A Yes.

6 Q Okay. A shopping center.

7 A Yes.

8 Q Okay. You don't go into any of these businesses at  
9 this time?

10 A No.

11 Q Okay. You don't go and approach any of your -- your  
12 schoolmates or your friends at this time?

13 A No.

14 Q Okay. Do you know Angela Abarzua?

15 A Yes.

16 Q Okay. Is she someone you went to school with?

17 A Yes.

18 Q Okay. Did you notice that she was there on the  
19 street?

20 A No.

21 Q Okay. Now, you testified that -- that Mr. Adams came  
22 up and he grabbed you by the -- the hand or the shoulder?

23 A Yes.

24 Q Okay. And immediately you became emotional, correct?

25 A Yes.

1 Q Okay. Right from the very beginning you started  
2 crying, correct?

3 A Yes.

4 Q And you were shaking?

5 A Yes.

6 Q So you were visibly upset, correct?

7 A Yes.

8 Q Okay. And this is -- this is how you were -- this is  
9 how you were acting this entire time, correct?

10 A Yes.

11 Q Okay, you were shaking and crying?

12 A Yes.

13 Q Okay. Now, as the two -- as the two of you, yourself  
14 and Mr. Adams, walk down the street, he's pulling you along,  
15 correct?

16 A Yes.

17 Q Okay. He's pulling you along and you're -- you're  
18 shaking and you're crying. There are other people on the  
19 street at this point, correct?

20 A Yes.

21 Q Okay. There are people who are -- are working on  
22 like a construction site or working on some houses there,  
23 correct?

24 A Yes.

25 Q Okay. And there -- there's still other businesses

1 that you're passing?

2 A Yes.

3 Q Okay. And still during this entire time you're  
4 crying and shaking?

5 A Yes.

6 Q And none of these other people on the street come  
7 over to see if you're okay?

8 A No.

9 Q Okay, no one says anything to you?

10 A No.

11 Q Okay. And you don't say anything to any of them as  
12 you -- as you walk by?

13 A No.

14 Q Okay. As you can -- about how long does it take to  
15 get from where you were at on Alta to the 1111 Apartments?

16 A 15 minutes.

17 Q Okay. 15 minutes?

18 A About.

19 Q Okay. Okay, let's say it's 15 minutes. Now, during  
20 that 15 minutes you walk by other businesses, correct?

21 A Yes.

22 Q Okay. And at some point you actually come close to  
23 Jonathan Cerboni, correct?

24 A Yes.

25 Q Okay. Now, you testified today that it was about 25

1 steps.

2 A Yes.

3 Q You testified before that it was about 10 steps. So  
4 would it be fair to say that it was maybe somewhere in between  
5 there?

6 A Yes.

7 Q Okay. Do you remember saying that it was 10 steps  
8 before?

9 A No.

10 Q Okay. That's okay. Either way, he was -- he was  
11 pretty close to you, correct?

12 A Yes.

13 Q Okay. You were crying at this point --

14 A Yes.

15 Q -- still? And you were shaking still?

16 A Yes.

17 Q Okay. And Jonathan didn't come over to see if you  
18 were okay?

19 A No.

20 Q None of the other friends that he was with came over  
21 to see if you were okay?

22 A No.

23 Q Okay. You didn't say anything out loud to him?

24 A No.

25 Q Okay. You said that you were trying to mouth the

1 words "help me" to him?

2 A Yes.

3 Q Okay. Was he looking at you?

4 A Yes.

5 Q Okay. So do you think he saw you doing that?

6 A I don't know.

7 Q Okay. He didn't help you, did he?

8 A No.

9 Q Okay. While you were walking down the street crying  
10 and shaking and being pulled along by Mr. Adams, do you  
11 remember seeing a -- a tall African-American man?

12 A No.

13 Q Okay. Do you remember anyone coming up to you close  
14 enough to where they actually said hello or what's up to you --  
15 to you and Mr. Adams?

16 A No.

17 Q Okay. If someone did walk up that close to you at  
18 this point, they would have seen that you were crying and  
19 upset, wouldn't they?

20 A Yes.

21 MR. HENDRICKS: Judge, I'm going to object. Calls  
22 for speculation.

23 THE COURT: Sustained.

24 MR. HENDRICKS: Thank you.

25 BY MR. MANINGO:



1           Q     From -- from your first contact with Mr. Adams you  
2 never saw a gun, did you?

3           A     No.

4           Q     You can't describe any gun, can you?

5           A     No.

6           Q     Okay. During the 15 minutes or so that you're  
7 walking to the 1111 Apartments you never saw a gun?

8           A     No.

9           Q     Once you were inside the apartment you never saw a  
10 gun?

11          A     No.

12          Q     At the time that you left the apartment you had never  
13 seen a gun?

14          A     No.

15          Q     Now, you testified that when you arrived at the  
16 apartment, the man took the -- the battery from your cell  
17 phone.

18          A     Yes.

19          Q     He didn't do that until you got to the apartment.

20          A     Yes.

21          Q     Okay. So the entire time that you were walking with  
22 him he didn't take your cell phone away and take the battery  
23 out?

24          A     No.

25          Q     Okay. He didn't decide to do anything until after

1 you had already gotten there?

2 A Yes.

3 Q Amber, excuse me. I'm going to move a little bit  
4 (indiscernible) I have enough room. I want to talk about for a  
5 few minutes when you were inside the apartment, okay.

6 A Okay.

7 Q Okay.

8 (Off-record colloquy).

9 BY MR. MANINGO:

10 Q Now, you testified today that the man leaned you over  
11 the couch, correct?

12 A Yes.

13 Q And that he put his fingers inside your rear end?

14 A Yes.

15 Q Okay. Now, you remember testifying about this in  
16 court before, right?

17 A Yes.

18 Q Okay. And you were up on the witness stand like you  
19 are today?

20 A Yes.

21 Q And you swore to tell the truth and -- and took the  
22 oath just like you did today?

23 A Yes.

24 Q Okay?

25 MR. MANINGO: (Indiscernible) and 14.

1 BY MR. MANINGO:

2 Q On that day the -- you were asked the question, "Did  
3 he put anything inside your butt hole," and your answer was,  
4 "Not that I remember." Do you remember testifying to that  
5 under oath?

6 A No.

7 Q Okay. You know that when you testify it's always  
8 recorded, right?

9 A Yes.

10 Q And then when it -- after it gets recorded it gets --  
11 it gets typed out and turned into these transcripts we call  
12 them on paper, okay. And that's what I'm looking at now, okay.  
13 Before you testified in court about any of this, you spoke to  
14 the detective about what happened, right?

15 A Yes.

16 Q Okay. And you did a tape recorded interview with the  
17 detective.

18 A Yes.

19 Q And your interview with the detective comes out to  
20 about 39 pages. You never mentioned anything about the man  
21 putting his finger inside your rear end, correct?

22 A Yes.

23 Q Okay. But now today your testimony is -- is  
24 different than that, right?

25 A Yes.

1 Q Okay. While you were inside the apartment or any  
2 time that day, actually, Mr. Adams, he never punched you,  
3 correct?

4 A No.

5 Q He never kicked you?

6 A No.

7 Q Never choked you?

8 A No.

9 Q No? Okay. I mean, he didn't -- he didn't -- he  
10 didn't beat you up or anything?

11 A No.

12 Q Okay. And you didn't -- you didn't hit him, correct?

13 A No.

14 Q Didn't kick him?

15 A No.

16 Q Didn't scratch him?

17 A (Witness shakes head side to side)

18 Q You said that he taped your -- your wrists and your  
19 mouth with that blue tape.

20 A Yes.

21 Q And -- and after he did it, you just -- you just  
22 pulled your hands apart and just broke the tape.

23 A Yes.

24 Q And then you -- then you pulled it off your face?

25 A Yes.

1 Q Okay. So this man takes the time to tie you up and  
2 then immediately you just break it and pull it off, right?

3 A Yes.

4 Q Then does he retape you?

5 A No.

6 Q Does he go and find some stronger tape?

7 A No.

8 Q Does he use any of the clothing that's on the floor  
9 to then tie up your -- your arms or -- or cover your mouth?

10 A No.

11 Q No? He ties you up with tape, you break free, and  
12 then he just lets it go?

13 A Yes.

14 Q And just kind of forgets about it?

15 A Yes.

16 Q Okay. You didn't have any marks or injuries on your  
17 face from the tape, correct?

18 A No.

19 Q Okay. You didn't have any marks or injuries on your  
20 wrists from the tape?

21 A No.

22 Q At that -- at that hearing that we -- we were talking  
23 about earlier where you testified before, you remember that?

24 A Yes.

25 Q Okay. Do you realize that during that entire hearing

1 you never talked about being tied up with tape? Are you aware  
2 of that?

3 A No.

4 Q Have you been given a chance from Mr. Hendricks or  
5 Mr. Scow to review your -- your preliminary hearing transcript?

6 A Yes.

7 Q So you've gone over it?

8 A Yes.

9 Q And nowhere in that transcript is any mention of any  
10 blue tape or being tied up. Did you know that?

11 A No.

12 Q At some point while you're in the apartment you're  
13 given a towel, right?

14 A Yes.

15 Q Okay. And you said that the -- the towel was damp?

16 A Yes.

17 Q Okay. And today you said you're not really sure how  
18 it -- how it became damp, right?

19 A Yes.

20 Q Okay. Do you remember telling the detective, when  
21 you were interviewed, that Mr. Adams went into the kitchen and  
22 ran the kitchen sink and got the towel wet?

23 A Yes.

24 Q Do you remember telling him that?

25 A Yeah.

1 Q Okay. And then you remember also testifying at the  
2 preliminary hearing and saying that Mr. Adams went in there and  
3 turned on the kitchen sink and got the towel wet?

4 MR. HENDRICKS: What page is that, Counsel.

5 MR. MANINGO: That is police statement Page 28 and  
6 preliminary hearing Page 32; 28 in one and 32 in the other.

7 MR. HENDRICKS: Thank you.

8 MR. MANINGO: Sure.

9 BY MR. MANINGO:

10 Q I'm sorry, Amber, do you remember testifying in that  
11 -- in that last hearing that Mr. Adams turned on the kitchen  
12 sink and that's how -- and the water came out and that's how he  
13 got the towel wet?

14 A Yes.

15 Q Okay. But since that time you've learned that there  
16 is no running water in that building, correct?

17 A Yes.

18 Q Okay. And that's because the building had the  
19 electricity and water turned off because of a fire?

20 A Yes.

21 Q Okay. So today now you're saying you're not really  
22 sure how he got it wet, right?

23 A Yes.

24 Q Okay. When he gave you the towel, you cleaned  
25 yourself up with it?

1 A Yes.

2 Q Okay. And when you say cleaned yourself up, we're  
3 talking about you -- you wiped your private areas, correct?

4 A Yes.

5 Q Okay. There was -- there was no blood that you  
6 noticed, correct?

7 A No.

8 Q There was no bleeding that you were aware of,  
9 correct?

10 A No.

11 Q Okay. There wasn't blood flowing all over the place?

12 A No.

13 Q Okay. Now, when you went to go get the towel and get  
14 it wet, that was in the kitchen area?

15 A Yes.

16 Q Okay. And where were you at this time?

17 A In the front room.

18 Q Okay. Were you on the couch?

19 A No.

20 Q Okay. Sitting on the floor?

21 A I don't know.

22 Q Okay.

23 A I don't remember.

24 Q Okay. You were somewhere in the front room?

25 A Yes.



1 Q Near the couch?

2 A Yes.

3 Q Okay. And the couch is right next to the door,  
4 correct?

5 A Yes.

6 Q Okay. When Mr. Adams went into the kitchen you  
7 didn't run out the door?

8 A No.

9 Q Okay. When he went into the kitchen -- when he went  
10 the kitchen, you didn't reach under the couch to where you  
11 thought he might have put this -- this gun, right?

12 A Yes.

13 Q You did reach under there?

14 A No.

15 Q Okay. But what you're saying is that -- that Mr.  
16 Adams left you alone in the room where you believe there was a  
17 gun?

18 A Yes.

19 Q After you -- you cleaned yourself up -- do you need  
20 some water? Do you want to take a minute or are you okay?

21 A I'm fine.

22 Q Okay. After you cleaned yourself up, he then gave  
23 you back your cell phone and the battery, right?

24 A Yes.

25 Q And -- and at that point you left the apartment,

1 correct?

2 A Yes.

3 Q Okay. And he stayed in the apartment, correct?

4 A Yes.

5 Q Okay. So when you walked out the door, you then went  
6 down the stairs from -- from the apartment -- in the apartment  
7 complex, correct?

8 A Yes.

9 Q Okay. And when you got to the bottom of the stairs,  
10 did you call your mom?

11 A No.

12 Q Did you call 911?

13 A No.

14 Q Okay. So then you're at the bottom of the stairs and  
15 you leave and you walk and you get back out onto the street,  
16 correct?

17 A Yes.

18 Q Okay. What street is that?

19 A Charleston.

20 Q Charleston, okay. Now, when you get on Charleston,  
21 you're alone, right?

22 A Yes.

23 Q Mr. Adams isn't with you, right?

24 A No.

25 Q Okay. Do you call your mom then?

1 A She called me.

2 Q Okay. So you didn't call your mom?

3 A No.

4 Q Okay. You didn't call 911?

5 A No.

6 Q Okay. You actually started walking and -- and your  
7 mom called when you got about halfway to the McDonalds, right?

8 A Yes.

9 Q Okay. During your walk, when you were walking to get  
10 about halfway to the McDonalds, you still hadn't called your  
11 mom, right?

12 A No.

13 Q Okay. Now, you were alone at this time still?

14 A Yes.

15 Q Okay. And you didn't call 911 at that point either?

16 A No.

17 Q Okay. Charleston's a pretty busy street, yes?

18 A Yes.

19 Q Okay. There are cars going by?

20 A Yes.

21 Q Okay. There are other people on the street?

22 A Yes.

23 Q Okay. There are businesses on that street?

24 A Yes.

25 Q Okay. You didn't go into any of these businesses or

1 stop anybody on the street and ask for help?

2 A No.

3 Q Okay. Your cell phone was working now at this point,  
4 right?

5 A Yes.

6 Q Eventually, before you get to McDonalds, your mom  
7 calls you, right?

8 A Yes.

9 Q Okay. And you tell her -- well, she asks you, "Where  
10 have you been," right?

11 A Yes.

12 Q Okay. And you tell her just pick me up -- pick me up  
13 at McDonalds and I'll tell you everything?

14 A Yes.

15 Q Okay. Then she calls you right back immediately,  
16 right?

17 A Yes.

18 Q Okay. And at this point she seems mad, doesn't she?

19 A Yes.

20 Q Okay. And you think that she's upset?

21 A Yes.

22 Q Okay. And again, you tell her just pick me up at  
23 McDonalds and -- and I'll talk to you then?

24 A Yes.

25 Q Okay. And then you head over and she picks you up?

1 A Yes.

2 Q Okay. Now, you did an interview with Detective  
3 Lebario --

4 A Yes.

5 Q -- right? During that interview he asked you about  
6 Anthony, right?

7 A Yes.

8 Q Okay. Was Anthony your boyfriend at that time?

9 A No.

10 Q Okay. Was he a close friend of yours?

11 A No.

12 Q No, not a close friend, okay. But at the time on  
13 your cell phone you had picture of Anthony that said, "I love  
14 Anthony forever," correct?

15 A I don't remember.

16 Q Okay.

17 MR. MANINGO: 36 and 37 prelim is what I'm looking  
18 at.

19 BY MR. MANINGO:

20 Q Now, when you testified at the preliminary hearing  
21 you were asked the question, "Did you have on your cell phone  
22 as the screen saver on your cell phone, I love Anthony?" And  
23 your answer was, "Yes." Do you remember testifying to that  
24 now?

25 A Yeah.

1 Q Okay. You also had -- when you spoke to Detective  
2 Lebario you had written on you POA. Do you remember that?

3 A Yes.

4 Q And what does POA stand for?

5 A Property of Anthony.

6 Q Property of Anthony. But he wasn't a close friend?

7 A No.

8 MR. MANINGO: If I could have just a minute, Judge.

9 BY MR. MANINGO:

10 Q Before you left the apartment at 1111 Warbonnet Way  
11 (phonetic), when you walked out, I think you had already said  
12 that Mr. Adams stayed in the house -- or in the apartment,  
13 correct?

14 A Yes.

15 Q Okay. He didn't take anything from you, did he, I  
16 mean like material wise? He didn't take your backpack from  
17 you?

18 A No.

19 Q Okay. He didn't take your wallet or your purse or  
20 anything?

21 A No.

22 Q Okay. He didn't take any jewelry or anything like  
23 that?

24 A No.

25 Q Okay. He didn't try and find out where you lived or

1 anything like that, did he?

2 A No.

3 Q He -- he just let you go with your cell phone,  
4 correct?

5 A Yes.

6 Q And with a working cell phone, correct?

7 A Yes.

8 Q Okay. Thank you, Amber.

9 MR. MANINGO: I have no further questions at this  
10 time.

11 THE COURT: Redirect examination.

12 MR. HENDRICKS: Thanks, Judge.

13 REDIRECT EXAMINATION

14 BY MR. HENDRICKS:

15 Q Amber, you said that you were taken to a vacant  
16 apartment, right?

17 A Yes.

18 Q Eventually they went and took pictures of that vacant  
19 apartment, didn't they?

20 MR. MANINGO: I'm going to object as to leading. It  
21 this is still a direct exam.

22 BY MR. HENDRICKS:

23 Q Now, you saw pictures of a vacant apartment, right?

24 A Yes.

25 Q Was that the same apartment where you were sexually

1 assaulted by this man?

2 A Yes.

3 Q Okay. Was there blue tape in there?

4 A Yes.

5 Q And tennis shoes that you described?

6 A Yes.

7 Q Black leather couch that you described?

8 A Yes.

9 Q All those things that you told the detective they  
10 eventually found and took pictures of it, didn't they?

11 A Yes.

12 Q Everything was corroborated in regards to what you  
13 said, right?

14 MR. MANINGO: Objection. This is still leading  
15 question.

16 THE COURT: Sustained.

17 BY MR. HENDRICKS:

18 Q Now, there was a white towel in there, wasn't there?

19 A Yes.

20 Q Okay, now, defense counsel asked you about well, you  
21 didn't know whether you were bleeding or not. You didn't take  
22 a mirror and put it down under your vagina or your butt to  
23 check and see how bad you were bleeding, did you?

24 A No.

25 Q Okay. Now, in regards to those pants, State's 62,



1 would it be fair to say that you were bleeding down there in  
2 your anus and your vaginal area?

3 A Yes.

4 Q Those are your pants, aren't they?

5 A Yes.

6 Q That's blood, isn't it?

7 A Yes.

8 Q You didn't check it out right you were raped, did  
9 you?

10 A No.

11 Q Okay. Now, defense counsel asked you about --

12 MR. HENDRICKS: It's Page 14, 15 and 16, Mr. Maningo.

13 MR. MANINGO: Of which -- of which one?

14 MR. HENDRICKS: Preliminary.

15 BY MR. HENDRICKS:

16 Q He asked you on Page 14, asked you a question about  
17 whether you had previously testified about something going in  
18 your butt. Do you remember that?

19 A Yes.

20 Q Do you remember actually telling the judge at that  
21 point that something did go inside of your butt or do you  
22 remember?

23 A I don't -- I don't know.

24 Q Okay.

25 MR. HENDRICKS: Can I approach, Judge?

1 THE COURT: You may.

2 MR. HENDRICKS: Once again, Counsel, 14, 15, 16. I'm  
3 going to have her look at that and I will ask her some  
4 questions.

5 BY MR. HENDRICKS:

6 Q Starting up here through here and then end over here,  
7 please. Did you read it all?

8 A Yes.

9 Q Okay. Now, do you remember being asked about whether  
10 or not something went inside your butt?

11 A Yes.

12 Q At one point you said you didn't remember, right?

13 A Yes.

14 Q But you went on to say how it felt and that something  
15 went inside your butt, correct?

16 A Yes.

17 Q Would that be fair to say?

18 MR. MANINGO: Objection. That's -- that's leading.

19 MR. HENDRICKS: Okay, Judge, I guess I allowed  
20 Counsel to go ahead and read the transcript, and I'll go ahead  
21 and do that at this point.

22 THE COURT: The objection's leading. It's sustained.

23 MR. HENDRICKS: Okay.

24 BY MR. HENDRICKS:

25 Q You were asked, "Did he put anything inside your butt

1 hole," defense counsel asked you about that. And it was, "Not  
2 that I remember." You were also asked, "Did he touch your butt  
3 hole at all?" "Yes." "What did he touch it with?" "His  
4 hands." "Did he touch it with anything else?" "No." "When he  
5 was touching your butt hole with his hands, what did it feel  
6 like?" "I don't know, it --

7 MR. MANINGO: I'm just going to object. Do we --

8 BY MR. HENDRICKS:

9 Q -- it felt really painful."

10 MR. MANINGO: -- have -- do we have a question  
11 pending?

12 THE COURT: Let's pose a question of the witness.

13 MR. HENDRICKS: Okay.

14 BY MR. HENDRICKS:

15 Q Do you remember reading this?

16 A Yes.

17 Q Okay. And do you remember what it felt like when  
18 something was going inside your butt hole?

19 A Yes.

20 Q What did it feel like?

21 A Painful --

22 Q Okay.

23 A -- and it hurt.

24 Q And do you remember testifying as to what he placed  
25 inside your butt hole?

1 A Yes.

2 Q What was it?

3 A His hand.

4 Q Okay. So you do remember and you testify about it at  
5 the preliminary hearing, right?

6 A Yes.

7 Q Thanks. One other thing about the preliminary  
8 hearing transcript. I didn't ask you the questions at the  
9 preliminary hearing transcript, did I?

10 A No.

11 Q It was a lady, wasn't it?

12 A Yes.

13 Q Now, did she ever even ask you about blue tape ever  
14 during that entire preliminary hearing?

15 A No.

16 Q She didn't, did she?

17 A No.

18 Q And you didn't volunteer it, right?

19 A Right.

20 Q Okay. Now, when you were interviewed by the police  
21 detective, you told him about the blue tape, didn't you?

22 A Yes.

23 Q Yes. And he actually went out and found it, didn't  
24 he?

25 A Yes.

1           Q     Okay. Now, there was a question about this towel and  
2 whether or not it was -- it was wet or whether it was -- it was  
3 dampened by the kitchen sink. Now, going back to that  
4 apartment, could you see the actual kitchen sink if you were  
5 sitting on the floor or sitting on the couch?

6           A     Yes.

7           Q     Actual water coming out of the sink?

8           A     No.

9           Q     No. Could you see the kitchen area?

10          A     Yes.

11          Q     Yes. And was that in the same adjoining room?

12          A     Yes.

13          Q     So he never left you alone, did he?

14          A     No.

15          Q     Now, you don't know if that towel was dampened by  
16 water from a pot, a jug or a cup from inside that sink, do you?

17          A     No.

18          Q     You're just -- it got wet and you assumed it came out  
19 of the sink, right?

20          A     Yes.

21          Q     Okay. Now, you didn't grab that towel afterwards,  
22 hold it up and examine it to see how much blood from your  
23 vagina was left on that towel, did you?

24          A     No.

25          Q     You didn't do that?

1 A No.

2 Q Why not?

3 A I don't know.

4 Q Okay.

5 A I didn't think of it.

6 Q Now, after he told you that he had a gun, that he was  
7 going to kill you and that you shouldn't scream, did you think  
8 it would have been a good idea to try and run from him?

9 A No.

10 Q And you didn't, did you?

11 A No.

12 Q Now, did you think about grabbing that weapon, taking  
13 off the safety, pulling it up, holding it up at him and start  
14 firing shots at this guy right after he sexually assaulted you?

15 A No.

16 Q That didn't come to mind?

17 A No.

18 Q Come on, you were 13 years old, right? You didn't  
19 think about doing that?

20 A No.

21 Q You didn't? Okay. You didn't grab that gun there  
22 and start firing at him, did you?

23 A No.

24 Q No. He asked you about, you didn't ask for help from  
25 anyone, did you? But that's not true, is it? You did ask for

1 help, didn't you?

2 A Yes.

3 Q You asked Jonathan for help, didn't you?

4 A Yes.

5 Q Was he able to give you help?

6 A No.

7 Q He didn't, did he?

8 A No.

9 Q But you asked for it?

10 A Yes.

11 Q Now, you previously testified that you had never met  
12 this man before, right?

13 A Yes.

14 Q Now, he asked you about Anthony. Was Anthony a  
15 friend of yours?

16 A Yes.

17 Q Did you like Anthony?

18 A Yes.

19 Q Did you think Anthony was cute?

20 A Yes.

21 Q Now, had you planned on running off after school to  
22 hang out with Anthony?

23 A No.

24 Q Okay. Anthony wasn't the guy who raped you in that  
25 apartment that day, was it?

1 A No.

2 Q It wasn't Anthony. You didn't go off with Anthony,  
3 did you?

4 A No.

5 Q Were you trying to hide something from your mom and  
6 sneak off with Anthony?

7 A No.

8 Q You were headed home, weren't you?

9 A Yes.

10 Q Until you came in contact with this guy, right?

11 A Yes.

12 Q Did you like this guy?

13 A No.

14 Q Did you have a crush on him?

15 A No.

16 Q Did you want to have sex with him?

17 A No.

18 Q Well, as you described, he had nasty teeth. You  
19 didn't want to kiss him?

20 A No.

21 Q Now, you also said that it was kind of dark in that  
22 room, right?

23 A Yes.

24 Q Were the blinds shut?

25 A Yes.



1 Q No one else was in that room other than you and him,  
2 right?

3 A Yes.

4 Q And there was just a candle lit?

5 A Yes.

6 Q The door wasn't open?

7 A No.

8 Q In fact, it was locked, right?

9 A Yes.

10 Q Did you think after he threatened that he would kill  
11 you if you tried to get away, did you think it would have been  
12 a good idea to try and run at that point?

13 A No.

14 Q What did you think would have happened had you try  
15 and run from him after he threatened you?

16 A He would have killed me.

17 Q Is that what was going through your mind?

18 A Yes.

19 MR. HENDRICKS: I have nothing further, Judge.

20 THE COURT: Recross.

21 MR. MANINGO: Very briefly.

22 RECROSS-EXAMINATION

23 BY MR. MANINGO:

24 Q Amber, Mr. Hendricks was talking about he -- he nor  
25 the other DA on the case previously asked you specifically

1 about the tape at the preliminary hearing, right?

2 A Yes.

3 Q Okay. At that lady DA, she asked you general  
4 questions about, tell me what happened, right?

5 A Yes.

6 Q You were free to tell anything that you wanted to  
7 about what happened, right?

8 A Yes.

9 Q No one said before or during that hearing, "Amber,  
10 you can't talk about, you know, tape or being tied up," did  
11 they?

12 A No.

13 Q Okay. And yet, you never mentioned it when you were  
14 telling your story of what did take place, correct?

15 A Yes.

16 Q Okay. Mr. Hendricks asked you about did you -- did  
17 you think about firing a gun and -- and -- and all of that.  
18 You never even saw a gun, did you?

19 A No.

20 Q Throughout this entire event?

21 A No.

22 Q So when Mr. Adams left you in the front room by  
23 yourself, you don't even know if he left you alone with a gun  
24 or not?

25 A No.

1 Q Okay. You just said a few moments ago that the door  
2 was locked.

3 A Yes.

4 Q Now, I thought that the door had been jammed with  
5 material so that the -- the door could remain open at all times  
6 and no key was needed or anything like that? Did you notice  
7 that about the door?

8 A No.

9 Q You didn't notice that it had something jammed in it  
10 so that it remained open?

11 A No.

12 Q Thank you.

13 THE COURT: Anything else for this witness?

14 MR. HENDRICKS: Just one, Judge.

15 FURTHER REDIRECT EXAMINATION

16 BY MR. HENDRICKS:

17 Q Amber, Mr. Maningo asked you when you were inside  
18 that room with the defendant, he asked you if he had taken  
19 anything from you. Do you remember that question?

20 A Yes.

21 MR. MANINGO: Well, I'm going to object. I think  
22 it's beyond the scope of the recross.

23 THE COURT: Sustained.

24 BY MR. HENDRICKS:

25 Q I'm going to just ask you, did he take anything from

1 you?

2 A Besides my cell phone?

3 MR. MANINGO: Again, the same objection, Judge.

4 THE COURT: Sustained.

5 MR. HENDRICKS: That's fine. Nothing further.

6 THE COURT: Anything else for this witness? Is this  
7 witness free to go?

8 JUROR NO. 9: I have one question. I just  
9 (indiscernible).

10 THE COURT: You need to -- if you want -- you gotta  
11 ask -- if you want to write -- ask a question, you need to --

12 THE MARSHAL: First page, write it down.

13 THE COURT: -- write it down.

14 JUROR NO. 9: I'm sorry.

15 (Off-record colloquy).

16 THE COURT: Parties approach.

17 (Off-record bench conference).

18 THE COURT: Amber stated he was holding the gun in  
19 his hoody with his left hand. Is this correct?

20 THE WITNESS: Yes.

21 THE COURT: Any additional questions as a consequence  
22 of this question posed by the jury from the jury? Seeing no  
23 hands, State any follow-up?

24 MR. HENDRICKS: No. Thanks, Judge.

25 THE COURT: Defense, any follow-up?

1 MR. MANINGO: No, sir.

2 THE COURT: Mark this as Court's Exhibit next in  
3 order. Is this witness free to step down?

4 MR. HENDRICKS: Yes. Thank you, Judge.

5 THE COURT: Thank you for your testimony. Please  
6 step down. Ladies and gentlemen, we're going to take our lunch  
7 and recess at this time.

8 It is your duty not to converse among yourselves or  
9 with anyone else on any subject connected with this trial.  
10 Further, you may not read, watch or listen to any report of or  
11 commentary on this trial by any medium of information,  
12 including without limitation, newspaper, television or radio.  
13 And you may not form or express any opinion on any subject  
14 connected with this case until it's finally submitted to you.

15 Lunch and recess, an hour and 15 minutes. 1:15,  
16 ladies and gentlemen. Stand easy. Follow Officer Reichert,  
17 please.

18 (Outside the presence of the jury).

19 THE COURT: Record should reflect we're outside the  
20 presence of the jury. Anything -- any additional record need  
21 to be made from either side as a consequence of the testimony  
22 of the witness this morning? State?

23 MR. HENDRICKS: None from the State.

24 MR. MANINGO: No, sir.

25 THE COURT: We'll see you at 1:15.

1 MR. MANINGO: Thank you.

2 (Court recessed at 12:00 p.m. until 1:18 p.m.)

3 (In the presence of the jury).

4 THE COURT: This is C-241003, State of Nevada,  
5 plaintiff versus Edward Michael Adams. Record should reflect  
6 the presence of representative of State, defense. All members  
7 of the jury panel appear to be present. Do the parties  
8 stipulate to the presence of the entire jury panel? State?

9 MR. SCOW: Call Jonathan Cerboni.

10 THE COURT: Actually, I just asked --

11 MR. HENDRICKS: Stipulate to the --

12 THE COURT: -- if you'll stipulate to the presence of  
13 the entire jury?

14 MR. HENDRICKS: Yes, we do, Judge.

15 MR. SCOW: Yes, Judge.

16 THE COURT: Defense?

17 MR. MANINGO: Yes.

18 THE COURT: Call your next witness.

19 MR. SCOW: Jonathan Cerboni.

20 THE CLERK: And if you just stand in the witness  
21 stand there, raise your right hand. I'm swear you in, please.

22 JONATHAN CERBONI, STATE'S WITNESS, SWORN

23 THE CLERK: You may be seated. State your name very  
24 loudly for us and spell both your first name and last name.

25 THE WITNESS: Jonathan Cerboni.

1 THE MARSHAL: Come closer.

2 THE WITNESS: Jonathan Cerboni.

3 THE CLERK: Okay. Spell both first and last name for  
4 me.

5 THE WITNESS: J-o-n-a-t-h-a-n, C-e-r-b-o-n-i.

6 THE CLERK: Thank you.

7 THE COURT: Counsel.

8 MR. SCOW: Thank you, Judge.

9 DIRECT EXAMINATION

10 BY MR. SCOW:

11 Q Jonathan, do you know Amber Valles?

12 A Yes.

13 Q How do you know her?

14 A She's a friend from fifth grade.

15 Q Friend in fifth grade? And did you know her in the  
16 seventh grade?

17 A Yes.

18 Q How well did you know her or how good a friends were  
19 you in the seventh grade?

20 A She was friends with one of my friends, and that's  
21 how I met her. We really didn't hang out a lot. Just knew  
22 each other, classmates.

23 Q You didn't hang out much, but you knew each other at  
24 school?

25 A Yes.

1 Q You would say hi to each other at school, things like  
2 that? Is that yes?

3 A Yes.

4 Q Okay. You just need to answer out loud because  
5 everything you say is being recorded, and it doesn't record a  
6 nod. So you have to say the yes or no out loud, okay?

7 A Okay.

8 Q Now, directing your attention back to December 14th,  
9 2007. This is a Friday. Were you at school that day?

10 A Yes.

11 Q Now, when school got out, about what time does school  
12 get out?

13 A 2:15.

14 Q Who did you leave school with that day?

15 A My friend Angela and my friend Aaron (phonetic).

16 Q Okay. Where did you guys go?

17 A We went to the Village Plaza down the street from the  
18 school.

19 Q The Village Plaza. And I want to show you what's  
20 been marked as State's Proposed Exhibit 67. I might have to  
21 orient you. This is Buffalo here and this is Alta. Do you  
22 recognize what's depicted here?

23 A Yes.

24 Q Okay. And is this an overhead, kind of a map or a  
25 photo of the area where your school is located?



1 A Yes.

2 MR. SCOW: At this time I'd move to admit State's  
3 Proposed 67.

4 THE COURT: Any objection?

5 MR. MANINGO: No objection.

6 THE COURT: 67's admitted.

7 (Exhibit 67 admitted).

8 BY MR. SCOW:

9 Q Now, if you touch your screen, it will put marks on  
10 the screen where you're touching. So if at all you want to do  
11 that to kind of help us know where things are at, feel free to  
12 do that. Now, if we're looking here at Buffalo and Alta,  
13 where's Johnson Middle School located?

14 A Right here.

15 Q Okay. And you said you went to the Village Plaza  
16 officer school on the 14th of December --

17 A Yes.

18 Q -- 2007? And can you mark on there approximately  
19 where that plaza is located.

20 A Okay.

21 Q So it's on the corner of that intersection?

22 A Yes.

23 Q And you said you were with some friends. Angela and  
24 who was the other friend?

25 A Aaron.

1 Q What did you guys do when you went to the Village  
2 Plaza?

3 A We went to a corner store called the Smoke Shop and  
4 got a couple sodas and then left.

5 Q Okay. Now, before you'd entered the store, were you  
6 leaving the school with, you know, all the kids that are  
7 leaving school?

8 A Yes.

9 Q Were the sidewalks crowded, that you recall?

10 A Yes.

11 Q And that was before you went into that shop?

12 A Yeah.

13 Q And you were in there to purchase some sodas, you  
14 said?

15 A Yes.

16 Q What happened when you left the store?

17 A We started walking down the street, and we saw Amber  
18 and a guy.

19 Q Okay. When you leave this -- the store on this  
20 corner, which direction did you head?

21 A This way.

22 Q And if you hold your finger and kind of draw on the  
23 screen, it will -- it will make a line. So you start heading  
24 east?

25 A Yes.

1 Q And here's the little compass headings to -- to give  
2 you bearings. So you're heading this way --

3 A Yeah.

4 Q -- east on Alta?

5 A Yes.

6 Q Are you on this -- this top side of the street or the  
7 bottom side?

8 A The top side.

9 Q And so you said when you leave that shop, you saw  
10 Amber and a guy?

11 A Yes.

12 Q Describe what it was that you saw.

13 A I saw Amber being held by the right wrist, being sort  
14 of dragged, pulled, led up the street.

15 Q Okay. And were they heading in the same direction  
16 you were going?

17 A The opposite.

18 Q Opposite. So you were kind of coming towards each  
19 other?

20 A Yes.

21 Q How far down the sidewalk was Amber and the guy when  
22 you first saw them?

23 A Here.

24 Q Now, is that about where there's a street right  
25 there, also?

1 A Yeah.

2 Q Do you know the name of that street?

3 A Anatola (phonetic).

4 Q Anatola. So they're in that area when you come out  
5 of the shop and you see them?

6 A Yes.

7 Q What else did you notice about them?

8 A That Amber had a scared look on her face, and that's  
9 pretty much it.

10 Q Okay. Now, the guy she was with, do you remember a  
11 description, how he looked, things like that?

12 A He was tallish, wearing pant-like jeans and a  
13 sweatshirt, and a bluesweat shirt.

14 Q Did you say like a blue sweatshirt?

15 A Yeah.

16 Q Anything else that you recall about his face or  
17 anything else like that?

18 A He had hair around his head and he had something  
19 hanging from his left eye.

20 Q Okay. And do you remember what that was?

21 A It looked like a Band-Aid or something.

22 Q Hanging from his left eye? And when you said hair  
23 around his head, can you describe that a little better?

24 A Like bushy around the back and the sides, and bald on  
25 top.

1 Q Okay. So this -- you said he was holding her by the  
2 hand. Was he holding her hand with two hands or one hand?

3 A One hand.

4 Q Did you see what the other hand was doing?

5 A It was in his pocket like holding something.

6 Q Okay. Now, are you talking like pants pocket or what  
7 pocket was it?

8 A The jacket pocket.

9 Q So for like a sweatshirt one that's on the front --

10 A Yeah.

11 Q -- like in the stomach? And what did you think when  
12 saw that hand in that pocket?

13 A I saw a bulge or something. That's all I saw.

14 Q Okay. Did you have any thoughts of what might be in  
15 there?

16 A No, just saw it was a bulge.

17 Q Had you ever seen that guy before?

18 A No.

19 Q What did you did right after -- or actually, you said  
20 that they were heading towards each other? That's yes?

21 A Yes.

22 Q Did you eventually cross each other?

23 A Yes.

24 Q Tell us about how you crossed each other on the  
25 sidewalk.

1           A     We were on the sidewalk and they walked around us  
2 onto a yard and then passed us.

3           Q     So Amber and the guy walked onto a yard as you  
4 passed?

5           A     Yeah.

6           Q     Okay. So they didn't stay on the sidewalk?

7           A     No.

8           Q     At the time you saw them, did you think that maybe  
9 you should do anything?

10          A     I was thinking about asking Angela for her phone to  
11 call because it looked like a mysterious thing that shouldn't  
12 went on.

13          Q     Okay. Did you have a phone with you?

14          A     No. My phone was taken away by my dad.

15          Q     So you had a phone?

16          A     Yeah.

17          Q     But your dad had taken it away from you?

18          A     Yes.

19          Q     So did you ask Angela for her phone?

20          A     No.

21          Q     After you crossed, what did you do then?

22          A     Went home. Walked down the street and went home.

23          Q     And did anything else happen that day made you think  
24 back to that time you saw Amber on the street?

25          A     A cop came to my house and told me what happened and

1 then told me to write a report.

2 Q Okay. So he came to your house later that day?

3 A Yes.

4 Q And did you write something out for the police?

5 A Yes.

6 Q Now, from the time that you had seen Amber on the  
7 street to when you talked to the police, had you seen or spoken  
8 with Amber at all?

9 A No.

10 Q And at the time it that you wrote this, this is that  
11 same day that you saw Amber, you wrote this report for the  
12 police?

13 A Yes.

14 Q And in this statement you mentioned him seeing -- you  
15 mentioned seeing him with a hand in his pocket, right?

16 A Yes.

17 Q And did you mention anything in your written  
18 statement about what you thought it might be?

19 A A gun or something like that.

20 Q So in your statement you wrote out something like a  
21 gun?

22 A Yes.

23 Q You didn't see a gun, though?

24 A No.

25 Q But that was one of the thoughts that came to your

1 mind?

2 A Yes.

3 MR. SCOW: Court's indulgence.

4 BY MR. SCOW:

5 Q One last thing. With regards to the individual, the  
6 guy that was with Amber you described his physical appearance,  
7 what he was wearing; do you remember about how tall and weight?

8 A Like five-eleven, somewhere like high hundreds and  
9 low two hundreds.

10 Q About five-eleven and --

11 A In between 190, 200, something like that.

12 Q Okay.

13 MR. SCOW: I'll pass the witness, Judge.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. MANINGO:

17 Q Hi Jonathan.

18 A Hello.

19 Q I have just a few quick questions. You went to  
20 school with Amber, right?

21 A Yes.

22 Q And on this day that we're talking about, which is  
23 December 14th, 2007, you were with some friends after school?

24 A Yes.

25 Q And you saw Amber at some point away from the school,



1 correct?

2 A Yes.

3 Q When you saw her she was with this man that you  
4 didn't recognize?

5 A Yes.

6 Q Okay. Now, you had testified that he was sort of  
7 dragging or leading or pulling her down the street?

8 A Yes.

9 Q Okay. And he had what you thought at the time was a  
10 gun in his pocket?

11 A Yes.

12 Q Okay. And you thought that this was mysterious?

13 A Yes.

14 Q Okay. During that time did you see Amber's face at  
15 all?

16 A Yes.

17 Q Okay. And you described it as looking scared?

18 A Yeah.

19 Q Did you see Amber say anything to you?

20 A No.

21 Q Did you hear Amber say anything to you?

22 A No.

23 Q Okay. Now, even though you saw her and she appeared  
24 to be frightened and being dragged away at gunpoint, you didn't  
25 call anybody?

1 A No.

2 Q Your friend Angela had her phone?

3 A Yes.

4 Q You didn't use her phone to call anyone?

5 A No.

6 Q You didn't go into the shop or anything nearby one of  
7 the stores and use their phone --

8 A No.

9 Q -- to call anyone? You didn't tell any of the adults  
10 or anything that might be in one of these shops?

11 A No.

12 Q You didn't go back to the school and tell your -- any  
13 of your teachers or any of those people that there was  
14 something going on?

15 A No.

16 Q And the reason you didn't call?

17 A Because I didn't know what --

18 Q Okay.

19 A I forgot.

20 Q You forgot, right? You just sort of forgot about it?

21 A Yes.

22 Q Okay. You forgot about it rather quickly?

23 A Yes.

24 Q Because you were with Angela and she had a phone?

25 A Yes.

1 Q All you had to do was say, "Hey, hand me that or dial  
2 911?"

3 A Yes.

4 Q You know that if there's an emergency you can dial  
5 911?

6 A Yes.

7 Q Okay. When you got home, you didn't tell your mom  
8 and have her call the police?

9 A No. I don't live with my mom.

10 Q Okay. I'm sorry, whoever you live with, you didn't  
11 tell anyone about that and have them call the police?

12 A Yes.

13 Q Yes, you did or no, you didn't?

14 A No, I didn't.

15 Q Okay. Okay. And you just forgot about it?

16 A Yes.

17 Q Okay, thanks.

18 THE COURT: Redirect.

19 MR. SCOW: Couple things.

20 REDIRECT EXAMINATION

21 BY MR. SCOW:

22 Q You were asked if you called the police or anybody.  
23 Just to be clear, from the time you saw Amber on the street to  
24 when the police came to your house and you wrote the statement  
25 out for them about seeing this guy with Amber, she had a scared

1 look on her face, you didn't speak with Amber at all?

2 A No.

3 Q And today how old are you?

4 A 14.

5 Q So back in December 14th, 2007 you were 12 years old?

6 A Yes.

7 MR. SCOW: Nothing else, Judge.

8 THE COURT: Recross.

9 MR. MANINGO: Very quickly.

10 RECROSS-EXAMINATION

11 BY MR. MANINGO:

12 Q You said that in between the time that you saw Amber  
13 and the police came that you hadn't -- you didn't speak with  
14 Amber at all, right?

15 A Right.

16 Q That's what you just said. But you did speak with  
17 the police when they came, correct?

18 A Yes.

19 Q Okay. And when the police showed up, they told you  
20 why they were there?

21 A Yes.

22 Q Okay, thanks.

23 THE COURT: Anything else from this witness?

24 MR. SCOW: No.

25 THE COURT: Thank you for your testimony. Please

1 step down. Call your next witness.

2 MR. SCOW: Louise Valles.

3 THE CLERK: Once you arrive in the witness stand,  
4 please remain standing and I'll swear you in. And raise your  
5 right hand, please.

6 LOUISE VALLES, STATE'S WITNESS, SWORN

7 THE CLERK: Loudly state your name for us.

8 THE WITNESS: Louise Valles.

9 THE CLERK: Thank you.

10 THE COURT: Spell it.

11 MR. SCOW: Can you spell your name.

12 THE WITNESS: L-o-u-i-s-e. Last name Valles,  
13 V-a-l-l-e-s.

14 DIRECT EXAMINATION

15 BY MR. SCOW:

16 Q Louise, who are you married to?

17 A Married to Joseph Valles.

18 Q Do you have any kids?

19 A I have three.

20 Q What are their names?

21 A Amber, JR and Desiree (phonetic).

22 Q And what are their ages?

23 A Amber's 15, JR is 13 and Desiree is 9.

24 Q Back in 2007 into the 2008 school year where did  
25 Amber and JR go to school?

1 A At Walter Johnson Junior High School.

2 Q What kind of -- the schedule -- describe the schedule  
3 that school starts, ends and your routine for picking up,  
4 dropping off?

5 A I usually drop them off at school between 7:00 and  
6 7:15 in the morning, and I pick them up at 2:15 in the  
7 afternoon.

8 Q So do you usually pick them both up together?

9 A Usually, yes.

10 Q I'm talking about Amber. Obviously you're her  
11 mother. Can you describe for us how she is with regards to  
12 like her privacy?

13 A She's very -- she's a very private girl. She's --  
14 she takes showers, she gets dressed, it's doors are locked.  
15 She's -- her body's her body. She's always been that way.

16 Q Okay. So if you were to walk into a room and -- and  
17 she was changing or whatever, what would be her response?

18 A "Get out, I'm not dressed."

19 Q So you said that you would usually pick up Amber and  
20 JR from school. Were there ever times that Amber would walk  
21 home?

22 A Not too much. She did sometimes ask to walk home  
23 with her friends. We didn't live that far, so it was usually  
24 okay.

25 Q Okay. So now I want to talk about December 14th,

1 2007, Friday. Do you remember that day?

2 A Yes.

3 Q And obviously you're here to talk about events  
4 occurring that day. Yes?

5 A Yes.

6 Q Describe what happened after school on that  
7 particular day.

8 A Well, I went there at 2:15 to pick up Amber and JR,  
9 and Amber called me and asked me if she could walk home with  
10 her friends. And I told her that that would be fine. And I  
11 told her I'd see her between 2:30 and 2:40.

12 Q That was the conversation you had with Amber right  
13 after school?

14 A Yes.

15 Q And where were you when you had that conversation?

16 A In my car parked on the street just -- I was parked  
17 on Desharm (phonetic) where I always picked them up at.

18 Q That's the street the school's on?

19 A Yeah.

20 Q You were at the school picking up JR?

21 A Yes.

22 Q And was your plan to pick up Amber?

23 A Yes.

24 Q And that's when you had that phone conversation?

25 A Yes.

1 Q What did you do after that?

2 A She asked if she could go -- walk with her friends  
3 and I said yes, and then I drove home with JR.

4 Q So you said you were expecting her home about  
5 2:40ish?

6 A No later than 2:45.

7 Q And what happened at 2:45?

8 A She wasn't home.

9 Q What did you do?

10 A So I called her cell phone and it rang once and it  
11 would go to voicemail. And I called maybe five minutes later  
12 called her again, and she didn't answer. It rang once and went  
13 the to voicemail. And called her like every minutes until 3:00  
14 o'clock -- 3:06 I had to pick up my little one at the  
15 elementary school. So I was kind of thinking in the back of my  
16 head maybe she walked to the elementary school to -- with maybe  
17 her friends, and I would ask somebody there if she was there.  
18 But I asked the people there and she said no, that they hadn't  
19 seen her.

20 Q And this is shortly after 3:00?

21 A Yes. I pick her up at 3:06, so about -- I got home  
22 about 3:15 from picking her up, my daughter, my little one.

23 Q And at that point are you still trying to call Amber?

24 A Oh, yes. Then I -- then I panicked when I got home,  
25 and she still wasn't home. And I had asked my husband, "Are



1 you sure that maybe" -- because he had talked to her right  
2 before -- about 2:30, and she said she was on her way home.  
3 And he said -- I said, "Are you sure she didn't say she was  
4 going somewhere else or doing something else," and he said,"  
5 "No, she told me she was walking home, that she would be home  
6 in five minutes."

7 Q Was it common for her to call, check in before going  
8 places?

9 A Oh, yes. Yes.

10 Q And so she had done that with your husband?

11 A Oh, yes.

12 Q So what happens after that, you speak with your  
13 husband, and about what time was it then?

14 A This was about 3:15 when I got home, and I told him  
15 something's not right. I feel something's not right. We -- I  
16 -- I don't know what to do. And I just kept calling her phone.  
17 But then at that time it was just going to voicemail.

18 Q Okay. And at this point did you call the police?

19 A No. I told my husband if I don't contact her by 4:00  
20 o'clock I'm calling Metro because something's not right here.

21 Q Were you able to get in touch with her before 4:00?

22 A Yes, at 3:51.

23 Q Okay. And tell us what happened.

24 A I called and she answered the phone, and I said,  
25 "Amber, where are you?" And she said, "I'm -- she said I'm

1 walking to McDonalds on Charleston and Buffalo, can you please  
2 just hurry and come pick me up?" And I said, "Well, what's  
3 wrong?" She said, "I'll explain everything when I get here,  
4 just hurry, I'm really scared."

5           So I said, "I'll be there in a minute." And I got in  
6 the car and we drove there and we got there pretty quick,  
7 within a couple minutes, I'd say. And she was walking.  
8 There's a -- there's a McDonalds and there's a gas station  
9 there on the corner. She was walking from the McDonalds'  
10 parking lot to the -- through the gas station. And that's  
11 where I seen her and I picked her up.

12       Q     What did you notice about her when you picked her up?

13       A     That she -- her hair was a mess and her clothes, I  
14 could tell she didn't have all her clothes on that she wore to  
15 school. She only -- I could tell she didn't have her bra on.  
16 And she always wears undershirts under her shirts, and so I  
17 knew that she just had her t-shirt on, the shirt she had on. I  
18 can't remember what shirt exactly it was.

19       Q     Okay.

20       A     But I knew she didn't look right. And she was crying  
21 and he very upset.

22       Q     She was crying and very upset. What happened then  
23 when you picked her up and she got in your car?

24       A     She told me that a man had came up on the side of  
25 her, grabbed her by the arm and told her -- told her to go with

1 him. That he had a gun and not to scream or yell and to walk  
2 with him.

3 Q Okay. Did she tell you what happened to her?

4 A Well, she told me that this man took her into an  
5 apartment and he --

6 MR. MANINGO: Well, I'm going to object, Judge, as to  
7 hearsay.

8 THE COURT: Objection's hearsay. Response.

9 MR. SCOW: Judge, at this point she's described her  
10 daughter as being very upset and crying, and she's noticed that  
11 her appearance is disturbed, messed up hair. At this point  
12 it's an excited utterance.

13 THE COURT: Overruled.

14 BY MR. SCOW:

15 Q You can continue.

16 A And then she told me that he -- that this man had  
17 taken her in the apartment and had actually made her take her  
18 clothes off and that he had stuck his thing inside her. That's  
19 what exact words she said to me.

20 Q Okay. So you described -- when she's telling you  
21 this -- when you first saw her you described her as upset and  
22 she was crying and that she's telling you this what was her  
23 demeanor?

24 A She was shaking and scared, crying. She was very  
25 shaky and she -- her demeanor, she was -- she was -- I think

1 her demeanor was that she was -- she was scared, but I think  
2 she was happy to see me.

3 Q Okay.

4 A But she --

5 Q Was -- after you hear this from her, what did you do?

6 A I called 911.

7 Q You report to 911 what happened?

8 A Um-h'm.

9 Q That's a yes.

10 A Yes, I'm sorry.

11 Q That's okay. You speak with the police. You relay  
12 to them what Amber told you and you get some instructions from  
13 them?

14 A Yes.

15 Q What happens after you call 911?

16 A I'm on the phone with them and we're driving back to  
17 my home.

18 Q Okay.

19 A And they tell me to -- for not Amber -- they just  
20 give me instructions for not Amber to wash -- go to the  
21 bathroom, use anything, just not even wash her hands or  
22 anything. And to wait for the patrol cars to get there and an  
23 ambulance.

24 Q So she didn't wash or anything?

25 A Oh, no.

1 Q And so do the police eventually show up to your  
2 house?

3 A Oh, yes, quickly.

4 Q What happened after the police showed up?

5 A We told them what happened. They had the ambulance  
6 there, and at first they thought they might had -- they had a  
7 guy in custody. So we did actually drive over to see if this  
8 was the man, but it wasn't him.

9 Q Okay. And that was -- you took Amber to see --

10 A Yes.

11 Q -- if it was the guy?

12 A Both me and Amber went with the officer in the back  
13 of the car.

14 Q She indicated it wasn't the person?

15 A She indicated no, yeah, it wasn't him.

16 Q What happens after that attempt at identification was  
17 done?

18 A We went to the hospital.

19 Q Which hospital?

20 A UMC.

21 Q She was seen by a nurse there?

22 A Yes.

23 Q And had she been seen by an OBGYN, any type of doctor  
24 like that previously?

25 A No, not -- not --

1 Q Prior to that day?

2 A -- in no -- prior to that day, no.

3 Q So she was examined by a nurse at UMC Hospital?

4 A Yes.

5 Q Now in reference to that day forward, did you notice  
6 any changes in Amber?

7 A I'm sorry what -- repeat that question.

8 Q After that day --

9 A Yes.

10 Q -- did you notice any differences or changes in  
11 Amber?

12 A Oh, yes, lot of changes. She -- she wouldn't sleep  
13 in her bed. She actually moved her mattress up to our room and  
14 slept in our room six, seven months. She still gets very  
15 scared when we're driving and the windows are down and there's  
16 mainly men she's afraid of.

17 If there's anybody walking on the street, she's  
18 always saying, "Roll up the windows, roll up the windows and  
19 lock -- make sure the doors are locked." And she's been -- she  
20 still goes through that. And she doesn't go anywhere by  
21 herself. She's always with somebody; with me, my husband,  
22 family. She very seldom -- I think maybe just a couple months  
23 ago she actually went to movies with a couple of friends by  
24 herself, so.

25 Q Okay. Now, looking before -- before December 14th,

1 2007, was Amber a good student?

2 A Oh, yeah, very good student.

3 Q She -- as far as attendance goes, was she good with  
4 her school attendance?

5 A She almost has perfect attendance, even almost to  
6 this day. Amber loves school. She's a very -- she's a bright  
7 -- a bright kid.

8 Q Had she ever ditched school or anything like that?

9 A No.

10 MR. SCOW: Court's indulgence for a second. And  
11 Judge, at this point I'm going to allow the cross to go  
12 forward. I have a copy of the 911 call. At this point I need  
13 to set up the computer, bring a box up to play it. And I would  
14 be moving to admit that call. But I'm at this point going to  
15 allow the defense to proceed with cross in order to save time.

16 THE COURT: All right, so he's passing the witness --

17 MR. SCOW: Yes, Judge.

18 THE COURT: -- with those -- with that understanding.  
19 Cross-examination.

20 (Off-record colloquy).

21 CROSS-EXAMINATION

22 BY MR. MANINGO:

23 Q Good afternoon, Ma'am?

24 A Good afternoon.

25 Q I just have a couple of -- of quick questions just to

1 clear up a couple of points.

2 A Okay.

3 Q Amber gets out of school around 2:15?

4 A She gets out at 2:15.

5 Q Okay. You expect her to be home at, I think you said  
6 2:45 at the latest?

7 A The latest.

8 Q Okay. By 3:15 you're worried?

9 A I was worried before 3:15, but by 3:15 I'm very  
10 worried.

11 Q Okay. And you said that you felt like you knew that  
12 there was something wrong?

13 A Yes.

14 Q Okay. And then when you were finally able to get  
15 ahold of Amber, that was at 3:00 --

16 A 51.

17 Q 3:51, okay. Amber didn't call you before then,  
18 correct?

19 A No.

20 Q Okay.

21 A I called her.

22 Q You called her, okay. And -- and by 3:51 you're  
23 upset?

24 A I was upset, but I was happy to hear her voice. I  
25 was kind of upset because I didn't know what had happened.



1 Q Right. And you had said that you were -- that you  
2 were panicking, right?

3 A Um-h'm.

4 Q And you were only about nine minutes away from  
5 calling Metro anyways on your own?

6 A Yes.

7 Q Okay. That's all I have, thank you.

8 A Thank you.

9 Q That clears it up.

10 THE COURT: Redirect?

11 REDIRECT EXAMINATION

12 BY MR. SCOW:

13 Q You've previously listened to your 911 call; is that  
14 correct?

15 A Yes.

16 Q Now, this is in the vehicle immediately after you've  
17 picked up Amber --

18 A Yes.

19 Q -- and she's told you what happened?

20 A I don't even think we drove away yet.

21 Q Okay.

22 THE COURT: Has that been marked and admitted?

23 MR. SCOW: It's marked as --

24 MR. HENDRICKS: State's Proposed Exhibit 73. He's  
25 just going to have her identify her voice.

1 MR. SCOW: Her voice on there.

2 THE COURT: 73 foundational at this time.

3 (Exhibit 74 played; 911 recording).

4 BY MR. SCOW:

5 Q And tell me when you recognize your voice.

6 A Okay. That's my voice.

7 Q That's your voice on there?

8 A In the background, yeah.

9 Q Okay. And so --

10 A Yeah, go ahead.

11 MR. SCOW: At this time I'd move to admit State's  
12 Proposed Exhibit 74.

13 THE COURT: 74 is offered. Any objection?

14 MR. MANINGO: No objection.

15 THE COURT: There being no objection, 74's admitted.  
16 (Exhibit 74 admitted).

17 (The audio tape is being played).

18 MR. SCOW: I have no more questions, judge.

19 THE COURT: Any recross?

20 MR. MANINGO: No further questions, based on the --  
21 the new material.

22 THE COURT: Recross. Is this witness free to go?

23 MR. SCOW: Yes, Judge.

24 THE COURT: Thank you for your testimony. Please  
25 step down. Call your next witness.

1 MR. HENDRICKS: Angela Abarzua.

2 THE CLERK: Step forward in the witness stand, please  
3 and remain standing. Raise your right hand, I'll swear you in.  
4 Can you raise your right hand for me.

5 ANGELA ABARZUA, STATE'S WITNESS, SWORN

6 THE CLERK: Once you settle there, will you please  
7 state your name for us, spelling your first and last name.

8 THE WITNESS: Angela Abarzua, A-n-g-e-l-a,  
9 A-b-a-r-z-u-a.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. HENDRICKS:

13 Q Angela, how old are you?

14 A 15.

15 Q What grade are you in?

16 A Tenth.

17 Q What's your date of birth?

18 A 7/17/94.

19 Q Do you live here in Las Vegas?

20 A Yes.

21 Q Going back to December of 2007, how old were you?

22 A 13.

23 Q Okay. What grade were you in?

24 A Seventh.

25 Q What school did you go to?

1 A Johnson.

2 Q Is that a middle school?

3 A Yes.

4 Q Or junior high school?

5 A Junior high.

6 Q Okay. And where is that located?

7 A Desharm.

8 Q What are the major cross streets? Big streets around

9 there.

10 A I don't know.

11 Q Is it near Charleston?

12 A Yes.

13 Q Is it near Alta?

14 A Yeah, Charleston and Alta.

15 Q Okay. What about Buffalo?

16 A No, Buffalo, and Alta.

17 Q Okay. Now, that's here in Las Vegas, Clark County,

18 Nevada, right?

19 A Yes.

20 Q Now, back on December 14th of 2007, do you know if

21 you went to school that day?

22 A Yes, I did.

23 Q At some point did you get out of school?

24 A Yeah.

25 Q What time did you get out of school?