

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS CASH

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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Supreme Court Case No. 82060
Elizabeth A. Brown
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**APPELLANT'S APPENDIX
Volume V**

JEAN J. SCHWARTZER, ESQ
Nevada Bar No. 11223
Law Office of Jean J. Schwartzer
170 S. Green Valley Parkway
Suite 300
Henderson, Nevada 89012
(702) 979-9941
Attorney for Appellant

STEVEN B. WOLFSON, ESQ.
Nevada Bar No. 1565
Clark County District Attorney
Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155
(702) 671-2500
Attorney for Respondent

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1 grab spots; correct?

2 A Correct.

3 Q Okay. And at no time the police asked if they could do that;
4 correct?

5 A I don't remember being asked that. But I don't even really
6 remember this interview as a whole. But I don't remember --

7 Q Okay.

8 A -- them asking me that.

9 Q Now, you've testified that you wear glasses?

10 A Yes.

11 Q You're wearing glasses now?

12 A Yes.

13 Q Your vision without your glasses is 20/50; correct?

14 A Yes.

15 Q And do you have an understanding as to what 20/50 means?

16 A No, but I know it's really bad 'cause when I don't have them on I
17 can't see anything.

18 Q Okay. So the night this happened, this fight between Thomas,
19 Ezekiel, and Kyriell, it was dark; correct?

20 A Yes.

21 Q You didn't have your glasses?

22 A Correct.

23 Q And it was your testimony that everything happened in two to
24 three minutes; correct?

25 A Yes.

1 Q So Ms. Turner, is it your testimony that you cannot remember
2 really what happened that night?

3 A Not every -- not really. I really don't remember it that well.

4 Q Okay. But it is your testimony that you did try and hold Kyriell
5 back from this altercation; correct?

6 A Yes.

7 Q And for some time you were successful in keeping him out of
8 this altercation; correct?

9 A Yes.

10 Q But he eventually broke free?

11 A Yeah, at the last minute.

12 Q And engaged in the fight with Thomas and Ezekiel?

13 A I couldn't see exactly what was going on but I guess so.

14 Q Well, I don't want you to guess.

15 Now, while this fights going on in the street, isn't it true that cars
16 came by?

17 A Not as it was going on. After the neighbor came down the
18 street and she was pulling in her driveway and Kyriell asked the neighbor
19 for help but she just went in the house so.

20 Q So it's your testimony that during the actual fight, during the
21 time there were grabs and whatever else, no cars came down?

22 A Correct.

23 Q No car ever separated the three?

24 A No.

25 Q Okay. Now your vision, I mean it's 20/50, but you could still see

1 a car, can you not?

2 A Yeah, I can see a car.

3 Q And you could still drive as long as you're wearing your
4 glasses?

5 A Yeah.

6 Q You can -- your vision right now is corrected to 20/20; correct?

7 A Yes.

8 MR. LONG: Okay. That's all the questions I have at this
9 juncture.

10 **REDIRECT EXAMINATION**

11 BY MS. BLUTH:

12 Q Okay. Brittney, we're almost done. I know you're getting tired.
13 All right. So Mr. Long had just asked you some questions
14 stating that it's hard to remember everything; right?

15 A Yes.

16 Q Would you say, and this probably seems like a dumb question,
17 but would you say that your memory was a lot better when you spoke to
18 the police?

19 A Yeah.

20 Q And when you testified at the preliminary hearing?

21 A Yeah.

22 Q Okay.

23 MS. DIGIACOMO: Are those yeses?

24 THE WITNESS: Yes and yes.

25 THE COURT: Thank you.

1 BY MS. BLUTH:

2 Q I know it's hard to get used to and I'll help remind you; okay.

3 So you said that Kyriell would play football sometimes on the
4 weekend, we're not talking about, like, a college football player; right?

5 A No.

6 Q I mean, he's going to the park and, like, tossing around some
7 football; right?

8 A Well, they play, like, for a team but it's not, like, college team
9 but.

10 Q Okay. And you stated that Kyriell wasn't the type that was
11 working out every day?

12 A No, he didn't work out every day.

13 Q And you don't know about Ezekiel, all you know is that he was
14 very skinny, are the words you used?

15 A Yeah.

16 Q What about Mr. Cash?

17 A I've never seen him go workout.

18 Q Okay.

19 A Since I've known him.

20 Q Do you know what type of shape he was in?

21 A No.

22 Q Okay. So I am --

23 MS. BLUTH: Your Honor, I'm going to ask if I could have
24 permission for Brittney to step down and show me exactly what was going
25 on at the car between her and Kyriell.

1 THE COURT: Okay.

2 BY MS. BLUTH:

3 Q So, Brittney, would you mind stepping down, and I want you to
4 be Kyriell and I'm going to be you; okay?

5 A Am I going to go to jail?

6 Q No, you're not going to go to jail. Well, I don't know, if you get
7 too aggressive than maybe.

8 Okay. So just to lay a little bit of foundation, you said that you
9 went to reach Londyn to take here back; right?

10 A Yes.

11 Q So I'm going to pretend like I'm you, am I -- I'm grabbing, I'm
12 reaching to go get -- okay. And so keep going; right. I know it's weird.
13 Just go with me; okay.

14 All right. So I'm you, you're Kyriell, when Thomas, so this is
15 what Kyriell is doing to you; right?

16 A Yeah.

17 Q Okay. Now, are you kind of pushing back and yelling and he's
18 pushing back; right?

19 A Yeah. I'm trying -- not pushing, yeah, trying to break a loose.

20 Q So hold me. All right. So I'm trying to get you to get loose from
21 me, you guys are fighting, at any point in time is he slamming you back
22 into the car?

23 A No.

24 Q Okay. When Thomas comes out, what are the state of things at
25 that point?

1 A The same.

2 Q The same?

3 A Yeah.

4 Q Okay. So you guys are yelling at each other and Kyriell still has
5 your wrists?

6 A Yes.

7 Q Okay. And so that's as much as -- that's as deep as it got, is
8 he's holding your wrists and you two are yelling at each other?

9 A Yes.

10 Q And he grabs your wrist --

11 THE COURT: They'll never hear her on the tape.

12 MS. BLUTH: What?

13 THE CLERK: Get in front of that microphone.

14 THE COURT: They'll never hear her --

15 MS. BLUTH: Oh, okay.

16 MR. LONG: Yeah, Thomas can't hear if you're not using the
17 mic.

18 MS. BLUTH: Okay. We're moving it.

19 See I'm getting in trouble too.

20 BY MS. BLUTH:

21 Q Okay. So that's as -- as much as was going on was when
22 Thomas comes out is he has you by the wrists?

23 A Yes.

24 Q And you two are yelling at each other?

25 A Yes.

1 Q Okay. You can sit down -- back down.

2 Thank you.

3 Okay. Were there any marks on your body like on your wrists
4 or on your arms after that?

5 A No.

6 Q Okay. So on cross-examination, Mr. Long had asked you if
7 Kyriell was -- first he asked you if Kyriell was slamming you into the car,
8 and you said no. And then he asked you if Kyriell was shaking you, and
9 you said, I think your testimony was, yeah, but it wasn't like a shaken baby
10 syndrome; is that right?

11 A Yeah.

12 Q So can you explain to me what you meant by shaking, is that
13 like when you and I were kind of playing tug of war back and forth?

14 A Yeah, I don't know another way to put it, other than being, like,
15 grabbed with force, like, he was trying to restrain me from being able to
16 grab Londyn so.

17 Q Okay. And you also talked with Mr. Long about feeling scared
18 or not knowing if Kyriell was going to hurt you. Do you remember those
19 questions?

20 A Yeah.

21 Q Okay. So if you wouldn't mind, if you would go to page six in
22 front of you.

23 A [Witness complies.]

24 Q And you have your voluntary statement in front of you?

25 A Yeah.

1 Q Okay. So if you turn to page six, let me catch up to where you
2 are, you state that, you guys were grabbing each other's wrists and that it
3 wasn't anything I felt was violent towards me; is that right? About --

4 A That's in the statement.

5 Q Okay. And you stated, I was yelling, he wasn't?

6 A Right. So I was yelling, he was more so, at that point, telling me
7 to calm down.

8 Q And that was my next question. And your response was, you
9 were yelling and at that point he was just telling you to calm down?

10 A Yeah.

11 Q Okay.

12 A Yes.

13 Q Thank you.

14 All right. Now, again, you were asked those questions at
15 preliminary hearing, so would you move to that next set of questions -- or
16 the next statement for me and turn to page 59, please.

17 A [Witness complies.]

18 Q And if you look to the first question -- or excuse me, the second
19 to last question, you're asked, you weren't threatened by Kyriell by what
20 was going on in the argument, and you said, honestly, we argue all the
21 time, so no.

22 Did I read that correctly?

23 A Yes.

24 Q And then if you could turn to page 77

25 A [Witness complies.]

1 Q And if you look at the fourth answer down, you're asked if you
2 felt like you were in any danger. And you said, I didn't feel like I was in
3 any danger because again we argue all the time.

4 Did I read that correctly?

5 A Yes.

6 Q All right. At any point when that -- the incident was going on out
7 front, did Thomas stop and try to call 9-1-1?

8 A No.

9 Q Did he ever stop and call for help in anyway?

10 A No.

11 Q Did he ever stop and retreat to the house? And I know after
12 Ezekiel falls and is injured he retreats to the house. But I'm talking about
13 at any point in time did he ever try to retreat and end what was going on
14 and leave the situation?

15 A No.

16 Q I want to ask you some questions about this, I will shoot, or
17 what was the terminology you used? I don't want to put words in your
18 mouth. Mr. Long had asked you some questions about what Kyriell had
19 said during the incident and what did Kyriell say?

20 A Sorry, I have like an alarm set and it keeps ringing.

21 THE COURT: I can't hear you.

22 BY MS. BLUTH:

23 Q What did you say?

24 A I was saying, sorry, because my phone keeps ringing because I
25 have an alarm set.

1 Q Oh, that's -- do you want to take it out and turn it off?

2 A Yeah.

3 MS. BLUTH: Okay. Can she do that, Your Honor?

4 THE COURT: Yes.

5 MS. BLUTH: You can go ahead and take it off.

6 THE WITNESS: Can you ask the question again?

7 MS. BLUTH: Yeah, no problem, one second.

8 BY MS. BLUTH:

9 Q So Mr. Long had asked you some questions about Kyriell
10 saying something about, I will shoot, or something in that regard, can you
11 tell me what you remember?

12 A I remember him saying, I will shoot, like, I'm going to shoot,
13 something like that.

14 Q When was that during the incident?

15 A After he was already on the ground.

16 Q After Ezekiel was on the ground?

17 A Yeah.

18 Q Okay.

19 Okay. And then the last thing I wanted to talk to you about is in
20 regards to Mr. Long's questions about where Kyriell was while Thomas
21 and Ezekiel were engaged together, whether it was ever, like, a
22 two-on-one, meaning whether Kyriell ever got to them and it was Kyriell
23 and Ezekiel fighting Thomas at the same time; okay.

24 If you turn to page eight of your voluntary statement, please.

25 A [Witness complies.]

1 Q On page eight do you discuss the fact that you were trying to
2 hold Kyriell back and stop what's going on and at the same time the next
3 thing you know you see Ezekiel on the floor; is that right?

4 A Yes.

5 Q And then if you turn the page over to page nine.

6 A [Witness complies.]

7 Q You state that Kyriell was trying to move closer to where Ezekiel
8 and Thomas were, but you were grabbing him back and the next thing you
9 know Ezekiel is on the floor.

10 A And that's what's in the statement, yes.

11 Q Okay. Can you go to page ten, the next page.

12 A [Witness complies.]

13 Q There was no point in time when it was two-on-one, once it
14 started you were holding Kyriell back and that's when Ezekiel got into it
15 himself and they moved down the street and you were holding Kyriell.

16 Is that true? Did I read that correctly?

17 A Yes.

18 Q Okay. Now, if you can move to your next -- to the preliminary
19 hearing statement to page 85, if you wouldn't mind. Or I apologize to
20 Page 54.

21 A [Witness complies.]

22 Q And on that page you state, that it was pretty much over by the
23 time Kyriell got down the street to them and that they all started running
24 back up the street but Ezekiel didn't because he had fallen to the ground.

25 Is that correct?

1 A Yes.

2 Q And then to page 85, please.

3 A [Witness complies.]

4 Q Once Kyriell got away, everything was over, and that -- and you
5 all tried to run -- excuse me, and they all tried to run back the other way.

6 A Yes, that was the statement.

7 Q Okay. Thank you.

8 And page 86

9 A [Witness complies.]

10 Q It wasn't two-on-one -- it was not two-on-one.

11 A I didn't see them both hitting him. But, again, I can't see that
12 well.

13 Q I'm just asking, that's in the statement?

14 A Yeah, that's in the statement.

15 Q And then, lastly, the next page, which would be page 87

16 A [Witness complies.]

17 Q By the time Kyriell got to Tommy and Ezekiel the fight was over
18 and they had turned and ran toward the house.

19 A Yes.

20 Q And then I apologize, last time, page 83 of your preliminary
21 hearing.

22 A [Witness complies.]

23 Q It wasn't like Kyriell and Ezekiel were both fighting Tommy at
24 the same time.

25 A Where I could see, yeah, yes.

1 MS. BLUTH: Court's indulgence, Your Honor.

2 BY MS. BLUTH:

3 Q Remember I had just asked you some questions about Kyriell
4 saying, I will shoot, and you had stated that he said that after Ezekiel hit
5 the ground; correct?

6 A Yes, it was, yeah.

7 Q You -- you said that at the preliminary hearing, you testified to
8 that; correct?

9 A Yes.

10 Q But you had never told the police that before that?

11 A Correct.

12 Q The first time that you discussed that or said anything about that
13 was at the preliminary hearing?

14 A Yes.

15 MS. BLUTH: Okay. Thank you so much, Brittney.

16 That concludes my questioning, Your Honor.

17 **RECROSS-EXAMINATION**

18 BY MR. LONG:

19 Q Ms. Turner, as Thomas ran out to the front yard he never told
20 you why he was coming outside; correct?

21 A Correct.

22 Q He never said, I'm going to beat him up, I'm going to kick his
23 ass, anything like that; correct?

24 A Correct.

25 Q Okay. Now, what I alluded to before, isn't it true that you

1 testified that Ezekiel punched Tommy during the preliminary hearing?

2 MR. LONG: Page 84.

3 MS. BLUTH: Thank you.

4 THE WITNESS: Yeah, yes.

5 BY MR. LONG:

6 Q You saw Ezekiel punch Tommy in the face; correct?

7 A Are you asking me about the statement or if I remember?

8 THE COURT: Statement.

9 BY MR. LONG:

10 Q I'm asking --

11 A Statement?

12 THE COURT: Statement.

13 THE WITNESS: Yes.

14 BY MR. LONG:

15 Q Okay. And this punch actually knocked Tommy down on the
16 ground; correct?

17 A Is that in this --

18 THE COURT: Is that in the statement, Counsel?

19 BY MR. LONG:

20 Q No. Yeah, you can't ask -- you can't ask me questions.

21 On page 84 of the --

22 A I'm was just wondering --

23 Q -- preliminary hearing.

24 A -- because I really don't remember.

25 Q Okay. So it's your testimony today, forget the statement for a

1 minute, you don't remember Tommy going down on the ground?

2 A Yes, I remember him going on the ground.

3 Q Okay. And it's your testimony today that Tommy went down on
4 the ground because Ezekiel punched him; correct?

5 MS. BLUTH: Objection, Judge, that misstates her testimony.

6 MR. LONG: I'm asking a question.

7 THE COURT: I'll let him ask it.

8 Is that what your testimony is today?

9 THE WITNESS: [No audible response.]

10 THE COURT: Get close to the mic.

11 THE WITNESS: I'm thinking.

12 THE COURT: Okay.

13 THE WITNESS: I mean, they were fighting, so yes, yeah.

14 BY MR. LONG:

15 Q Okay. Now, you testified earlier that you felt you might have
16 been in danger, and then the State refreshed your recollection where you
17 said you were never in danger or you didn't feel like you were in danger
18 because you argue all the time; correct?

19 A Do I get to have, like, an opinion on this like seriously?
20 Because you guys be like going back and forth, asking me about a
21 statement. You guys want me to say what I remember or are we talking
22 about the statement? I know I'm not supposed to ask questions --

23 THE COURT: Okay.

24 THE WITNESS: -- but you guys are like making it harder on me
25 just asking me what I said already.

1 MR. LONG: Your Honor, could --

2 THE WITNESS: If that was the case, then why I am here.

3 THE COURT: All right. All right.

4 MR. LONG: Could you admonish the witness to answer the
5 question.

6 THE COURT: Answer his question.

7 Ask the question again.

8 BY MR. LONG:

9 Q Okay. Is it your testimony today that you felt like you or your
10 unborn child could have possibly been in danger when you and Kyriell
11 began to argue?

12 A Yes.

13 MS. BLUTH: Objection, asked and answered.

14 THE COURT: Overruled.

15 THE WITNESS: Yes.

16 BY MR. LONG:

17 Q Okay. Yet you testified just a few minutes ago that you have
18 didn't feel like you were in danger because you argue all the time; correct?

19 A She's asking me if that was in the statement, yes, that's what's
20 in the statement.

21 Q Okay. But as you sit here today, your recollection of
22 December 11th, 2014 -- I mean, 2017, I'm sorry, you felt you or your
23 unborn baby could have possibly been in danger?

24 MS. BLUTH: Objection, asked and answered.

25 THE COURT: Overruled. I'll let her answer.

1 THE WITNESS: Yes.

2 BY MR. LONG:

3 Q Okay. Now, another thing you testified to at a preliminary
4 hearing was -- are you upset that Thomas came down and did what he
5 did?

6 MS. BLUTH: Objection, outside the scope of my redirect.

7 THE COURT: Sustained.

8 MR. LONG: I don't have anything further, Your Honor.

9 THE COURT: Thank you.

10 MS. BLUTH: I just have one question.

11 **FURTHER DIRECT EXAMINATION**

12 BY MS. BLUTH:

13 Q Brittney, when Ezekiel came out of the car and you said at
14 some point he punched Thomas, when you spoke to the police and when
15 you testified at the preliminary hearing, didn't you state that he punched
16 him and it broke the fight up between him and Kyriell, between Thomas
17 and Kyriell?

18 A Yes.

19 MS. BLUTH: Nothing else.

20 Thank you.

21 THE COURT: Anything further?

22 MR. LONG: Nothing else, Your Honor.

23 THE COURT: Jury have any questions of this witness? Seeing
24 no hands. You're free to go.

25 We're going to break until tomorrow morning at 9 o'clock.

1 MS. BLUTH: Yes, Your Honor.

2 THE COURT: During the recess you're admonished not to talk
3 or converse among yourselves or with anyone else on any subject
4 connected with this trial. Or read or watch or listen to any report of or
5 commentary on the trial or any person connected with this trial by any
6 medium of information, including, without limitation, newspapers,
7 television, radio, or the Internet. Or form or express an opinion on any
8 subject connected with the trial until the case is finally submitted to you.

9 See you in the morning at 9:00. I have a civil law and motion
10 calendar, but I should be done by then.

11 [Outside the presence of the jury]

12 THE COURT: All right. The jury is out. We'll be in recess
13 tomorrow morning.

14 We will talk about jury instructions probably at the noon hour.
15 Be ready to talk about them.

16 And would both of you come up here, or all three of you, come
17 up here and discuss the evidence because Phyllis is handling where Carol
18 left off and we want to make sure everything is here.

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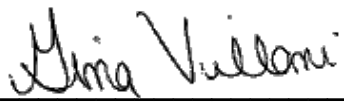
MS. BLUTH: Okay.

THE COURT: See you in the morning.

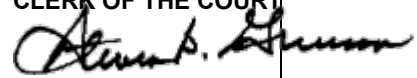
[Jury Trial, Day 5, concluded at 5:29 p.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Gina Villani
Court Recorder/Transcriber



1 **RTRAN**

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5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

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8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

10 **vs.**

11 **THOMAS CASH,**
12 **Defendant.**

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) **CASE#: C-18-329699-1**
) **DEPT. VIII**
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13
14 **BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE**
15 **TUESDAY, JUNE 26, 2018**

16 ***RECORDER'S TRANSCRIPT OF PROCEEDINGS:***
17 ***JURY TRIAL - DAY 6***

18
19 **APPEARANCES:**

20 **For the State:**

SANDRA K. DIGIACOMO, ESQ.
JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorneys

21
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23 **For the Defendant:**

KENNETH W. LONG, ESQ.

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25 **RECORDED BY: GINA VILLANI, COURT RECORDER**

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Las Vegas, Nevada, Tuesday, June 26, 2018

[Jury Trial began at 9:23 a.m.]

[Outside the presence of the jury]

THE COURT: Today is the day that you have to make a decision whether you're going to testify.

MR. LONG: Oh, the judge is talking to you. Put your headphones on.

THE COURT: Today is the day that you have to make the decision, are you going to take the stand and testify?

THE DEFENDANT: I -- yeah.

THE COURT: You are?

THE DEFENDANT: Yes.

THE COURT: You'll be subject to cross-examination, as I read to you before, you understand your past, if -- I don't know what's in your past, but if there's something within 10 years, they can bring it in.

THE DEFENDANT: I'm okay with it.

THE COURT: Okay.

All right. The jury is here?

THE MARSHAL: The jury is here.

THE COURT: You guys ready?

MS. BLUTH: Yes, sir.

MS. DIGIACOMO: Yes.

THE COURT: Okay. We have three witnesses and then we'll start the defense case.

1 Did you guys make sure you got all your exhibits marked?

2 MS. DIGIACOMO: Yes. Everything's in except for some
3 photos that are coming in this morning.

4 THE COURT: All right.

5 MS. DIGIACOMO: For us.

6 I don't have any from them.

7 MR. LONG: What's that?

8 MS. DIGIACOMO: I don't have any --

9 THE COURT: Exhibits?

10 MS. DIGIACOMO: Exhibits or --

11 MR. LONG: No, I haven't entered any.

12 [Brief pause in proceeding]

13 [In the presence of the jury]

14 THE MARSHAL: All rise, please.

15 And be seated.

16 THE COURT: Stipulate to the presence of the jury?

17 MR. LONG: Yes, Your Honor.

18 MS. DIGIACOMO: Yes, Your Honor.

19 THE COURT: Call your next witness, State.

20 MS. BLUTH: Thank you.

21 The State calls --

22 THE COURT: Good morning, ladies and gentlemen, thanks for
23 being prompt. I did have a law and motion calendar and it went a little bit
24 longer -- well, a lot longer than I thought it would. So that's why we're a
25 little late.

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JOHN HOFFMAN

[Having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Please be seated, state and spell your name for the record.

THE WITNESS: John Hoffman. J-o-h-n, H-o-f-f-m-a-n.

MS. BLUTH: May I proceed, Your Honor?

THE COURT: Go ahead.

MS. BLUTH: Thank you.

DIRECT EXAMINATION

BY MS. BLUTH:

Q Good morning, sir. How are you employed?

A I'm a Homicide detective with the Las Vegas Metropolitan Police Department.

Q How long have you been with the police department?

A 12 years.

Q Okay. I'd like to turn your attention now to December 11th of 2017, on that day were you called to a then pending homicide investigation at 3999 Pistachio Nut here in the Las Vegas Valley?

A Yes, I was.

Q All right. And can you give us a brief understanding of why it was that you personally were called to the scene?

A I was called to the scene to assist in the investigation.

Q Okay. And what was your role going to be in the investigation?

A To conduct interviews.

1 Q Okay. Now, while -- I just want to backup for a second, before
2 Homicide gets called to a scene, generally, are there first responding
3 officers that are not Homicide related, more like patrol officers, that go to
4 the scene first?

5 A Yes, yes there are.

6 Q And once it is discovered that it's a potential homicide, is it at
7 that point that Homicide detectives will respond out to the scene?

8 A Yes.

9 Q When you get there, what is the state of the investigation at that
10 point in time?

11 A At that point, we understood that Mr. Devine was deceased,
12 and that there were people who were witnesses to that that needed to be
13 interviewed.

14 Q Okay. While you were there initially, and you're being briefed,
15 for lack of a better term, does a commotion kind of start to happen?

16 A Yes, yes there was.

17 Q Can you explain to us what that commotion was and what you
18 observed?

19 A Prior to being briefed we -- like I said, we heard the commotion
20 and I saw a bunch of officers running west of where the briefing was going
21 to be conducted. What we found out was that the victim's brother had
22 entered the crime scene and had physically wrapped himself around the
23 victim's body.

24 Q Okay. And because of that, was Ezekiel Devine, was his body
25 being moved by his brother who was, you know, grabbing him and crying?

1 A Yes. At that time the officers were trying to pull them apart. So,
2 yes, the body was moved east of its original location.

3 Q Because of that, was the brother, the surviving twin, was he
4 taken into custody?

5 A Yes, he was.

6 Q All right. Now, you talked about one of your roles was going to
7 be that evening, or maybe even working into the early morning hours,
8 would be to conduct interviews; is that right?

9 A Yes.

10 Q Did you also have a role in doing a search of one of the vehicles
11 that was on the scene?

12 A Yes.

13 Q And can you give us a brief description of that vehicle?

14 A There was a white Volkswagen Jetta that was parked on the
15 north side of Pistachio Nut and that's the one vehicle that I helped search.

16 Q And what were you searching for?

17 A Any weapons, any blood evidence, things like that.

18 Q Okay. And in searching that Jetta, did you find any weapons
19 inside of it?

20 A No, we did not.

21 Q Okay. Now, I'm going to show you what's already in evidence,
22 State's 29, and I'm going to zoom out for you so we can see the car in its
23 entirety, would this be the white Jetta that you searched?

24 A Yes.

25 Q I'm not going to show you every single picture of the Jetta that

1 was taken.

2 But showing you, in the inside, State's 37, did you search the
3 vehicle in its entirety, meaning anywhere that you thought weapons may,
4 you know, be able to be out in the open or even hidden?

5 A Yes.

6 Q Okay. Showing you State's 38, would this be the inside driver's
7 seat?

8 A Yes.

9 Q Showing you State's 39, would this be the floorboard of the
10 vehicle?

11 A Yes.

12 Q Showing you State's 40, front passenger?

13 A Yes.

14 Q State's 41, obviously, also searched the back of the vehicle?

15 A Yes.

16 Q And it's your testimony that through the search that you and --
17 were you working by yourself during the search or were you working with
18 other detectives or sergeants as well?

19 A Sergeant Harney was assisting in searching the vehicle.

20 Q All right. Now, at some point, was the residence in and of itself
21 actually searched?

22 A Yes.

23 Q And when I use the term, residence, I'm referring to the 3999
24 residence?

25 A Yes.

1 Q And were you part of that search as well?

2 A After it had begun, yes.

3 Q Okay. And what were you -- what was the point of you guys
4 searching the Pistachio Nut address?

5 A To see if there was any other evidence inside the residence.

6 Q And when you say, evidence, meaning like any weapons?

7 A Weapons, blood, anything like that.

8 Q Okay. Again, did you find any weapons or knives that you
9 thought were used that evening in the homicide of Mr. Devine?

10 A Not that I believe so, no.

11 Q Okay. In regards to interviews at the scene, who did you
12 interview?

13 A I interviewed Brittney Turner and Angel Christy Turner.

14 Q Okay. And do you remember about what time those interviews
15 took place?

16 A Brittney was at approximately 9:40 p.m. and Angel Christy was
17 at 11:00 p.m.

18 MS. BLUTH: Okay. Thank you so much.

19 That concludes my direct examination. I'll pass the witness,
20 Your Honor.

21 **CROSS-EXAMINATION**

22 BY MR. LONG:

23 Q Detective Hoffman, the car that you searched, the white VW
24 Jetta, you stated that it was cold plated; correct?

25 A Yes.

1 Q And that means it didn't have valid registration?

2 A Yes.

3 Q Okay. And there was a bullet hole in the car?

4 A Yes, there was.

5 Q And you didn't look to see if there was a bullet actually lodged in
6 the car?

7 A No, we did not.

8 Q Okay. And you didn't impound anything from the car; correct?

9 A No, not personally, no.

10 Q You didn't find any what you believe to be blood evidence or
11 weapons or anything of that nature?

12 A No weapons inside, no.

13 Q Okay. Now, before you searched this car, this car had been
14 moved by Kyriell; correct?

15 A Yes.

16 MR. LONG: Okay. I don't have any further questions.

17 **REDIRECT EXAMINATION**

18 BY MS. BLUTH:

19 Q Mr. Long had just asked you about a bullet hole in the vehicle,
20 at any point in time, while you were on scene, was there any other
21 evidence that a gun had been used? For instance, like a cartridge case or
22 anything like that in the crime scene?

23 A No, none at all.

24 Q Was there any information ever given that anyone had used a
25 gun or shot a gun?

1 A No.

2 MS. BLUTH: Nothing further.

3 Thank you.

4 MR. LONG: Nothing further.

5 THE COURT: Jury have any questions of this witness? Thank
6 you, sir. You can go.

7 Call your next witness.

8 MS. DIGIACOMO: Thank you.

9 The State calls Matthew Gillis.

10 **MATTHEW GILLIS**

11 [Having been called as a witness and being first duly sworn, testified as
12 follows:]

13 THE CLERK: Please be seated, state and spell your name for
14 the record.

15 THE WITNESS: Matthew Gillis. M-a-t-t-h-e-w, G-i-l-l-i-s.

16 MS. DIGIACOMO: My I?

17 THE COURT: Yes.

18 MS. DIGIACOMO: Thank you.

19 **DIRECT EXAMINATION**

20 BY MS. DIGIACOMO:

21 Q Sir, how you employed?

22 A With the -- as a detective with the Las Vegas Metropolitan
23 Police Department.

24 Q How long have you been with Metro overall?

25 A 19 years.

1 Q How long have you been a detective with Metro?

2 A Probably about 15 years.

3 Q All right. And directing your attention to December of 2007,
4 where were you assigned at that time?

5 A With the Homicide section.

6 Q And is that where you still currently are?

7 A Yes, that's correct.

8 Q All right. Now, on December 11th, 2017, did you get called out
9 to basically 3999 Pistachio Nut regarding a homicide?

10 A That's correct.

11 Q Do you know approximately what time you were called out?

12 A I was called out at 1920 hours.

13 Q So 7:20?

14 A Yeah.

15 Q How was it that you were called out, I guess, how is it normally
16 assigned who gets called out on a homicide?

17 A Well, we have a rotation base. We have four teams and it goes
18 by rotation. And it just happened -- the homicides, our team happened to
19 be up team ready to catch the next homicide. And myself and my partner
20 were the primary two on our squad.

21 When a homicide occurs, the -- either the area lieutenant or
22 dispatch will request Homicide through the Homicide lieutenant, the
23 Homicide lieutenant then contacts that sergeant that's up for that team,
24 and then that -- depending on the -- how big the incident is, the sergeant
25 will then notify how many detectives he needs to respond to that scene.

1 Q Okay. So who is your sergeant?

2 A My sergeant is Detective Sergeant Harney.

3 Q And who was on your team in December of 2017?

4 A Responded was myself -- I'm sorry, Detective John Harney,
5 Detective Hoffman, Detective McCarthy, Detective Williams, and myself.

6 Q All right. Are there anyone else that are on your team that didn't
7 respond or is that your whole team?

8 A That -- there are other detectives on our team that did not
9 respond.

10 Q All right. That's who was called out?

11 A That's correct.

12 Q And you said that you and Detective McCarthy were assigned
13 the lead?

14 A That's correct.

15 Q All right. So when you get to the scene, how, I guess, well, first
16 of all, about what time did you arrive? If you're called about 7:20 p.m.,
17 what time did you get there?

18 A I arrived roughly 8:22.

19 Q So about an hour after called out?

20 A That's correct.

21 Q All right. When you arrive, who from your team is there?

22 A Pretty much everyone arrived prior to me and that's because of
23 the distance that I had to drive and I got stuck in it. That time they had all
24 that construction going on. So it took me a little bit longer than the rest of
25 the team to get there.

1 Q So when got there Harney, McCarthy, Williams, and Hoffman
2 were all present?

3 A That's correct.

4 Q Okay. What's the first thing that you do with your team when
5 you get to a scene?

6 A First thing we do when we all arrive is we get briefed on the
7 situation by the officers at the scene. We get a briefing.

8 Q All right. And who briefed you, if you remember?

9 A It was Officer Starks and Officer Smith.

10 Q Do you also, after getting briefed, then do a walkthrough?

11 A That's correct. We have those officers that were there walk us
12 through the scene to make sure that we are not missing anything or we
13 didn't miss anything during the brief or we know exactly where and what
14 they're talking about.

15 Q All right. So when you do the walkthrough, where do you start,
16 in the street?

17 A We started in the street, yes.

18 Q All right. And did you see where the deceased was?

19 A Yes.

20 Q All right. Had you learned anything in the briefing or had you
21 seen anything about where that body had come to lie?

22 A During the briefing, we were told that when the officers arrived,
23 they had setup crime scene tape and they had blocked the streets with
24 vehicles, and they were -- and separated people out. But some of the
25 decedent's family had arrived. The brother, actually it was the twin

1 brother of the decedent, was very emotional. He entered in through the
2 crime scene beyond the tape. The officers tried to instruct him to go back
3 on the other side of the tape. He ran towards the location of where his
4 brother was laying in the street. Actually grabbed his brother and starting
5 dragging him in the street when officers took him into custody.

6 Q Okay. Now, so when you walk and you see where the body is,
7 did you notice anything about the blood on the ground?

8 A Yes.

9 Q And what did you notice?

10 A From the location of where the body was initially located you
11 could you see that there was a red substance consistent with blood that
12 was pooled in the street. There was a medical sheet that was partially
13 covering the decedent. And then you could see the location of where the
14 victim had been dragged. You could see that there were blood transfer
15 from location of where the pooled blood was to -- showing the
16 directionality of where the victim was then laying.

17 Q All right. I'm going to show you on the equipment State's
18 Exhibit, already been admitted, 53.

19 All right. Do you recognize what's depicted in this photograph?

20 A Yes, I do.

21 Q Okay. So if you can go ahead and, I guess, show the jury what
22 you're talking about, the pool of blood and you talked about blood
23 transfer?

24 A Okay. So on the bottom left hand of the screen, you can see
25 the pooled, the red substance, which is consistent with blood.

1 Q You can circle or touch the screen, if you need to.

2 A Oh, you can touch; okay.

3 So right here you can see the pooled blood and that indicates to
4 us -- and that's also where our officers tell us that the body was initially
5 located.

6 Q And you -- when you made a mark, it didn't show, are you
7 talking about this?

8 THE COURT: Can you circle it.

9 THE WITNESS: Yeah, this.

10 BY MS. DIGIACOMO:

11 Q Oh, there it is.

12 A Okay. I just didn't press hard enough.

13 Q Okay.

14 A So this location of where the pooled blood is, that's the location
15 of where our officers tell us that the body was initially located. We can
16 also see that from the pooled blood of where that, that's the location of
17 where the bloods coming out of the body.

18 The brother of the decedent entered the crime scene, wound up
19 grabbing the arms of the decedent, and was dragging him. This location,
20 you can see the drag, the transfer of blood marks showing the
21 directionality of where the location of where -- the second location of
22 where the body came to rest.

23 Q Okay. And then after the body was moved, is it your
24 understanding no one else touched the body?

25 A Other than the coroner, no.

1 Q And is that normal at a scene that it's the coroner that touches
2 the body?

3 A Yes, it's the coroner and the mortuary that -- well, actually, the
4 coroner will actually do an external examination of the body, a limited
5 external examination. And then the mortuary will help put the body into a
6 body bag. But nobody else touches it.

7 Q So with regard to the twin brother who touched the body, did
8 you consider that as, I guess, contaminating the crime scene?

9 A Yes.

10 Q And was he eventually arrested?

11 A Yes, he was.

12 Q And whose call was that?

13 A That was the call of the officers that were on the scene that
14 observed the incident who ordered him out of the crime scene and saw
15 him move the body, as well as my partner, they spoke to my partner,
16 Detective McCarthy, and that was the decision that was made.

17 Q I think you said this, but when you got to this scene on
18 Pistachio Nut, did you say that there was police tape up?

19 A There was police tape up, there were police cars blocking the
20 street, yes.

21 Q All right. Okay. So you see the body in the street, what else do
22 you notice in the street?

23 A In the street you can also see that there were red substance
24 assistant with blood, blood droplets that were leading from the location of
25 where the initial body was locating, indicating a directionality, a path that

1 the blood was going, and that was leading to a sidewalk up the driveway
2 and along to the front door of an address at 3999 Pistachio Nut.

3 Q All right. So you have where the body is, you have a blood trail
4 leading up to 3999 Pistachio Nut, did you have any information at the time
5 as to where the suspect may have gone?

6 A We were told that the suspect had fled. He was last seen
7 heading towards that residence.

8 Q The 3999?

9 A Correct.

10 Q Okay. Also where the body was, was there any vehicles or
11 anything else that was included as part of the crime scene?

12 A The -- that vehicle that you had seen, the white Volkswagen, I
13 believe it was a Jetta, that was there, that vehicle there was --

14 Q Showing you State's Exhibit 9.

15 A That's correct.

16 That vehicle had blood transfer on the driver's side door and we
17 later found out that that vehicle was moved by Kyriell Davis. He had put
18 the vehicle into the street that way -- 'cause there was vehicles coming
19 down the street. He was trying to prevent anyone from running over his
20 friend that was laying in the street.

21 Q All right. And you said that there was blood transfer, showing
22 you State's Exhibit 36, if you can kind of circle for the jury what you're
23 talking about.

24 A [Witness complies.]

25 Q And, I guess, can you just explain to the jury what you mean by

1 blood transfer?

2 A Blood transfer occurs where if, say I have blood on my hands
3 and I pick up something or I brush up against something, I'll transfer the
4 blood from my clothing or from my arm onto the object that I'm touching.
5 So in this case, if the individual had blood on their hands or their clothing,
6 and he's grabbing a door handle, he'll transfer that blood from his hand --
7 or his clothing to the vehicle.

8 Q All right. And where you circled, it's just right below the door
9 handle to get into the driver side door?

10 A That's correct.

11 Q Do you know -- well, I guess, when you -- after you walk the
12 scene, what was your assignment for this crime scene? What were you
13 specifically tasked to do?

14 A The sergeant breaks up the assignments. My specific
15 assignment is I was assigned documentation of the crime scene and the
16 creation of our officer's report, which is it the synopsis of the investigation.

17 Q When you say, synopsis, are you talking about a one page
18 report or?

19 A It's a multiple page report that -- it's like an overview of the
20 entire case file of the investigation.

21 Q So it summarizes witness statements, who was there, all that?

22 A That's correct.

23 Q Okay. Now, before you got there, there were patrol officers and
24 other general assignment detectives that arrived?

25 A Patrol detectives, yes.

1 Q Okay. And do you know approximately how many patrol
2 officers and detectives not with Homicide were involved with this scene?

3 A There were 40 patrol officers. As for detectives, can I refresh
4 my recollection by going to the officer's report to look at --

5 Q If that would refresh your recollection.

6 A I know there were 40 patrol officers but I'm not sure on how
7 many detectives were there prior to our arrival.

8 MS. DIGIACOMO: Court's indulgence.

9 Your Honor, may I approach?

10 THE COURT: Yes.

11 BY MS. DIGIACOMO:

12 Q All right. Sir, I'm going to show you page a 20 page report
13 entitled Officer's Report at the top. Do you recognize this?

14 A Yes, I do.

15 Q How do you recognize this?

16 A This is my officer's report.

17 Q All right. Did you sign it on the bottom?

18 A Yes, I did.

19 Q All right. And this has to do with the case we're talking about
20 right now?

21 A That's correct.

22 Q All right. So if you would like to look at that and refresh your
23 recollection.

24 A So there were total of 40 patrol officers and four patrol
25 detectives.

1 Q Okay. Thank you.

2 So you said when you got to the scene you saw the body in the
3 street laying there as we saw it in that photograph; correct?

4 A That's correct.

5 Q All right. And you said that the body is not touched until a
6 coroner investigator gets there?

7 A That's correct.

8 Q Are you present when the coroner investigator gets there?

9 A Yes, I am.

10 Q Is that sometime after you arrived?

11 A Yes.

12 Q And when the coroner investigator got there, were, I guess, did
13 they move so that you could see parts of the body?

14 A Yes. The coroner investigator will conduct an external
15 investigation of the body, the body was faced down, he wound up rolling
16 the body onto the back, and then from the front we could see that there
17 was a defect in the clothing. The coroner investigator lifted up the shirt
18 and then we saw a gaping stab wound to the chest above the heart.

19 Q All right. So you're assigned to do the scene and the report?

20 A That's correct.

21 Q What are the other detectives all assigned to do?

22 A The other detectives were assigned additional duties, being
23 investigating any potential witnesses or contacts, conducting canvass,
24 looking for any further evidence, or conducting -- looking for any type of
25 video surveillance.

1 Q All right. Do they also take part in either searching, I guess,
2 searching any areas that need to be searched?

3 A That's correct.

4 Q All right. So what -- you walk the scene outside the house, do
5 you eventually go inside 3999 Pistachio Nut?

6 A After we -- Detective Sergeant Harney obtained a search
7 warrant, we entered the residence. We could see that the blood trail led
8 from location of the street, up to the sidewalk, up the driveway, along the
9 path to the front door. Just inside the front door on the tile there was a red
10 substance consistent with blood just inside the front door. And then north
11 through the residence the area of where the kitchen is, there's a glass
12 sliding glass door, and there was red substance consistent with blood on
13 the blinds, on the sliding glass door, on the handle, which also led out the
14 rear north sliding glass door, blood on the back patio. And then as we
15 searched the area in the backyard we were also able to see that there
16 was red substance consistent with blood in a transfer on the back wall,
17 leading over the back wall to the residence behind there, which I believe
18 was 3998 Spruce Fern.

19 Q Okay. Did you actually go over to 3998 Spruce Fern?

20 A Yes.

21 Q And did that blood continue?

22 A Yes, it did.

23 Q All right. Where did it continue?

24 A It continued over the wall and into -- there was a white towel
25 that had a red substance that was consistent with blood in that yard as

1 well.

2 Q All right. Did you follow it outside of that backyard?

3 A Yes.

4 Q All right. Where did the blood trail end?

5 A It wound up going over the next wall, going out to the street to
6 the Spruce Fern.

7 Q All right. I'm going to show you State's Exhibit Number 3, let me
8 zoom in for you.

9 All right. Do you see where 3999 Pistachio Nut is located?

10 A That's correct.

11 Q All right. Do you see where, I think you said it was 3998 Spruce
12 Fern, the residence that you were talking about?

13 A Yeah, the backyard.

14 Q All right. Can you circle that backyard and residence for the
15 jury, please.

16 A [Witness complies.]

17 Q Press hard.

18 A [Witness complies.]

19 Q Okay. So that's the backyard?

20 A Correct.

21 Q And that's where you saw the blood transfer?

22 A That's correct.

23 Q And the wall that goes along Nutcracker Court, is that where
24 you saw the blood transfer on the other side?

25 A Correct. On both sides and then the towel in the dirt portion.

1 Q Okay. Now, you said when you got to the backyard of
2 3999 Pistachio Nut that there was blood transfer on the wall, as well as
3 continued into the backyard of the Spruce Fern address?

4 A Correct.

5 Q And that was all blood transfer; correct?

6 A Yes.

7 Q Other than -- well, okay.

8 When you saw the blood as you first entered up the walkway to
9 3999 Pistachio Nut through the house to the backyard, how would you
10 characterize the blood that you saw there?

11 A They were consistent with blood drips.

12 Q And how do you know that?

13 A From the diameter of the blood, you can tell that the degree, the
14 angle that the blood is falling, it's a round circular. And we can get
15 directionality because there actually will be a tail to the blood drip that's
16 showing you the directional path of the blood.

17 Q Okay. So it appeared somebody was dripping blood up to the
18 house through the house?

19 A Correct.

20 Q Until you got to the back wall and then it appeared it was on
21 their hands or something that transferred it or clothing?

22 A Correct. Either their clothing or hands.

23 Q All right. So as you're walking the house and looking for
24 evidence, and you see this blood, are you working with the crime scene
25 analyst that's actually going to be --

1 A That's correct. We're actually together as we're going through
2 this. They're also making the same observations I am, and they are
3 dropping cones, you know, to preserve that locations and note it for the
4 photographs and then they'll actually go and they're the ones that actually
5 collect those blood samples.

6 Q Okay. Did you tell the crime scene analyst who was actually
7 doing the collection of the blood samples what you wanted?

8 A That's correct, the locations.

9 Q What did you tell them?

10 A I wanted samples from the street, from the driveway, from
11 inside the residence, the back slider, the back patio, and the back fence.

12 Q All right. And why did you want blood swabs of those locations?

13 A Those are the -- that's the -- the path that -- the location of
14 where the initial incident occurred and then the path showing the location
15 of where the suspect was moving, where he was going, where he was
16 fleeing, and that would show me who was involved. If it was going to be
17 the suspect blood or if it's going to be victim's blood or it's going to be a
18 mixture of the two. We want to make sure we get the blood samples from
19 the location of where it happened at, the location of where the person
20 traveling, and to the last location that we -- that we get -- we find blood.

21 Q All right. Now, were you concerned at all about taking a blood
22 sample or swab from where you said that the victim would have originally
23 bled out?

24 A That pooled blood area we knew that that was going to be the
25 victim's. I believe they took the samples from the blood drops, the blood

1 droplets.

2 Q Just leading away from the scene?

3 A Correct.

4 Q Okay. And were you concerned at all about getting a blood
5 sample from the little blood transfer that was on the white Jetta, the
6 driver's door?

7 A No. We knew that this was going to be a transfer. And we
8 know that --

9 Q Okay. From the victim's blood?

10 A Yeah, the victim.

11 Q Okay. Now, when inside the house you notice the blood and
12 you ask the CSA to collect blood swabs, was there anything else that --
13 when the warrant was obtained, you were looking for inside that
14 residence?

15 A We were looking for a knife.

16 Q And why were you looking for a knife?

17 A Because we knew that the victim had sustained a stab wound.

18 Q All right. Did you find any -- or did anyone find any knives in the
19 residence that you believed could possibly have caused the injury to the
20 victim?

21 A No. We didn't find any knives that -- that the path that the blood
22 took, the blood wasn't in the location of where the sink was or where the
23 knife blocks were. There were some knives that were in the sink but there
24 was no blood droplets that were diluted with water. There was no red
25 substance consistent with blood on any of the knives from either the block

1 or from the sink. And there was no 90 degree blood droplets that showed
2 us that that individual had gone to that sink. The path went from the front
3 door, around the couch, and out the back slider.

4 Q Okay. So is it fair to say when you arrived at this scene, you
5 had a victim, and there was, you said witnesses there, but there was no
6 suspect?

7 A That's correct.

8 Q You said Detective Sergeant Harney obtained search warrant
9 for the residence at 3999 Pistachio Nut and some vehicles?

10 A That's correct.

11 Q What vehicles did he get warrants for?

12 A The -- that white Jetta, we knew that that vehicle was there. We
13 knew that. We saw the blood transfer. We didn't know if there was going
14 to be any weapons or anything inside, so obtained a search warrant for
15 that. There was another vehicle, a Cruze, I believe, it's a Chevy Cruze.
16 We knew that vehicle had came to the location, had picked up, I believe, it
17 was Brittney Turner, had left and then returned. We didn't know if that
18 vehicle was involved at all, if it had picked up a suspect or not. So search
19 warrant was obtained for that vehicle as well. As well as buccal swabs.

20 Q And I'm showing you State's Exhibit 1 -- oh, let me zoom out --
21 State's Exhibit 183, is that that Chevy Cruze?

22 A Yes.

23 Q Do you know who was driving this vehicle?

24 A I believe it was Brittney Turner's mother and I believe her last
25 name was White.

1 Q Okay. And you said this car was searched?

2 A Yes.

3 Q All right. And that was by whom?

4 A By Detective McCarthy.

5 Q All right. Anything of evidentiary value that was taken or
6 impounded from this car?

7 A No.

8 Q All right. So no blood swabs?

9 A No.

10 Q No weapon found?

11 A Nothing of evidentiary value located during the search.

12 Q And what about the Jetta?

13 A Detective Hoffman searched that one and he noted nothing of
14 any evidentiary value. No weapons. Nothing other than the blood on the
15 door handle and he noted that there was a mark -- a defect in the vehicle.

16 Q Okay. Are you -- okay.

17 So you were basically the case agent, other detectives, all other
18 four detectives were taking interviews from witnesses at the scene?

19 A That's correct.

20 Q Do you know what witness's statements were taken from that
21 night at the scene?

22 A May I refresh my recollection to the Officer's Report and I'll be
23 able to tell you the names.

24 Q If that would refresh your --

25 A Yes.

1 MS. DIGIACOMO: Your Honor, may I approach?

2 THE COURT: Yes.

3 BY MS. DIGIACOMO:

4 Q All right. Sir, I'm going to hand you the 20 page Officer's Report
5 again.

6 A Yeah. I was just going to make sure it mirrored the statements.
7 Brittney Turner, Kyriell Davis, K-y-r-i-e-l-l, Davis, Angel Kristy
8 Turner, and it's A-n-g-e-l, K-r-i-s-t-y.

9 And I'm just going to spell this one. I-s-i-d-r-a, Carolina, and the
10 last name is A-r-a-i-z-a, Flores, with an S.

11 Tyrone Woodard, T-y-r-o-n-e, Woodard, W-o-o-d-a-r-d.
12 Tamiash, T-a-m-i-a-s-h, Kinchron, K-i-n-c-h-r-o-n.

13 Cheryl Cash, and it's C-h-e-r-y-l, Cash, C-a-s-h.

14 And it's Tigiyosef, T-i-g-i-y-o-s-e-f.

15 And Antoinette White, A-n-t-o-i-n-e-t-t-e, White, common
16 spelling.

17 And then, of course, Thomas cash.

18 Q All right. So those were the witnesses that were interviewed at
19 the scene?

20 A Correct.

21 Q Okay. During your investigation, did you learn of another
22 person by the name of Sandy Cash?

23 A No.

24 Q So not a witness at the scene that night?

25 A No. We were not briefed on that name and none of the

1 witnesses gave us that name, no.

2 Q Okay. If she had been a witness at the scene or you learned
3 that she was a witness to something, would detectives have interviewed
4 her?

5 MR. LONG: Objection, speculation. We don't know what they
6 would have done.

7 THE COURT: Sustained.

8 BY MS. DIGIACOMO:

9 Q Okay. You were the case agent assigned?

10 A Correct.

11 Q If you had learned of a witness after this night that could have
12 information regarding your case, would you have interviewed her?

13 MR. LONG: Renew my objection.

14 THE COURT: Overruled.

15 THE WITNESS: Yes.

16 BY MS. DIGIACOMO:

17 Q And you never interviewed a Sandy Cash?

18 A No.

19 Q Now, there was a cell phone that was collected that was in the
20 street by the decedent's body, do you recall seeing that at the scene?

21 A Yes.

22 Q All right. Did you learn after the fact whose phone that that
23 belonged to?

24 A Yes. It was the decedent's brother who had entered the crime
25 scene and grabbed his brother.

1 Q All right. How long were you at the scene?

2 A From the time I arrived, which was 9:22, and then I left --

3 Q Wait, I'm sorry, you arrived at 9:22 or 8:22?

4 A I'm sorry, 8:22.

5 Q Okay. And you -- what time did you clear the scene?

6 A I believe I cleared it at -- I'm not sure what time I cleared it but I
7 arrived home at 0206.

8 Q All right. So you got home --

9 A And so it would have driving time.

10 Q So you cleared the scene and were home by 2:00 a.m.?

11 A Yes.

12 Q So within six hours?

13 A Right.

14 Q All right. As you got home, did something happen?

15 A As soon as I arrived home my partner, Detective McCarthy,
16 contacted me and he had been contacted by Thomas Cash who agreed to
17 meet with us and talk.

18 Q All right. So after you received this call from
19 Detective McCarthy, what did you then do?

20 A I drove to our police headquarters, located at 400 South Martin
21 Luther King Boulevard, and I met with Detective McCarthy and a
22 Thomas Cash.

23 Q All right. What time did you get there and meet with the
24 Defendant?

25 A It was approximately 0330 in morning on the 12th.

1 Q All right. Now, the person that you met with at, identified
2 themselves as Thomas Cash, do you see him in the courtroom here
3 today?

4 A Yes, I do.

5 Q Would you point to the person that you're referring to and
6 describe an article of clothing that he's currently wearing?

7 A He's wearing a gray shirt, button up shirt.

8 THE COURT: Record reflect he's identified the Defendant.

9 MS. DIGIACOMO: Thank you.

10 BY MS. DIGIACOMO:

11 Q Did you notice anything about the Defendant's appearance
12 when you first saw him?

13 A When I first saw him, he had a injury to the nose. He lifted up
14 or actually removed his black sweatshirt, exposing his white tank top,
15 which had red substance which was consistent with blood. There was a
16 red substance consistent with blood on his pants and shoes as well.

17 Q Okay. And you said he had an injury to his nose, what was --

18 A That's correct.

19 Q What was that injury?

20 A He had a -- a laceration or a cut to the nose.

21 Q All right. Based on what you observed from the Defendant, did
22 you call out a CSA?

23 A Yes.

24 Q And what did you call out a CSA for?

25 A The CSA came to document the injuries, overall appearance,

1 and collect the clothing.

2 MS. DIGIACOMO: Your Honor, may I approach?

3 THE COURT: Yes.

4 MS. DIGIACOMO: Thank you.

5 BY MS. DIGIACOMO:

6 Q All right. Sir, I'm going to show you what's been marked for
7 identification as State's Proposed Exhibits 224 through 248. If you can
8 just flip through these and let me know when you're done, please.

9 A I'm done.

10 Q All right. Are these photos that were taken by the crime scene
11 analyst on the early morning hours of December 12th, 2017?

12 A That's correct.

13 Q All right. All fairly and accurately depict the way the Defendant
14 looked while at your headquarters that morning?

15 A That's correct.

16 Q All right. When --

17 THE COURT: Have you moved those in?

18 MS. DIGIACOMO: Oh, I'm sorry.

19 I would move -- the State would move for admission of State's
20 224 through 248.

21 Thank you, Your Honor.

22 MR. LONG: We've agreed already, stipulated, so no objection.

23 THE COURT: Be admitted.

24 MS. DIGIACOMO: Thank you.

25 **[STATE'S EXHIBITS 224 THROUGH 248 ADMITTED]**

1 BY MS. DIGIACOMO:

2 Q When the crime scene analyst comes to take these photos, is
3 the -- Mr. Cash told that this was going to happen?

4 A Yes.

5 Q Okay. When you spoke to him, did he agree to have his photos
6 taken and his clothes taken?

7 A Taken yes.

8 Q Okay. And did he actually --

9 A He signed a consent form, yes.

10 Q He signed an actual consent form; okay.

11 MS. DIGIACOMO: Your Honor, may I have this marked?

12 THE COURT: Sure.

13 Next in order.

14 MS. DIGIACOMO: Thank you, Your Honor.

15 And, Your Honor, may I approach?

16 THE COURT: Yes.

17 BY MS. DIGIACOMO:

18 Q All right. Sir, now I'm going to show you what's been marked as
19 State's Proposed Exhibit 267, do you recognize what this is a copy of?

20 A That's a copy of a consent to search card.

21 Q And how do you know it relates to this case?

22 A It has the date, the event number, the event numbers, the event
23 number that's assigned to this case, the name on it of being Thomas
24 Cash, and I signed it at the bottom next to Thomas Cash.

25 Q All right. Did he sign it in front of you?

1 A Yes, he did.

2 MS. DIGIACOMO: Okay.

3 And, Your Honor, I move for admission of State's Proposed
4 Exhibit 267.

5 MR. LONG: No objection.

6 THE COURT: Be admitted.

7 MS. DIGIACOMO: Thank you.

8 **[STATE'S EXHIBIT 267 ADMITTED]**

9 BY MS. DIGIACOMO:

10 Q All right. So he's told the CSA is coming, did either you or
11 Detective McCarthy tell him, make sure you point out anything that you
12 want documented, any injuries, et cetera?

13 A I'm not sure if it was myself or Detective McCarthy. But we did
14 explain to him if he had any injuries to make sure that he pointed them
15 out.

16 Q Okay. And I'm going to show you State's Exhibit 224 on the
17 equipment, is this a -- the way he looked after he lifted up his sweatshirt?

18 A That's correct.

19 Q So he was wearing a dark sweatshirt over this white --

20 A Yes.

21 Q -- thermal?

22 Did it completely cover the thermal?

23 A Yes.

24 Q And showing you State's Exhibit 228, is this a close-up of the
25 Defendant's face that night or morning?

1 A Yes.

2 Q And where was it that you saw the injury to his nose?

3 A On the right side of his nose.

4 Q Showing you State's Exhibit 229, is that what you're referring
5 to?

6 A Yes.

7 Q Okay. And so it's -- at the time he comes in to see you, it's
8 scabbed over?

9 A Yeah, it's no longer bleeding.

10 Q And then showing you State's Exhibit 231, is that just the same
11 injury with a scale next to it?

12 A That's correct.

13 Q Now, would up have --

14 Okay. So you call a CSA, did you tell the CSA to make sure to
15 document clothing and any injuries?

16 A Yes.

17 Q All right. Did you specifically want his hands photographed?

18 A Yes. And that's also part of their typical protocol too. But, yes,
19 we did.

20 Q And what's the protocol?

21 A They do overalls of the -- all four corners, which is the front, the
22 sides, the back. Overalls of the -- close-up of the face, any specific
23 injuries in the hands. But I did ask specifically for the -- to look at the
24 hands.

25 Q And why did you want the hands specifically?

1 A Because we were told that Mr. Cash was in a fight with the
2 decedent and he had actually punched the decedent. So we were looking
3 to see if he had any injuries to the hands.

4 Q Okay. Did you see any injuries to the hand --

5 A I did not.

6 Q -- defendant's hands?

7 All right. Showing you State's Exhibit 232, what's depicted
8 there?

9 A This is going to be the right and left hand of Thomas Cash.

10 Q Showing the tops of them?

11 A That's correct.

12 Q And then showing you State's Exhibit 233, is that showing the
13 palms?

14 A That's correct.

15 Q And you saw no injuries with your --

16 A I didn't note any injuries, no, to the hands.

17 Q All right. And showing you State's Exhibit 234, is this the way
18 the blood on his shirt appeared when he first got there and showed you?

19 A After he removed the black top, yes.

20 Q All right. It didn't appear to still be wet or fresh?

21 A No.

22 Q Showing you State's Exhibit 236, is this a photograph taken
23 after he's removed the white thermal?

24 A Correct.

25 Q And showing you State's Exhibit 238 -- actually let me go to

1 State's Exhibit 240, do you see -- did you see any injury to this portion of
2 his upper right arm when you saw him?

3 A After Mr. Cash pointed out, we observed an abrasion -- or two
4 abrasions to the right upper arm.

5 Q Okay. And that's why that was photographed?

6 A That's correct. He's pointing it out to the CSA.

7 Q Other than his nose and the injury to his right upper arm, was
8 there any other injuries that were pointed out to you?

9 A No.

10 Q And was there also some blood on his pants and shoes?

11 A Yes.

12 Q Showing you 244, does that show some of that?

13 A Yes.

14 Q And then State's Exhibit 248, does that show some of it on the
15 shoe?

16 A Yes.

17 Q All right. Now, you have the blood evidence, the swabs taken
18 from the scene, did you also instruct the CSA to take buccal swabs from
19 Kyriell Davis and Brittney Turner?

20 A Say the last part -- from Kyriell Davis?

21 Q Yeah, Kyriell Davis and Brittney Turner?

22 A Yes.

23 Q And what was the purpose of getting buccal swabs from them?

24 A The reason why is we were taking buccal swabs from the
25 people that were involved in the altercation or that were there in the street.

1 If any -- if anyone had any injuries or if there's any other red substance
2 consistent with blood there, if we wound up getting any -- anything from
3 any of the clothing or anything like that, we wanted to be able to compare
4 it so there wasn't an unknown -- any unknown DNA.

5 Q All right. So the whole point of taking a buccal swab is to obtain
6 a person's DNA?

7 A That's correct.

8 Q Did you obtain a buccal swab from the Defendant when he
9 came in on the early morning hours of December 12th?

10 A Yes.

11 Q And that was part of that consent that we saw?

12 A It was a different consent form. And it goes with the packet to
13 the DNA lab.

14 Q Okay. So you took a buccal swab from the Defendant that
15 morning?

16 A That's correct.

17 Q All right. Now, when you called the CSA to come document the
18 Defendant, were there any weapons that were impounded that morning by
19 either yourself or the CSA?

20 A No. There were no weapons located at the scene, even after
21 the removal of the body. Nothing that matched from the residence, there
22 was nothing on Mr. Cash when he came to headquarters.

23 Q Okay. So never found the weapon?

24 A No.

25 Q Is that fair to say?

1 A Yes.

2 Q Did you ever go home that morning after meeting with the
3 Defendant?

4 A We went to autopsy.

5 Q Okay. So after the Defendant came into Homicide, was he
6 arrested?

7 A Yes.

8 Q All right. And then you and who went to autopsy?

9 A Myself and Detective McCarthy -- I'm sorry Detective Hoffman
10 went to autopsy.

11 Q All right. Did either you or Detective Hoffman contact Sergeant
12 Detective Harney?

13 A Yes.

14 Q All right. And who was that?

15 A I did.

16 Q Okay. And did you did ask Sergeant Harney to do something?

17 A Yes, I asked him --

18 Q Just what did you specifically ask him to do?

19 A To look at the path from the residence, look for some dirt lots.

20 Q Okay. So you wanted him to go out where Pistachio Nut
21 residence was?

22 A Yes.

23 Q And look for dirt areas?

24 A The path from the residence, away from there, looking for
25 specifically for dirt lots.

1 Q Okay. And what was he specifically -- what did you ask him to
2 look in those dirt lots for?

3 A For a broken folding knife.

4 Q Did you submit for any requests regarding DNA testing
5 regarding the swabs at the scene and the buccals that were taken?

6 A Yes, I did.

7 Q And when did you submit that request?

8 A As soon as they were enter -- which is -- as soon as they were
9 impounded and uploaded in the computer system, I requested the
10 forensic analysis.

11 Q All right. So what specifically did you request to be tested?

12 A All the buccal swabs that were recovered from the scene.

13 Q So that would have been?

14 A From Brittney Turner and Kyriell Davis, the DNA swabs that
15 were collected from the scene, the clothing that Thomas Cash was
16 wearing, as well as the buccal, and the DNA swabs from his hands.

17 Q So, I'm sorry, DNA swabs from the Defendant's hands?

18 A That's correct.

19 Q Were those taken by the CSA --

20 A Yes.

21 Q -- when he was photographed?

22 A Yes.

23 Q Okay. What about the swabs taken from the hands of the victim
24 at autopsy?

25 A And autopsy, the swabs that were taken at autopsy as well.

1 Q So you would have requested that in December of 2007?

2 A It was the beginning of January was when all of it was finally
3 uploaded into the system.

4 Q Oh, so January of 2018 you requested the DNA?

5 A That's correct.

6 Q All right. Has the DNA been completed as you sit here today?

7 A No.

8 Q Is that normal that the DNA is not done?

9 A Unfortunately, yes, it takes months.

10 MR. LONG: I'm going to object, vague, what's normal.

11 THE COURT: Sustained.

12 BY MS. DIGIACOMO:

13 Q Okay. As you sit here today, are you surprised that the DNA
14 has not been completed?

15 A No.

16 Q And why not?

17 A Because of the length, the time, and the backlog.

18 Q All right. Is it, I mean, does it normally take months or years to
19 get DNA?

20 A It can take several months or years.

21 MS. DIGIACOMO: Court's indulgence.

22 THE COURT: While they're talking I'm going to ask some
23 irrelevant question, but I think the jury would want to know.

24 Is it unusual for a victim's family member to breach the tape?

25 THE WITNESS: It's the first time I've had it, yes.

1 THE COURT: Who made the decision to arrest the twin brother
2 whose dead body was sitting in front of him?

3 THE WITNESS: It was -- that was discussed because of -- he
4 was so upset, but the fact that he had altered the crime scene, still was
5 not cooperative, that he resisted the patrol officers. And if we had not, he
6 was going to re-enter the scene again. So that's the reason -- the totality
7 of the circumstances is why the decision was made.

8 THE COURT: You're pursuing a prosecution on that, are you?

9 THE WITNESS: I don't know. I don't know, Your Honor.

10 THE COURT: Sorry.

11 MS. DIGIACOMO: No, that's fine.

12 THE COURT: As conservative as I am, I wouldn't pursue it.

13 BY MS. DIGIACOMO:

14 Q Well, is it fair to say you were not the officer that took him to the
15 jail and filled out the --

16 A No, I did.

17 Q -- Declaration of Arrest?

18 A No, I did not.

19 Q And you didn't follow-up with that?

20 A No, I did not.

21 Q At the time that you met with the Defendant on December 12,
22 2017, approximately 3:30 in the morning, can you have tell the jury
23 approximately how tall he was and his weight?

24 A It was noted that he was six-foot-one and I believe 206 pounds
25 is what it's recorded as.

1 MS. DIGIACOMO: Okay. Nothing further, Your Honor.

2 I'll pass the witness.

3 THE WITNESS: And just confirming, you're speaking of

4 Thomas Cash; correct?

5 MS. DIGIACOMO: I'm sorry, yes.

6 THE WITNESS: Okay.

7 MS. DIGIACOMO: I meant Thomas Cash.

8 THE WITNESS: Okay.

9 THE COURT: Cross?

10 **CROSS-EXAMINATION**

11 BY MR. LONG:

12 Q Detective Gillis, you weren't present during the entire interview
13 with Mr. Cash; correct?

14 A Unless I stepped out or for a minute. I believe I was there for
15 the majority of it, yeah.

16 Q Isn't it true you came in later after it started?

17 A No, that -- what wind up happening is he was outside, and then
18 when we put him in the room, he goes in the room, and then myself and
19 Detective McCarthy went into the room together.

20 Q Okay. Now, you don't know in that this photograph of the Jetta,
21 referring to State's Exhibit 183?

22 THE COURT: What's on the computer?

23 MR. LONG: Oh.

24 MS. DIGIACOMO: We lost -- oh, there it is.

25

1 BY MR. LONG:

2 Q You don't know whose blood was on the door handle of this car,
3 do you?

4 A It would have -- no, I don't.

5 Q Okay. And on page 8 of the report that has been referenced
6 earlier, you said that there was a cell phone in the street?

7 A That's correct.

8 Q And you said that this cell phone was later determined to belong
9 to the decedent's brother?

10 A That's correct.

11 Q Isn't it true that you were told that, you didn't verify with Apple or
12 Sprint or any cell phone provider as to who owned the phone?

13 A The phone was confirmed with Detective McCarthy speaking
14 with the family, the brother.

15 Q Okay. So the identity of the phone came only from the family?

16 A Correct.

17 Q Okay. And there was also a cell phone in the Jetta; correct?

18 A That I don't know. I'm not the detective that searched the Jetta.

19 Q Okay. Now, as far as there being a blood trail from where the
20 body was into the 3999 Pistachio Nut, you don't know whose blood that is
21 on the trail?

22 A As of this moment, the results have not come back yet, no.

23 Q Okay. And when you went into the kitchen, you photographed
24 multiple knives; correct?

25 A Correct.

1 Q Big knives, butcher knives?

2 A [Nods head.]

3 Q And you don't believe any of those were the murder weapon?

4 A There was no red substance, there was no diluted blood on
5 either the knives from the block or from the sink. There was also no
6 dilution or blood by the sink. The blood sample -- or I'm sorry, the blood
7 or the red substance, consistent blood that we saw was by the trash can
8 and the sliding glass door.

9 Q But it's safe to say that Thomas had multiple knives to choose
10 from, if he wanted to grab one from the kitchen; correct?

11 MS. DIGIACOMO: Objection, speculation.

12 THE COURT: Sustained.

13 BY MR. LONG:

14 Q You can't answer that.

15 There was no knives missing from the butcher block where they
16 all went in?

17 A There were I believe two knives that were not in the block. But
18 there were similar handled knives in the sink that matched the block.

19 Q Isn't it true you tested them and put them in the block and you
20 had a whole set?

21 A I did not, no.

22 Q Okay. But to the best of your knowledge today, there were no
23 knives missing from the kitchen?

24 A I don't know that.

25 Q And Thomas Cash was not interviewed at the scene; correct?

1 A No.

2 Q Okay. Now, in addition to the laceration that you mentioned,
3 Thomas's nose was also swollen; correct?

4 A I don't know what his nose looks like normally so.

5 MS. DIGIACOMO: Objection, speculation.

6 THE COURT: No, overruled.

7 BY MR. LONG:

8 Q Showing you what's been marked as State's Exhibit 228, is it
9 your testimony that this nose, Mr. Cash's nose, does not appear to be
10 swollen in this photo?

11 A Like I said, when I'm observing him there, I didn't know how his
12 nose normally looked. I observed the injury to his nose but I didn't know
13 how his nose normally looked.

14 Q Okay. Isn't it true you're the one that took him to the jail;
15 correct?

16 A The -- we had a patrol officer that had him in a marked vehicle, I
17 followed, and then I did the booking.

18 Q Okay. Isn't it true that at the jail they thought his nose was
19 broken?

20 A I don't know that.

21 Q All right. But he was medically evaluated at the jail?

22 A Yeah, they would medically evaluate him, yes.

23 Q Now, did you see that medical evaluation?

24 A No, I did not.

25 Q Okay. And you don't know whose blood this is on Thomas's

1 clothes, do you?

2 A Not at this time, no.

3 Q Okay. Now, in looking at this full picture of Thomas, and it's
4 going to be hard to tell, so I'm going to zoom in, isn't it true that his pants
5 were kind of -- sort of soiled here at the knees, that you could see?

6 A Yeah, do you have a better picture?

7 Q To the best of your recollection, were Thomas's pants soiled at
8 the knees when you were interviewing --

9 A There is a mark on the right area of the pants at the location of
10 the knee.

11 Q This one?

12 A Yes.

13 Q Okay. So that would be his left leg?

14 A I'm sorry, left.

15 Q Okay.

16 A My right; his left.

17 Q And appears to be some discoloration here; correct?

18 A I honestly can't tell you.

19 Q Do you remember his pants being dirty at all?

20 A I noted the red substance consistent with blood on them but I --
21 from looking at that picture, I can see that on the left knee that there's a
22 stain there, but on the right I don't know that I could note.

23 Q And this stain, is that consistent with somebody who had knelt
24 or bent down on asphalt?

25 MS. DIGIACOMO: Objection, speculation.

1 MR. LONG: If he can --

2 THE COURT: I think it is speculation and I don't he's
3 answering. Commonsense would tell you that it was but.

4 BY MR. LONG:

5 Q And isn't it true that you've stated that Thomas had injuries
6 consistent with being in a fight?

7 A Yes.

8 Q Okay. And you've been a police officer for 19 years?

9 A Correct.

10 Q And you've seen -- can you even make a rough estimate of how
11 many fights you've seen or --

12 A I have no idea.

13 Q -- injuries from fights?

14 A I have no idea.

15 Q Daily thing?

16 A What's that?

17 Q A daily thing, every day in your work?

18 A No, not every day, no.

19 Q Okay. Now, Thomas also had wounds to his biceps area --

20 A Two abrasions, yes.

21 Q -- isn't it correct?

22 Now, isn't it true that those could be grab spots and not
23 abrasions?

24 MS. DIGIACOMO: Objection, speculation.

25 THE WITNESS: I don't know.

1 THE COURT: Sustained.

2 BY MR. LONG:

3 Q Officer, you don't have any idea what caused those; correct?

4 A I don't know.

5 Q Okay. Isn't it true, Officer, in your training and experience that's
6 common grab spot?

7 MS. DIGIACOMO: Objection, speculation.

8 THE COURT: Sustained.

9 BY MR. LONG:

10 Q And you didn't document if there were any injuries on Thomas's
11 knees, did you?

12 A No.

13 Q Okay. You didn't see him strip down and put on different
14 clothes?

15 A I was outside the room when they were taking the photographs.

16 Q Okay. So you don't have any idea what his knees looked like,
17 or what his back looked like, or anything, except what we've shown you
18 here?

19 A Correct.

20 MR. LONG: Okay. That's all I have.

21 THE WITNESS: He's also instructed to point out. So, I mean,
22 they didn't photograph anything. He didn't indicate --

23 MR. LONG: There's no question, Detective.

24 Thank you.

25 THE COURT: Go ahead.

1 MS. DIGIACOMO: Thank you.

2 THE COURT: All right. Another question, wouldn't it have been
3 more wise to just put the young man in handcuffs, put him in the back of
4 the car until he cooled off, and when you guys were done, then let him
5 go?

6 THE WITNESS: Your Honor, I totally agree with you, but that
7 was not my call.

8 THE COURT: All right.

9 MS. DIGIACOMO: Thank you, Your Honor.

10 **REDIRECT EXAMINATION**

11 BY MS. DIGIACOMO:

12 Q All right. Now, defense counsel just showed you a photo of the
13 Cruze that was, basically 183 to 203, of those photographs; do you see
14 that?

15 A That's cor --

16 Q All right. And Detective --

17 A -- wait.

18 Q Or I'm sorry.

19 A Yeah, the Cruze.

20 Q Okay. And he asked you about some blood transfer on the
21 handle of this car?

22 A I'm sorry, there wouldn't -- they're both white vehicles, there
23 wouldn't have been any blood transfer on this vehicle. It would have been
24 on the VW Jetta.

25 Q Okay. So there was nothing on the Cruze --

1 A No.

2 Q -- of evidentiary value?

3 A No.

4 Q Okay. Now, with regard to the Jetta, did you -- I know you said
5 you didn't take part in the search of the car, but did you look at the outside
6 of the vehicle?

7 A Yes.

8 Q All right. And were you aware of a bullet hole on the driver -- or
9 the passenger side?

10 A There was a defect noted that Detective Hoffman told me about,
11 and as well as the CSA's, crime scene analysts, that looked at it. They
12 looked at it and from what their perspective was, it was not a fresh bullet
13 hole.

14 Q Okay. And also no bullet was recovered from it?

15 A No bullet, no cartridge casings were recovered from the scene,
16 no bullets were recovered from the scene, no firearm was recovered from
17 the scene.

18 Q Okay. And so with your investigation, did you follow any leads
19 regarding bullets?

20 A No.

21 Q All right. Now, you talked about where the blood trail went
22 through the house, so just explain to the jury when you walk in the front
23 door, where that blood trail led?

24 A Okay. So as -- when I'm -- say this is the front door right here,
25 just inside the front door on the tile is blood droplets consistent with blood.

1 It went around a couch, which was kind of converted into a bed, and then
2 continued north straight, the kitchen would have been on this side, and
3 the glass sliding door would have been just straight ahead. There was --

4 Q I'm sorry, Detective, you are messing with the mic.

5 A Oh, I'm sorry.

6 Q Okay. Go ahead.

7 A If you went straight towards the back of the residence there was
8 blood droplets on the hanging blinds on the glass sliding door and blood
9 transfer on the handle. And if you opened that up and you stepped out
10 into the patio, there was blood droplets or red substance consistent with
11 blood on the back patio. And then if you went straight from the patio out
12 to the back fence, you would -- there was red substance consistent with
13 blood transfer going over the -- that back wall.

14 Q Okay. So as you walk in and you have to walk around the
15 couch, you said it was a straight shot from the family room out the sliding
16 glass door?

17 A After you go around the couch --

18 Q The couch.

19 A -- you go -- yeah, straight out.

20 Q And you said that the kitchen would have been to the right?

21 A Would have been to the right and west of the slider.

22 Q Okay. So now showing you State's Exhibit 63, let me zoom out,
23 all right, is this what you're talking about if you're around the couch in the
24 family room --

25 A Correct.

1 Q -- you just -- a straight shot to that sliding glass door?

2 A That's correct.

3 Q All right. And did it appear that two of the vertical panels were
4 on the ground beneath it?

5 A Yes.

6 Q All right. So the kitchen would have been directly to the right of
7 this photograph --

8 A That's correct.

9 Q -- behind the wall on the right?

10 A That's correct.

11 Q All right. And you said there was no blood drops that led you to
12 believe the person who was bleeding the blood had gone into the kitchen?

13 A No.

14 Q And just showing you State's Exhibit 83, that's the kitchen we've
15 been talking about?

16 A That's correct.

17 Q When defense counsel was asking you about whether or not
18 the Defendant was seen by a medical personnel at the jail; do you
19 remember that question?

20 A I remember the question.

21 Q All right. When you book somebody into Clark County
22 Detention Center, is there a procedure where they're checked out by
23 medical?

24 A Yes.

25 Q For every person who's booked in?

1 A Yes.

2 Q So does the jail have to, I guess, clear the person to agree to
3 have them booked or?

4 A Yes, what winds up happening --

5 MR. LONG: Objection, speculation.

6 MS. DIGIACOMO: Well, I'm just asking -- I'm just asking the
7 procedure.

8 THE COURT: I think it's procedural and not -- probably not
9 relevant but.

10 MR. LONG: It's irrelevant and he's not a jail officer.

11 MS. DIGIACOMO: Well, Your Honor it's not irrelevant because
12 the defense just brought up that there's an insinuation the Defendant's
13 nose was broken that night and the jail would not have booked him if he
14 had not been medically clear. And I'm just trying to get from the detective
15 if his nose was broken, he would have had to take him to the hospital and
16 then bring him back.

17 THE COURT: Well, ask him that. Did you take him to the
18 hospital and bring him back?

19 THE WITNESS: No, I did not, Your Honor.

20 BY MS. DIGIACOMO:

21 Q Okay. So when he was seen by medical, or when you were
22 booking him in, he was allowed to be booked into the jail?

23 A That's correct. He actually has to clear medical screening
24 before they'll authorize the booking.

25 Q So you can't even book him in until he's been cleared?

1 A He has to see the nurse first before they'll even enter his
2 information into the system.

3 Q Okay. And after he saw the nurse, you were allowed to book
4 him?

5 A Right.

6 Q All right. Now, defense counsel asked you about the Defendant
7 having injuries consistent with a fight and you said yes?

8 A Correct.

9 Q What do you mean by that? What injuries did he have that
10 were consistent with a fight?

11 A He had the injury to the nose, that -- where he stated that he
12 was punched and that his clothing --

13 Q Well, okay. So the fact he has an injury to his nose that could
14 have been from punching?

15 A Correct.

16 Q And he has blood on him?

17 A Correct.

18 Q Okay. His hands though, was there any evidence of throwing
19 punches?

20 A There were no abrasions, cuts, marks on his hands that I could
21 tell?

22 MS. DIGIACOMO: Okay. Thank you.

23 I have nothing else.

24 THE COURT: Cross.

25

1 **RECROSS-EXAMINATION**

2 BY MR. LONG:

3 Q Detective, just briefly, in the vain of as far as what people can
4 be booked into the jail and what can't, do you know the standard of when
5 the jail will take somebody and when they'll say, uh-uh, have to go to the
6 hospital first?

7 A No, I don't.

8 Q Okay. Have you ever booked anybody before Mr. Cash that
9 had a broken nose or that you thought had a broken nose?

10 A No.

11 Q Okay. And you don't know the line as to where they say this
12 person, the jail won't take, this person they will?

13 A I don't know.

14 Q Okay. So from your testimony today, his nose could have been
15 broken; is that correct?

16 A I don't know. I don't know.

17 Q Okay. And injuries consistent with a fight you also said his
18 clothing, were you talking about the blood on his clothing or are you
19 talking about the soiling of his clothes, the dirty clothes?

20 A Just talking about the blood.

21 Q Okay. And isn't it true that his clothes appeared soiled as if he
22 had perhaps?

23 A Other than that mark you indicated on the left knee, that's the
24 only one.

25 MR. LONG: Okay. No further questions.

1 MS. DIGIACOMO: Nothing, Your Honor.

2 THE COURT: Jury have any questions of this detective?

3 Okay, write it down and your seat, two, four, five, and your name.

4 And I'll see the attorneys out in the hall.

5 Okay. You guys might as well walk out. I'll read it to you out
6 there. When I don't, I always get in trouble.

7 [Pause in proceedings while the Court and Counsel discuss jury
8 questions]

9 THE COURT: All right. Officer, you're free to go. Thank you.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: Ladies and gentlemen, just remember, if your
12 question is not asked, it may be answered by somebody else down the
13 road or it might not be an admissible question. Don't make any
14 conclusions if it's asked or not asked.

15 Call your next witness, State.

16 MS. DIGIACOMO: Thank you.

17 The State calls John Harney.

18 May I approach the clerk, Your Honor?

19 THE COURT: Yeah.

20 **JOHN HARNEY**

21 [Having been called as a witness and being first duly sworn, testified as
22 follows:]

23 THE CLERK: Please state and spell your name, please.

24 THE WITNESS: Hi, I'm Detective Sergeant John Harney,
25 H-a-r-n-e-y.

1 THE COURT: Go ahead.

2 **DIRECT EXAMINATION**

3 BY MS. DIGIACOMO:

4 Q Sir, how are you employed?

5 A I am a detective sergeant with the Las Vegas Metropolitan
6 Police Department assigned to the Homicide section.

7 Q How long have you been with Metro overall?

8 A 19 and a half years.

9 Q How long have you been a sergeant?

10 A 13-ish years.

11 Q All right. And you're currently assigned to Homicide?

12 A That's correct.

13 Q And you were also assigned to Homicide in December of 2017?

14 A Yes, I was.

15 Q All right. On December 11th, 2017, was your squad up for the
16 next homicide?

17 A That's correct, yes.

18 Q Were you or, I guess, how did you receive a call regarding a
19 dead body at Pistachio Nut?

20 A The Homicide section lieutenant received a call and called me
21 in turn as the up team.

22 Q And then what did you do?

23 A I then called out my up detectives, McCarthy and Gillis, and two
24 other teammates to assist with the investigation.

25 Q And was that Hoffman and Williams?

1 A That's correct.

2 Q All right. So how many are on your squad?

3 A Six.

4 Q All right. So you keep -- basically, rotate two for whoever's up
5 next?

6 A That's correct.

7 Q So when your squads up, two people are up?

8 A That's correct.

9 Q And then the next time your squads up, two other people are
10 up?

11 A Correct.

12 Q All right. So do you also respond with your detectives?

13 A I do.

14 Q All right. And you responded to 3999 Pistachio Nut that night?

15 A Yes, I did.

16 Q When you arrived -- let me just ask you, had the crime scene
17 been effected before you got there or was it after you got there?

18 A The crime scene had been secured by patrol prior to my arrival.

19 Q All right. And when you arrived, did something happen with the
20 crime scene being broken?

21 A Yes.

22 Q All right. What happened there?

23 A The alleged brother of the decedent in the street -- I don't know
24 exactly how -- he clearly broke either the crime scene -- through the crime
25 scene tape and/or through a perimeter by patrol, and made it up to the

1 decedent on the ground and grabbed the body and started trying to drag it
2 around and stuff.

3 Q Did you see the body actually move?

4 A Yes, I did.

5 Q Okay. So you said that Detectives McCarthy and Gillis were up
6 to handle this homicide and Hoffman and Williams were doing interviews?

7 A Yes, they were there to assist.

8 Q Or assisting?

9 A That's correct.

10 Q What did you do, did you obtain search warrants?

11 A Yes.

12 Q What did you obtain search warrants for?

13 A The residence at Pistachio Nut.

14 Q The 3999?

15 A That's correct.

16 And the white VW sedan and a white Chevrolet Cruze sedan.

17 Q And what was the purpose of getting the search warrants, what
18 were you looking for?

19 A Any other additional evidence related to the crime, weapons,
20 maybe phones, some type of evidence to put together the circumstances
21 related to the homicide.

22 Q All right. Did you take part in the search of either vehicle or the
23 residence?

24 A The VW, yes. And the residence very peripherally, but I was in
25 there, of course.

1 Q All right. Were any weapons located inside the VW Jetta?

2 A No.

3 Q All right. And what were you looking for, knives, guns?

4 A Any weapon, honestly.

5 Q Any weapon?

6 A Primarily knives or guns.

7 Q Nothing found?

8 A Nothing found.

9 Q Now, did you clear the scene in the early morning hours of
10 December 12th?

11 A Yes.

12 Q All right. And do you go home?

13 A Yes.

14 Q At some point later in the -- the next morning, do you get a call
15 from Detective Gillis as he was at the autopsy?

16 A Yes, initially a text by either Gillis or McCarthy, I don't recall, but
17 one of the two of them, and then on the phone, yes.

18 Q All right. And the autopsy or when this call was, do you know
19 approximately like 10:00 in the morning, was it 5:00 in the morning?

20 A I don't recall. It was probably after 7:00 a.m. at that point.

21 Q All right. Would it have been after you arrived at work?

22 A Yes, at some point. I don't -- we do a lot of homicides, so I
23 apologize, I can't recall exactly. Had I gone home to try to get some sleep
24 or not. But at some point in the morning when the detectives attend
25 autopsy, which is relatively customary, I may have been at the office. I

1 don't recall where I initially received the call. But I did receive a text and
2 then a call.

3 Q And Detective Gillis did he explain to you that they already had
4 the Defendant in custody?

5 A Yes.

6 Q Or the suspect for this?

7 A Yes. And I was aware of that.

8 Q All right. So Detective Gillis, did he ask you to go search for
9 something?

10 A Yes.

11 Q What was that?

12 A He stated that the Defendant --

13 Q Well, don't tell me what he --

14 A Oh, a knife.

15 Q -- what did he ask you to search for?

16 A Search for a knife or a broken knife.

17 Q Okay. And where did he ask you to go search for those?

18 A No specific spot. But any vacant lots that seemed consistent
19 with where they were being told --

20 Q Okay.

21 A -- from the scene.

22 Q So were they near the Pistachio Nut address?

23 A Yes.

24 Q All right. So I'm going to show you State's Exhibit one, do you
25 recognize -- I know it's hard to see -- where 3999 Pistachio Nut Avenue?

1 A Yes.

2 Q Okay. Do you see in this map some of the desert areas you
3 might have searched for a knife? And you can circle --

4 A Is this going north?

5 Q North is at the top, south is -- you can see it in this little corner.
6 North is the top.

7 A So I don't -- this area here, I believe was an industrial area, right
8 here. I know that we initially checked there but then I actually ultimately
9 was also searching south, which is not on this map.

10 Q Not on the map; okay.

11 So anything that was in walking distance Pistachio Nut, that
12 was a desert area?

13 A Yes. And even the night of the crime we also searched the
14 walking area of that.

15 Q All right. Any weapon or knife found?

16 A No.

17 MS. DIGIACOMO: Nothing further.

18 THE COURT: Cross.

19 **CROSS-EXAMINATION**

20 BY MR. LONG:

21 Q Detective Sergeant Harney, you testified that no knives were
22 found in the house, isn't it true that there were multiple knives in the house
23 just no knife that you believe was possibly the murder weapon?

24 A Yeah, I didn't recall that I testified no knives in the house, I
25 apologize. There were kitchen knives, as I recall.

1 Q Okay. But you don't believe any of those were the murder
2 weapon?

3 A I don't -- I really don't have any answer. I don't know that.

4 Q Okay. You didn't impound anything from inside the house?

5 A No.

6 Q You didn't take any photographs?

7 A Personally I did not.

8 Q Okay.

9 A We should have taken photographs. I did not.

10 Q You said you should have taken photographs?

11 A I would imagine CSA's would have taken overalls. Our crime
12 scene analysts take overall search -- photos of search warrants. So those
13 should be there.

14 Q But you don't know if they did or not, you weren't there?

15 A That's correct. I was not part of that.

16 Q Okay. And you searched for the knife, did you ever take the
17 Defendant back to the scene to ask him where the knife was?

18 MS. DIGIACOMO: Objection.

19 THE WITNESS: I did not.

20 THE COURT: Overruled.

21 MR. LONG: He's answered.

22 Nothing further.

23 **REDIRECT EXAMINATION**

24 BY MS. DIGIACOMO:

25 Q All right. You never even spoke to the Defendant; correct?

1 A Correct.

2 Q And you were talking about CSA's should have taken
3 photographs. When you're at the scene, are you just there to assist or are
4 you taking part in the investigation and directing the detective what to do?

5 A Yeah, I'm in a very general, very overall sort of dynamic
6 position. In that, I would try to control multiple areas of the scene, allow
7 the detectives and the crime scene analysts to do their function, just make
8 sure that certain aspects of the actual investigation are taking place, to
9 include patrol and their resources, and how they might assist us, the crime
10 scene analysts supervisors, et cetera. So I'm kind of all over the place,
11 just trying in general make sure individuals are handling every aspect of
12 the crime scene.

13 Q Okay. And it was Detective Gillis that was in charge of the
14 crime scene?

15 A That's correct. He was assigned that.

16 Q Okay. And so you searched that Jetta and didn't find a
17 weapon?

18 A That's correct.

19 Q And that was with Detective Hoffman?

20 A That's correct.

21 Q All right. But you didn't really take part in the search of the
22 residence?

23 A Not at -- no, I was outside with the Jetta and basically in front of
24 the residence coordinating with patrol and other detectives.

25 MS. DIGIACOMO: I have nothing further.

1 MR. LONG: No questions.

2 THE COURT: Jury have any questions of this detective
3 sergeant? Okay.

4 Before you go, let me look at this question.

5 THE WITNESS: Sure.

6 [Pause in proceedings while the Court and Counsel discuss jury
7 questions]

8 THE COURT: All right. Detective, you're free to go.

9 Recall Gillis.

10 MS. DIGIACOMO: State will recall Detective Gillis for these
11 questions.

12 **MATTHEW GILLIS**

13 THE COURT: Just remind you, Detective, you're still under
14 oath to tell the truth.

15 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

16 THE COURT: There were two vehicles that were said to break
17 up the fight, has it been determined that neither of these could have
18 caused the injury to the victim?

19 THE WITNESS: The injuries to the victim were consistent with
20 the stab wound, the -- it is a -- defecting the clothing, it penetrated the rib
21 and it penetrated the heart. The -- and this is in the information from the
22 medical examiner at autopsy. He stated that those injuries were --
23 occurred and were consistent with a stabbing wound from a knife. And
24 that's what actually penetrated through the rib into the heart.

25 THE COURT: Follow-up, State?

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FOLLOW-UP EXAMINATION

BY MS. DIGIACOMO:

Q So it's not caused from -- the injury wasn't caused from a blunt force trauma --

A No.

Q -- from being hit from a car?

A No.

THE COURT: Follow-up, Defense?

MS. BLUTH: Wait, sorry, Judge.

MS. DIGIACOMO: Court's indulgence.

THE COURT: Hold on, Defense.

MS. DIGIACOMO: Nothing further.

THE COURT: All right.

Follow-up?

MR. LONG: No, follow-up to that question, Your Honor.

THE COURT: Did anyone search the person of Kyriell Davis?

THE WITNESS: Kyriell Davis was interviewed by Detective McCarthy, I know that they took a buccal from him, they interviewed him, but I don't know if he was searched.

THE COURT: Would an officer ever not search somebody they're going to take a buccal swab from or that was at this kind of a scene?

THE WITNESS: I agree with you, Your Honor, but I -- I personally --

THE COURT: You just don't know?

1 THE WITNESS: -- I don't know who did it.

2 THE COURT: I mean, historically that's what they would do?

3 THE WITNESS: Historically, yes. Historically they would but I
4 can't give you a name of who did it.

5 THE COURT: Follow-up, State?

6 MS. DIGIACOMO: Well, no, he kind of said it.

7 **FOLLOW-UP EXAMINATION**

8 BY MS. DIGIACOMO:

9 Q So it would be who first arrived and came into contact with him
10 would have searched him?

11 A Correct.

12 Q And that's just common procedure at a crime scene like this?

13 A Correct.

14 MS. DIGIACOMO: Nothing further.

15 THE WITNESS: Other than he had blood on him and.

16 **FOLLOW-UP EXAMINATION**

17 BY MR. LONG:

18 Q But you don't know if anybody searched Kyriell Davis; correct?

19 A I don't know who did it, no.

20 Q Okay. But you don't know if anybody did, you don't know who
21 did it, and you don't know if anybody did?

22 A No.

23 MR. LONG: Thank you.

24 THE WITNESS: Okay. You're free to go. Detective.

25 Thanks.

1 State, call your next witness.

2 MS. DIGIACOMO: Your Honor, with that, the State will rest.

3 THE COURT: With the introduction of all the exhibits the
4 State's rested?

5 MS. DIGIACOMO: That's correct.

6 THE COURT: Do you have your witness available?

7 MR. LONG: I do, Your Honor.

8 THE COURT: Does the jury need a break?

9 THE COURT: I need to go out in the hallway.

10 THE COURT: The jury needs a break for a second.

11 MR. LONG: Okay.

12 THE COURT: So we're going to take a five minute recess.

13 During the recess you're not to talk or converse among
14 yourselves or with anyone else on any subject connected with the trial. Or
15 read or watch or listen to any report of or commentary on the trial or any
16 person connected with this trial by any medium of information, including,
17 without limitation, newspapers, television, radio, or the Internet. Or form
18 or express an opinion on any subject connected with the trial until the
19 case is finally submitted to you.

20 Remember, no social media, please don't get on it, and don't go
21 into any computers to do research.

22 See you in five minutes.

23 [Outside the presence of the jury]

24 THE COURT: Okay. The juries out; the door is closed.

25 As you're leaving -- well, we'll talk about jury instructions when

1 he comes back.

2 MS. BLUTH: I gave a copy to Nick. Did I tell you that?

3 THE COURT: I got it.

4 MS. BLUTH: Okay. Great.

5 [Recess taken at 11:00 a.m.]

6 [Jury trial resumed at 11:06 a.m.]

7 [In the presence of the jury]

8 THE MARSHAL: All rise, please.

9 And be seated.

10 THE COURT: Stipulate to the presence of the jury.

11 MS. DIGIACOMO: Yes, Your Honor.

12 THE COURT: All right. Call your first witness, Defense.

13 MR. LONG: Defense calls Antoinette White.

14 **ANTOINETTE WHITE**

15 [Having been called as a witness and being first duly sworn, testified as
16 follows:]

17 THE CLERK: Please be seated, state and spell your name for
18 the record.

19 THE WITNESS: My name is Antoinette White. It's spelled
20 A-n-t-o-i-n-e-t-t-e, last name White, like the color, W-h-i-t-e.

21 THE COURT: Scoot close to the mic, please.
22 Go ahead.

23 **DIRECT EXAMINATION**

24 BY MR. LONG:

25 Q Ms. White, how do you know Thomas Cash?

1 A Thomas is my fiancé. We have a three-year-old daughter
2 together.

3 Q Okay. And were you living together in 2017?

4 A Yes.

5 Q Okay. And how long have you been together?

6 A For about four years.

7 Q Okay. And were you present at your home on December 11th,
8 2017, when the incident for which we're all here took place?

9 A No.

10 Q Where were you?

11 A I was at school.

12 Q Okay. What school do you go to?

13 A I was attending Brightwood College at the time.

14 Q Okay. And what time do you usually come home from school?

15 A Well, I'm also -- I was a school bus driver. I would work
16 mornings and then I would go to school at night. Sometimes I would get
17 home about 10:30, depending on which day it was of the week. 10:30, 11
18 o'clock was the latest.

19 Q What time did you usually come home on Mondays?

20 A On a Monday it would be, like, it's kind of, like, an early day so
21 about 10:00, 10:30.

22 Q Okay. That's early?

23 A Yeah. Because we stay later on Wednesdays, sometimes we
24 stay until, like, 11:00 so.

25 Q Okay. On December 11th, did anything happen that would

1 cause you to come home before your normal time?

2 A Yes. I got a text during class that Brittney and Kyriell had
3 some --

4 MS. DIGIACOMO: Objection, hearsay.

5 MR. LONG: She's talking about a text she received.

6 THE COURT: No, I'm going to let her answer it. I'm going to let
7 her answer.

8 MR. LONG: Okay.

9 BY MR. LONG:

10 Q Okay. Continue.

11 A I got a text that Brittney and Kyriell had some mess going on at
12 the house and there was a fight and I should come home. And that was
13 around about 6:45-ish or something like that that I got the text.

14 Q Okay. And did you go home?

15 A Immediately.

16 Q Okay. And what did you see when you got there?

17 A When I got there -- let me see, when I got home, I didn't --
18 Brittney had started to call me. So Brittney was frantic on the phone. I
19 didn't go straight home. I met with Brittney. And Brittney was around the
20 corner from the house. So I went to Brittney first. By the time I got to
21 Brittney, the whole area was roped off. I couldn't even get home.

22 Q Okay. And you said Brittney was frantic, could you describe
23 frantic to the jury?

24 A Crying, she's just crying, and -- and -- she's just crying.

25 Q Okay. And at any time later that evening, did you meet up with

1 your husband Thomas?

2 A Like, wee hours of the morning before he turned himself in,
3 yeah.

4 Q And how did that meeting take place?

5 A He came home.

6 Q Okay. Did you tell him to come home?

7 A No, he came home on his own.

8 Q Okay. Did you have any communication with him on the
9 telephone before he came home?

10 A I called him a couple of times, the detective was trying to get me
11 to call him and call him and call him. Finally he answered. And, you
12 know, I told him that it was, you know, bad at the house. And he was just
13 out of it. And said he was going to turn himself in.

14 MS. DIGIACOMO: Objection, hearsay.

15 MR. LONG: Statement against interest.

16 MS. DIGIACOMO: Also -- it's also non-responsive and it is not
17 a statement against his interest.

18 THE COURT: All right. She answered it. I'll just let it stand.

19 MR. LONG: Okay.

20 BY MR. LONG:

21 Q So after you spoke with Thomas on the phone, to your
22 knowledge was Thomas aware that anyone had passed away that night?

23 A By the time I spoke to him, yeah, he had known. He known by
24 then. Because it was, like, maybe like 1:00 already and he had
25 apparently spoke to his niece.

1 MS. DIGIACOMO: Objection, non-responsive.

2 THE COURT: Sustained.

3 BY MR. LONG:

4 Q So Thomas came home to the house in the wee hours of the
5 morning?

6 A U'm-h'm. After the detectives left, we were all let back in, and
7 he came.

8 Q Okay. And did you take Thomas to the police station?

9 A Absolutely.

10 Q Okay. Did you and Thomas ever discuss getting a lawyer?

11 A Yes.

12 MS. DIGIACOMO: Objection, relevance.

13 THE COURT: Sustained.

14 THE WITNESS: Absolutely, he needed one.

15 MS. DIGIACOMO: Objection, I'd ask that it be stricken.

16 THE COURT: Hold on.

17 MR. LONG: Wait, hold on.

18 THE WITNESS: Oh, sorry.

19 THE COURT: Strike that from the record, that response.

20 THE WITNESS: Oh, sorry, I don't know how this works.

21 THE COURT: The jury will disregard that.

22 MR. LONG: It's fine. You're doing fine.

23 BY MR. LONG:

24 Q So you're the one that drove Thomas to the police station;
25 correct?

1 A Is it okay if I answer that?

2 Q Yes.

3 A Yes.

4 Q Okay.

5 THE COURT: You don't have to have an attitude in here.

6 THE WITNESS: I don't, sir.

7 THE COURT: Yes, you do.

8 THE WITNESS: Okay.

9 THE COURT: Just answer the questions asked.

10 BY MR. LONG:

11 Q Okay. Now, Ms. White, Brittney is your oldest daughter?

12 A Yes.

13 Q Okay. And how many children do you have?

14 A Three.

15 Q Okay. And these three, can you name them?

16 A I have Brittney Turner, Angel Turner, and Payton Cash.

17 Q Okay. So Brittney and Angel are Thomas's stepchildren?

18 A Yes.

19 Q Okay. And Payton is a child you and Thomas have together?

20 A Yes.

21 Q Okay. And how old was Brittney in December of 2017?

22 A She's 20. She's about to be 21 this year, so, yeah, 20.

23 Q Okay. And do you know Brittney's, I guess, boyfriend or baby's
24 father Kyriell?

25 A Yeah, yes.

1 Q Was there ever a time when you told Kyriell not to come to your
2 house?

3 A Yes, several.

4 Q Okay. Are you, not talking about anything with Brittney, are
5 you, Antoinette White, afraid of Kyriell?

6 MS. DIGIACOMO: Objection, relevance.

7 THE COURT: Sustained.

8 BY MR. LONG:

9 Q Okay. You can't answer that.

10 You said you've told Kyriell not to come to your house two or
11 three times?

12 A Yes.

13 Q How are they supposed to exchange the baby?

14 A Brittney had her own place at one point and she moved out and
15 she had her own place and then her roommates kicked her out because
16 of their stuff.

17 MS. DIGIACOMO: Objection, non-responsive.

18 THE WITNESS: So.

19 THE COURT: Sustained.

20 Just answer the question.

21 THE WITNESS: I don't know. Not there.

22 BY MR. LONG:

23 Q Okay. So it doesn't matter where they exchange the baby, just
24 not at your house?

25 A Absolutely.

1 Q Okay. Does Thomas, does he take on a protective role with
2 your stepchildren?

3 MS. DIGIACOMO: Objection, relevance.

4 THE COURT: Overruled. I'll let her answer that.

5 THE WITNESS: Yes.

6 BY MR. LONG:

7 Q Okay. Treat them like his own children?

8 A Yes.

9 MR. LONG: Okay. I don't have any further questions.

10 **CROSS-EXAMINATION**

11 BY MS. DIGIACOMO:

12 Q All right. So your testimony today is that you told Kyriell two to
13 three times he's not allowed at the house or you told that to Brittney?

14 A Both.

15 Q You told both.

16 Not that he's not allowed to even come out to your yard?

17 A He's not allowed to my house.

18 Q To your house?

19 A Absolutely.

20 Q All right. Now, you talked to the police the night that this all
21 happened on December 11th, 2017; correct?

22 A Yes.

23 Q All right. Isn't it true you told them that Kyriell's not allowed to
24 come inside your house?

25 A He's not allowed to my house.

1 Q I'm asking you, when you talked to the police that night, isn't it
2 true you told them, he's not allowed inside your house, yes or no?

3 A No -- I don't remember. I just know he's not allowed there.

4 MS. DIGIACOMO: Your Honor, may I approach?

5 THE COURT: Yes.

6 MS. DIGIACOMO: This is going to be page 11, Counsel.

7 BY MS. DIGIACOMO:

8 Q Okay. Ma'am, when you took -- when you gave an interview to
9 the police, do you recall that they recorded it?

10 A Absolutely.

11 Q All right. Have you ever seen a transcription of what you told
12 the police?

13 A No, ma'am.

14 Q Okay. So what I'm going to do is I'm going to show you your
15 name on here, all right, and I'm going to --if you want to look at the front
16 page and make sure that that's you, spelling your name for the statement.

17 A Okay.

18 Q Does that appear to be you?

19 A Yes.

20 Q So I'm going to show you page 11, specifically right in the
21 middle of the page, and you're talking about Kyriell. What -- if you could
22 just read that line to yourself, and let me know when you're done.

23 A I'm done.

24 Q Okay. Does that refresh your memory about what you told the
25 police that night? I'm not asking what you testified to here today.

1 Does that refresh your memory?

2 A Yes.

3 Q Okay. So you did tell the police, Kyriell's not allowed to my
4 house, he can't come inside?

5 A Both, yes, I said both of that, he's not allowed to my house or he
6 cannot come inside.

7 Q Okay. And you don't know why or who called Kyriell to come to
8 your house that night; correct?

9 A Brittney. There's no other person that would call him.

10 Q Okay. But what I'm saying is, you weren't present for that call;
11 correct?

12 A No, ma'am.

13 Q Okay. But you're just assuming it was Brittney that told him to
14 come to that house?

15 A Yes, ma'am.

16 Q Okay.

17 All right. Now, you said that you were in class and you received
18 a text about Brittney and Kyriell fighting; correct?

19 A Yes.

20 Q All right. Who was that text from?

21 A Angel.

22 Q And how old was Angel at the time?

23 A 17.

24 Q All right. When you got the text, did you actually call and speak
25 to Angel on the phone?

1 A No. I was in class, I got the text, I let my instructor know I
2 needed to leave, and I got a call from Brittney as I was leaving. I spoke to
3 Brittney.

4 Q All right. Now, you had said before that you went straight home,
5 but you didn't go straight home; correct?

6 A Correct.

7 Q In fact, you actually took one of your classmates with you and
8 took them home?

9 A Correct.

10 Q And then you went -- you got a call from Brittney and you went
11 to where Brittney was?

12 A Correct.

13 Q And she was in her car down the street from your residence?

14 A Correct.

15 Q And she got in your car?

16 A Correct.

17 Q And where was Londyn, the baby?

18 A She had her.

19 Q All right. Londyn gets in your car as well?

20 A Yes.

21 Q And then you go where?

22 A We couldn't go anywhere, it was roped off. We just went
23 around to the other side where I thought I could get in but I couldn't. I had
24 to just sit there.

25 You know, in fact --

1 MS. DIGIACOMO: There's no question.

2 THE COURT: There's no question. Just --

3 THE WITNESS: Oh.

4 THE COURT: -- wait until the questions are asked.

5 BY MS. DIGIACOMO:

6 Q All right. I'm going to show you what's been marked as State's
7 Exhibit Number 2.

8 A Okay.

9 Q I'm going to zoom in. Do you see on this aerial where
10 3999 Pistachio Nut Avenue is marked?

11 A U'm-h'm.

12 Q Yes?

13 A U'm-h'm, yes.

14 Q Okay. Where was it that you met Brittney, do you see it on this
15 map?

16 A Wait --

17 Q If I need to zoom out, just let me know.

18 A I want to say around in the Walnut Glen Drive area, around that
19 way. So if you're going, I guess, that would be west on Pistachio Nut -- or
20 east on Pistachio Nut, and you make that right on Walnut Glen, I came
21 from that way.

22 Q Okay. Now, to complicate things more for you, you can touch
23 the screen --

24 A Oh.

25 Q -- and draw a line.

1 A Oh, okay.

2 Q So.

3 A Okay. So --

4 Q And it might not be perfect where you're trying to get it but.

5 A Okay. So I came -- from where Brittney was telling me she

6 was, I came from this -- I came from this angle, from over here.

7 Q Okay. So you came up Walnut Glen Drive?

8 A Yeah, I think that's the street.

9 Q And then this is Pistachio Nut?

10 A Yeah, yeah.

11 Q All right. Was this roped off anywhere --

12 A Um --

13 Q -- by the police?

14 A Yeah, all that was roped off.

15 Q Okay. So you couldn't get to your home this way --

16 A No.

17 Q -- to come down Pistachio Nut --

18 A No.

19 Q -- heading west?

20 A No.

21 Q So you tried to go back around to Spruce Fern?

22 A No.

23 Well, can you scoot it over? Maybe I'm on the wrong street.

24 Okay. Scoot more. No, the other way.

25 Q This way?

1 A No, the other --

2 Q This way?

3 A Okay. Okay. So this Macadamia Drive would be the street
4 because this is the street you can come in on, yeah.

5 Q Okay. So it was over here, not Walnut Glen?

6 A Not Walnut Glen.

7 Macadamia Drive, because I had to go back around Macadamia
8 to go back out on Lamb.

9 Q Okay. And then trying to come from this direction?

10 A Yeah.

11 Q So that would have been coming down Walnut to Spruce
12 Fern --

13 A U'm-h'm.

14 Q -- to try to get to Pistachio Nut that way?

15 A Because I actually had to park on Spruce Fern right there. I
16 couldn't even get down Pistachio Nut.

17 Q And Brittney was with you?

18 A Yes.

19 Q Okay. And are you allowed into the taped off area?

20 A No.

21 Q Okay. When Brittney called you, you said she was crying?

22 A Yeah.

23 Q All right.

24 A Yes.

25 Q Isn't it true that Brittney told you that Angel was lying that Kyriell

1 was not slamming her or hitting her?

2 A Yeah, she denied it, yes, she did.

3 Q And it's your testimony from the time that you got the text from
4 Angel, until you spoke to the police and gave an interview that night, you
5 did not speak to your fiancé, Mr. Cash?

6 A No.

7 Q And I can't remember, but just for the record, do you see mister,
8 your fiancé, Thomas Cash, here?

9 A Yes, ma'am.

10 Q And you're pointing to him?

11 A Yes.

12 THE COURT: Let the record reflect she's identified the
13 Defendant.

14 MS. DIGIACOMO: Thank you.

15 BY MS. DIGIACOMO:

16 Q You never spoke to him from the time Angel texted you until you
17 gave the interview to the police?

18 A No, I couldn't. I couldn't, no, I didn't speak to him.

19 Q Okay. But you tried to call him; correct?

20 A Yes.

21 Q Left messages for him; correct?

22 A I didn't leave messages then. I didn't leave them until the
23 detective was asking for him to call.

24 Q Okay. So if you told the detective that you had left a message,
25 babe, call me, I'm here, during that taped statement I just --

1 A That's when he was asking for him. Because he had came out
2 several times before he met with me. He had came out, they searched
3 my car, they came out and spoke with me, but they never interviewed me
4 right away.

5 Q Okay. So but before you were interviewed by the police, you
6 did leave a message for your fiancé to call you?

7 A Yes.

8 Q When was it that you first heard from the Defendant that night?

9 A It was late. I can't -- are you asking me for a time?

10 Q Yes.

11 THE COURT: About?

12 BY MS. DIGIACOMO:

13 Q Was it -- well, here -- let's start this way, was it, obviously, it was
14 after the police interviewed you; correct?

15 A Yes.

16 Q And the police -- your interview was at 2257 hours, so at 11:57,
17 midnight, does that sound about right?

18 A U'm-h'm.

19 Q Is that a yes for the record?

20 A Yes. I'm sorry, yes, yes.

21 Q That's okay.

22 So --

23 THE COURT: 2257 would be 11:00, wouldn't it?

24 MS. DIGIACOMO: 11:57.

25 MR. LONG: No, that would be 10:57.

1 MS. DIGIACOMO: 10:57. I am so bad. You're right, 10:57.

2 BY MS. DIGIACOMO:

3 Q It be about 11 o'clock that you spoke to the police?

4 A Yes.

5 Q Does that sound about right?

6 A Yes.

7 Q Do you know about what time the police ended up leaving the
8 street?

9 A It was about, maybe, like, 2:00, almost 1:30, maybe 1:30,
10 2 o'clock almost.

11 Q In the early morning hours of December 12th?

12 A In the early morning hours. I could be -- I -- it may have been
13 earlier than that. But I know it was like really wee hours. Like 1:00 or
14 2:00 or something, somewhere in there.

15 Q Okay. So by the time -- so when you speak to the officers at
16 around 11:00 p.m. --

17 A U'm-h'm.

18 Q -- until the officers clear at -- between 1:00 2:00 in the
19 morning --

20 A U'm-h'm.

21 Q -- you did not speak to your husband; correct?

22 A He called, I gave him the detectives information to call the
23 detective and everything, and that was it and.

24 Q But was that before or after the police had left your street?

25 A The detectives was gone but the cops were still there. So when

1 you ask me that, it's, like, my house was still roped off but the detectives
2 were gone. But I wasn't able to go inside still when Thomas -- when I
3 spoke to him to give him the detective's phone number.

4 Q Okay. So you gave -- you gave him the -- which detective's
5 phone number?

6 A Oh, my God.

7 Q Could it have been McCarthy?

8 A Yes.

9 Q Okay. Police are still there but detectives are gone?

10 A Yes.

11 Q All right. What time were you allowed back into your residence?

12 A I want to say like 2:00-ish.

13 Q Okay.

14 A Yeah.

15 Q So while you're still outside, you speak with your fiancé, and
16 give him the Detective McCarthy's phone number, tell him to call him?

17 A Yes.

18 Q When was the next time you spoke to your fiancé?

19 A When he came in. He came home.

20 Q Okay. When did he come home? What time?

21 A Let me see, we went to the station at like 2:30, so it was, like,
22 right, like, 2:15, 2:00. I don't know. I can't remember. I --

23 Q So --

24 A -- I know the detective -- I know the -- I was in the house, so
25 they were gone, he came in, and we went straight to the station.

1 Q Okay. And you said, they were gone, do you mean even the
2 police officers were gone?

3 A Yes, the officers were gone.

4 Q You're in the house?

5 A Yes.

6 Q You're in there about 15 minutes and Defendant comes in?

7 A Yes.

8 Q And if I understand correctly, you were not the one that told
9 your fiancé that Ezekiel was dead, he already knew; correct?

10 A Yeah. No, I didn't -- I didn't even know.

11 Q But; correct?

12 A Correct.

13 Q Yes, you didn't -- he already knew; correct?

14 A Yes.

15 Q Okay. When you got home back to your residence that night,
16 was there a car parked in your driveway at 3999 Pistachio Nut?

17 A When I got back home from -- from school?

18 Q No. That night, after the police had let you go back to your
19 house, was there a car parked in your driveway?

20 A No.

21 Q Should there have been a car parked in your driveway?

22 MR. LONG: Objection, speculation.

23 THE COURT: Overruled.

24 THE WITNESS: My car.

25

1 BY MS. DIGIACOMO:

2 Q Okay. What about a white Hyundai that normally sits in the
3 driveway?

4 A Well, sometimes -- not all the time. It's not always there.

5 Q Okay. Well, if it had been there that night, before the police got
6 there, and it was gone when the police got there, when was the last time
7 you saw it?

8 A Like the day before I had saw it. Sometimes I let my sister use
9 it. She drives it.

10 Q So whose car is it?

11 A It's Angel's car.

12 Q It's Angel's car.

13 Does the Defendant, or your fiancé, ever drive it?

14 A Yeah, sometimes he uses it as well. But Thomas has his own
15 car.

16 Q What's his car?

17 A The Chevy Cruze.

18 Q The one that you were in?

19 A Yes.

20 Q And the one that you took when you left early in the morning on
21 December 11th to go to work and then go to class?

22 A Yes.

23 Q Did you see that white Hyundai that night when you got back?

24 A No.

25 Q When was the next time you saw it?

1 A It was maybe like two days later.

2 Q Who had it?

3 A My sister.

4 Q Who's your sister?

5 A Sandy.

6 Q And so for two days you didn't know where that car was?

7 A No, I don't -- I don't want to be mean, but that crappy car, I don't

8 pay attention to it. They use it. It is -- they ride in it. I don't pay attention

9 to that car, ma'am.

10 Q So if I have it correctly, Angel can drive it; correct?

11 A Angel can't, she doesn't have license.

12 Q Okay. But it's her car?

13 A Yeah, I got it for her when she graduates. She was supposed

14 to have the car for when she graduates but of course everybody wanted

15 to drive it.

16 Q Okay. So Angel can't drive that car?

17 A No, ma'am.

18 Q Is it registered?

19 A No, ma'am.

20 Q Okay. But you let your sister, Sandy Cash, drive it?

21 A Yeah, it's on her if she get it pulled over.

22 Q Okay. And you said sometimes your fiancé could drive it?

23 A Yes.

24 Q And do you ever drive it?

25 A No.

1 Q Anybody else ever drive it?

2 A Yeah, I mean, like, Brittney will drive it when she don't have gas
3 in her car. It's like they just use it for whatever.

4 Q Where are the keys kept?

5 A In the house. Angel has the key. It's two keys, in fact, so.

6 Q Okay. So the night of December 11th, you don't know where
7 that car is -- was?

8 A No, ma'am. I -- no.

9 Q All right. After this happened that night, did you threaten
10 Brittney about her testifying?

11 A No. Threaten her, why?

12 Q Did you kick her out of the house where she was living with
13 you?

14 A No, ma'am.

15 Q Your neighbors around there, which neighbors before
16 December 11th, 2007, did you know?

17 MR. LONG: Objection, relevance.

18 THE COURT: What's the relevance?

19 MS. DIGIACOMO: Well, Your Honor, it goes to the fact that she
20 went over and spoke to her neighbor next door after this happened and
21 never had spoken to her before.

22 THE COURT: Just ask her about that one.

23 MS. DIGIACOMO: Okay.

24 BY MS. DIGIACOMO:

25 Q Your neighbor directly, if you're standing in your front yard,

1 directly to your left, do you know her?

2 A No, I don't know her.

3 Q Okay. Do you know what she looks like?

4 A Hispanic lady, I believe.

5 Q All right. Have you ever spoken to her?

6 A Yes, I speak to her.

7 Q How do you speak to her?

8 A Good morning, you know, the kids are sometimes out, she's
9 washing the car sometimes, she has a nice yard, I always tell her her yard
10 is nice.

11 Q All right. So if you're both outside, you'll say hi?

12 A Absolutely.

13 Q Okay. Prior to December 11, 2007, had you ever been inside
14 her house?

15 A No.

16 Q Okay. After December 11, 2007, isn't it true you went over to
17 her house and spoke to her about this incident?

18 A Yes, I did. I spoke with all my neighbors about the incident,
19 'cause I -- I wasn't home and it's -- I know they was wondering what was
20 going on, so was I.

21 Q When was it that you went and spoke to all your neighbors?

22 A The very next day.

23 Q Okay. And not a couple of months later?

24 A No.

25 Q Not after it went to court?

1 A No, absolutely. I spoke to them the very next day.

2 Q Did you -- well, strike that.

3 When you got back inside your residence, after 2:00 in the
4 morning, before your fiancé comes back home, who is in the residence?

5 A Thomas's sister Cheryl Cash, me and Angel and Payton.

6 Q No one else?

7 A I believe Tamisha was there but I'm not sure if she left. But I
8 think Tamisha was there, his niece, too. Yeah, she was there. Oh,
9 Sandy -- no, Sandy wasn't there. Sandy, she didn't come until later. But,
10 yeah, just me, Sharon, Angel, and Payton and Tamisha.

11 Q All right. How long did -- so Cheryl, Angel, Tamisha, yourself,
12 Defendant, you said Payton, but Brittney's not there?

13 A No, Brittney is not there.

14 Q How long were you in the residence with those people before
15 you drove your fiancé to the police station or police headquarters?

16 A Let's see, so, after they left, I drop Brittney back to her car, I
17 went in the house for about 15, maybe 20 minutes. It was kind of spooky
18 in there so. And then Thomas came and then we went straight to the
19 police station. Like it happened just.

20 Q Did all of you have a conversation before going to the police
21 station?

22 A Well, yeah, we cried and everything and, you know.

23 Q So, yes, you had a conversation?

24 A Yes.

25 Q How long was that time period before you left?

1 A Not long. Because he was on the phone with the detective, he
2 told them where he would meet him and gave us the address where to
3 bring him and.

4 Q How many times did he talk to the detective in your presence?

5 A I think once. Yeah, once. We just called him and he answered
6 and we took him. I took him.

7 Q And you drove him in which car?

8 A In the Cruze, the Chevy Cruze.

9 Q When he got home, what was he wearing?

10 A I believe he had on his work pants and he had a -- his shirt was
11 full of blood and.

12 Q So he was just wearing a white shirt that had blood on it?

13 A No, he had a sweater on, I think. I can't remember. Because I
14 don't know if he put the sweater on to go, or if he had it on already. But I
15 didn't -- I just remember he had on his tan pants.

16 MS. DIGIACOMO: Nothing further.

17 MR. LONG: Your Honor, may we approach?

18 THE COURT: Sure.

19 [Bench conference begins]

20 MR. LONG: The State asked this witness if Brittney lied about
21 the domestic battery --

22 MS. DIGIACOMO: No, she said Brittney -- she said Angel lied.

23 MR. LONG: That Angel had lied about the domestic battery.

24 And I flunk the door open and she asked -- and she said --

25 THE COURT: No.

1 MR. LONG: -- after the police report that this happens all the
2 time --
3 THE COURT: No --
4 MR. LONG: -- between Kyriell and Brittney.
5 THE COURT: -- about that night.
6 MS. DIGIACOMO: Yeah, I was talking --
7 THE COURT: About the shaking of that night.
8 MS. DIGIACOMO: Right.
9 THE COURT: Not any other domestic battery.
10 MR. LONG: Yeah, but --
11 MS. DIGIACOMO: Yeah, she was talking about --
12 THE COURT: No, that's --
13 MS. DIGIACOMO: -- Angel lied that it happened.
14 THE COURT: Yeah.
15 MS. DIGIACOMO: And started the whole thing.
16 THE COURT: They didn't open the door to that.
17 MR. LONG: I respectfully disagree --
18 THE COURT: I know.
19 MR. LONG: -- I don't have much from there.
20 THE COURT: That's fine.
21 [Bench conference ends]
22 THE COURT: Any further questions.
23 MR. LONG: I don't have any other questions for Ms. White.
24 THE COURT: Jury have any questions? Thank you, you're
25 free to go.

1 We're going to take our afternoon recess.

2 During this recess you're admonished not to talk or converse
3 among yourselves or with anyone else on any subject connected with this
4 trial. Or read or watch or listen to any report of or commentary on the trial
5 or any person connected with this trial by any medium of information,
6 including, without limitation, newspapers, television, radio, or the Internet.
7 Or form or express an opinion on any subject connected with the trial until
8 the case is finally submitted to you.

9 Remember, please don't get on social media and don't get on
10 the computer and do any research.

11 See you -- I'm going to give you until 1 o'clock, that'll give you
12 almost an hour -- that's an hour and 20 minutes.

13 See you back here at 1:00.

14 [Outside the presence of the jury]

15 THE COURT: There's so many witnesses out there --

16 MS. DIGIACOMO: Oh.

17 THE COURT: -- they're going to go out -- down the elevator
18 and out.

19 MS. DIGIACOMO: Thank you, Your Honor.

20 THE COURT: Just out of the abundance of caution.

21 MR. LONG: Thank you.

22 THE COURT: All right. You guys -- I need the Defendant back
23 here at 12:30. The attorneys here at 12:30. We'll number the jury
24 instructions, finish that up before the jury comes back in.

25 You've got two more witnesses?

1 MR. LONG: Yeah.

2 THE COURT: And then do you want to your client about
3 testifying or not.

4 MR. LONG: Yeah.

5 Right now he's made up his mind to testify --

6 THE COURT: All right. At that -- go talk.

7 MR. LONG: Thanks.

8 [Recess taken at 11:40 a.m.]

9 [Jury Trial resumed at 12:33 p.m.]

10 [Outside the presence of the jury]

11 THE COURT: All right. We're back on the record, C329699,
12 State of Nevada versus Thomas Cash.

13 We're ready to do jury instructions, number them.

14 You've had an opportunity, again, to talk to your attorney about
15 whether you're going to take the stand or not. What's your decision?

16 MR. LONG: What are you going to do?

17 THE DEFENDANT: No.

18 MR. LONG: No.

19 THE COURT: You're not going to take the stand?

20 MR. LONG: He's not going to, Your Honor.

21 THE COURT: You're sure of that?

22 THE DEFENDANT: Positive.

23 THE COURT: Okay.

24 Jury instruction number one -- and then what I'll do is I'll have
25 copies of this made for you guys.

1 MR. LONG: Yeah.

2 THE COURT: You've reviewed them and you're satisfied with
3 what we have?

4 MR. LONG: Yes.

5 THE COURT: Okay.

6 Jury instruction number 1 is the introduction page.

7 Jury instruction number 2, if in these instructions.

8 Jury instruction number 3, an Information is but a formal
9 method.

10 Jury instruction number 4, in this case Defendant is accused.

11 Jury instruction number 5, murder is the unlawful killing.

12 Jury instruction number 6, malice aforethought.

13 Jury instruction number 7, express malice is.

14 Jury instruction number 8, murder of the first degree.

15 Then we have a blank page.

16 MR. LONG: There's a cite on it, *Bifford v State*.

17 THE COURT: No, I don't have a cite. I don't like cites.

18 Just -- the next one is, the law does not undertake.

19 MR. LONG: Okay.

20 THE COURT: Is 9.

21 10, the intention to kill.

22 11, the prosecution is not required.

23 Instruction number 12, all murder.

24 Jury instruction 13, you are instructed.

25 Jury instruction 14, manslaughter is.

1 Jury instruction 15, the heat of passion.
2 Jury instruction 16, if you find the State.
3 Jury instruction 17, you are instructed that.
4 Jury instruction 18, a deadly weapon is.
5 Jury instruction 19, the State is not.
6 Jury instruction 20, battery is -- or means.
7 Jury instruction 21, the killing of or attempt killing.
8 Jury instruction number 22, a bare fear.
9 Jury instruction 23, an honest but unreasonable belief.
10 Jury instruction number 24, the right of self-defense.
11 Jury instruction number 25, actual danger is.
12 Jury instruction 26, if evidence of.
13 Jury instruction 27, if a person kills.
14 Jury instruction 28, is the constitutional right of a Defendant.
15 Jury instruction 29, to constitute the crime charged.
16 Jury instruction number 30, Defendant is presumed innocent.
17 Jury instruction 31, you are here to determine.
18 Jury instruction 32, the evidence which.
19 Jury instruction 33, the flight of a person.
20 Jury instruction 34, credibility or believability.
21 Jury instruction 35, the fact that a witness.
22 Jury instruction --
23 MS. BLUTH: Judge, that one needs to be --
24 MR. LONG: Judge, we don't need this because nobody's been
25 alleged to have been a felon.

1 MS. BLUTH: That was just if the Defendant testified.
2 THE COURT: Oh, take that out.
3 35, a witness who has special knowledge.
4 Jury instruction 36 --
5 MR. LONG: Do we need this one, 35?
6 THE COURT: Detectives.
7 MS. BLUTH: Yeah, the coroner.
8 MS. DIGIACOMO: Yes, the doctor.
9 THE COURT: The doctor.
10 MR. LONG: Oh, the doctor, yeah.
11 THE COURT: Although you are to consider.
12 Jury instruction 37, in arriving at your verdict.
13 Jury instruction 38, when you retire.
14 Jury instruction 39, if, during your deliberation.
15 Jury instruction number 40, during your deliberation.
16 Jury instruction 41, is the signature, now you will listen to the
17 arguments of counsel.
18 State is familiar with jury instructions 1 through 41?
19 MS. BLUTH: Yes, Your Honor.
20 THE COURT: You're satisfied with them?
21 MS. BLUTH: Yes, Your Honor.
22 THE COURT: Do you have any more to propose?
23 MS. BLUTH: No, Your Honor.
24 THE COURT: You've reviewed your verdict form?
25 MS. BLUTH: Yes.

1 THE COURT: Satisfied with it?

2 MS. BLUTH: Yes.

3 THE COURT: Defense is familiar with jury instructions 1

4 through 41?

5 MR. LONG: Yes, Your Honor.

6 THE COURT: You're satisfied with them?

7 MR. LONG: Yes, Your Honor.

8 THE COURT: Do you have any more to submit?

9 MR. LONG: No.

10 THE COURT: And you've reviewed the verdict form?

11 MR. LONG: Your Honor, my verdict form it doesn't have boxes

12 to check.

13 THE COURT: It has those little --

14 MR. LONG: It kind of has little squiggly thing.

15 THE COURT: -- squiggly thing.

16 MR. LONG: I'm fine with the content of it. If we can get a clean

17 copy, with boxes to check.

18 MS. DIGIACOMO: We might --

19 THE COURT: Mine has the same thing.

20 MS. DIGIACOMO: No, we need boxes.

21 MS. BLUTH: Oh, that's weird. On mine it has boxes.

22 THE COURT: Mine has kind of a half circle --

23 MR. LONG: Yeah.

24 THE COURT: -- with a --

25 MR. LONG: Yeah, yeah, that's what I have.

1 THE COURT: -- line in it.

2 MS. BLUTH: That's weird. On mine it's boxes.

3 Let me go back, Judge, if I can, because I can format it on Jill's.

4 MS. DIGIACOMO: Or we can bring it tomorrow.

5 THE COURT: All right. Without change, are you satisfied with

6 it?

7 MR. LONG: Yes, as long as there are, you know, the boxes for

8 people to --

9 THE COURT: All right.

10 MR. LONG: -- I'm fine with the content.

11 THE COURT: All right. You have two witnesses to call?

12 MR. LONG: Two witnesses remaining, Your Honor.

13 THE COURT: And then we'll be done for the day.

14 And what about rebuttal?

15 MS. DIGIACOMO: It depends on their witnesses.

16 THE COURT: Okay.

17 MS. DIGIACOMO: I can let you know at the end of the day.

18 THE COURT: All right.

19 And then if there's rebuttal, it'll be in the morning.

20 MS. BLUTH: Yes.

21 THE COURT: And then argument tomorrow.

22 MS. DIGIACOMO: Correct.

23 MS. BLUTH: Yes, sir.

24 THE COURT: Okay.

25 MR. LONG: So we should be done by noon tomorrow?

1 THE COURT: Noon or 1:00. I'll go until --
2 MS. DIGIACOMO: They go out?
3 THE COURT: Okay. Let me go get them to make copies of
4 these.

5 You'll come back and fix that.

6 MS. BLUTH: Yeah.

7 [Brief pause in proceeding]

8 [In the presence of the jury]

9 THE MARSHAL: All rise, please.

10 And be seated.

11 THE COURT: Stipulate to the presence of the jury.

12 MS. DIGIACOMO: Yes, Your Honor.

13 MR. LONG: Yes, Your Honor.

14 THE COURT: All right. Call you first witness.

15 MR. LONG: Defense calls Angel Turner.

16 **ANGEL TURNER**

17 [Having been called as a witness and being first duly sworn, testified as
18 follows:]

19 THE CLERK: Please be seated, state and spell your name for
20 the record.

21 THE WITNESS: Angel Turner, A-n-g-e-l, T-u-r-n-e-r.

22 **DIRECT EXAMINATION**

23 BY MR. LONG:

24 Q Good afternoon, Angel.

25 Angel, how do you know Thomas Cash?

1 A He's my stepfather.

2 Q Okay. Who's your mother?

3 A Antoinette White.

4 Q Okay. And is that the lady that you saw leaving shortly a while
5 ago?

6 A Yes.

7 Q Okay. And where were you staying in December of 2017?

8 A 3999 Pistachio Nut Avenue.

9 Q Okay. Do you still live there?

10 A Yes.

11 Q Okay. Now, how old are you?

12 A 18.

13 Q All right. Are you still in school?

14 A I'm going to college in August.

15 Q Okay. So you're done with high school?

16 A Yes.

17 Q Okay. Did you graduate?

18 A Yes.

19 Q Okay. Think back to the night of December 11th, 2017, I'm
20 going to show you what --

21 MR. LONG: Oh, I don't know what number exhibit this is? It's
22 just her house.

23 MS. DIGIACOMO: And, Your Honor, I'm going to object to what
24 he's putting up because that is not an exhibit.

25 MR. LONG: Yes, this has been entered in.

1 MS. DIGIACOMO: It's not marked, that's a photocopy.

2 THE COURT: Is that a photocopy of one of the exhibits?

3 MR. LONG: Yes.

4 THE COURT: All right.

5 It's all right. Go ahead.

6 [Colloquy between Counsel and the Court Clerk]

7 BY MR. LONG:

8 Q Angel, up here on your television there is a -- what has been
9 marked as State's Exhibit 52, do you recognize this house?

10 A Yes.

11 Q What's this house?

12 A My house.

13 Q All right. Do you still live there?

14 A Yes.

15 Q Okay. Back in December of 2017, where was your bedroom in
16 this house?

17 A On the left side, right here.

18 Q Okay. Now, this television, you can touch it and you can circle
19 it. So I want you to touch your screen and circle which one's your
20 window?

21 A [Witness complies.]

22 Q Okay. On December 11th, 2017, were you home?

23 A Yes.

24 Q Okay. And was there a car in the driveway?

25 A Yes.

1 Q What car was in the driveway?
2 A A Hyundai Accent.
3 Q Okay. And whose car is that?
4 A Mine.
5 Q Okay. And did there come a time when you asked Thomas for
6 help?
7 A Yes.
8 Q Okay. What I want you to do is I want you to tell the jury what
9 caused you to ask Thomas for help?
10 A When I looked out the window and --
11 Q This window that you've circled?
12 A Yes.
13 Q Okay.
14 A And it's a car right here.
15 Q Okay.
16 A And I seen my sister getting banged up against the car by
17 Kyriell.
18 Q Let's stop there for a minute, who's your sister?
19 A Brittney.
20 Q All right. And she's your biological sister?
21 A Yes.
22 Q How old is Brittney?
23 A 23.
24 Q Okay. And does Brittney have any children?
25 A Yes.

1 Q How many?

2 A She has two. Then, she had one there, and one on the way but
3 she has two now.

4 Q So you say, one on the way, she was pregnant in December of
5 last year?

6 A Yes.

7 Q Okay. So you looked out the window and you saw your sister,
8 Brittney, what did you see happening between Brittney and whoever?

9 A He had her --

10 Q Who's he?

11 A Kyriell had her arms like this and he was banging her up against
12 the car.

13 Q Hold on just a minute. Now, you say like this, for the record,
14 you've got your arms folded and you're grabbing both your biceps?

15 A Yes.

16 Q Okay. Now, do you know Kyriell?

17 A Yes.

18 Q How do you know Kyriell?

19 A Because he's the father of Brittney's kids.

20 Q Okay. Had you seen him before?

21 A Yes.

22 Q Okay. So you knew it was Kyriell?

23 A Yes.

24 Q Now, was it dark outside?

25 A Yes.

1 Q And you were still able to see?

2 A Yes.

3 Q How so?

4 A Well, there are streetlights on that street and.

5 Q Okay.

6 A You can hear his voice too to identify him.

7 Q And you recognized Kyriell's voice?

8 A Yes.

9 Q Okay. So going to back to what you were saying, you were

10 saying that you saw your sister and Kyriell, what was happening?

11 A He was banging her up against the car.

12 Q Which car?

13 A The Hyundai Accent that was parked in the driveway.

14 Q Okay. So your car?

15 A Yes, mine.

16 Q And you say, banging her up against, what do you mean?

17 A Like shoving her back and forth against the hood of the car.

18 Q Against the hood.

19 Was the car backed in or was it pulled in?

20 A It was backed in.

21 Q Okay. So the hood was facing the street?

22 A The -- I don't know what you call -- is that the -- the front of the

23 car, yes.

24 Q Which direction are the headlights facing?

25 A The street.

1 Q Okay. So --

2 A Yeah.

3 Q -- the car, somebody drove it in reverse?

4 A Yes.

5 Q Okay. And so you see this going on between Kyriell and
6 Brittney, what do you do?

7 A I got -- went in the room to get Thomas.

8 Q Okay. And why did get Thomas? Why didn't you just yell out
9 window, hey, stop?

10 A Because he wouldn't have listened to me. So I had to go get
11 Thomas.

12 Q Okay. And so what did you tell Thomas?

13 A I said, Thomas, come real quick, Kyriell's banging up Brittney
14 against the car.

15 Q Okay. What was Thomas doing?

16 A He was wrapping up Christmas presents.

17 Q Okay. Do you remember what Thomas was wearing?

18 A He had on a white long sleeve shirt and some work pants, still,
19 and his work shoes.

20 Q Okay. And that's what Thomas wears to work every day?

21 A Yes.

22 Q Okay. What color are those work pants?

23 A I think they were black.

24 Q Okay. So Thomas runs, what happens next? What does
25 Thomas do?

1 A Well, he runs outside.

2 Q Okay. Now, you say he runs outside, did you see him run from
3 the house to the outside?

4 A I followed him outside.

5 Q Okay. Did Thomas stop anywhere --

6 A No.

7 Q -- to get a weapon?

8 A No.

9 Q Okay. He ran straight outside?

10 A Yes.

11 Q Now, do you say this was a -- was it a fast run?

12 A He ran as fast as he could.

13 Q Okay. All right. Did you follow Thomas outside?

14 A Yes.

15 Q Okay. What happened outside?

16 A Well, he ran outside, Kyriell still had Brittney, her biceps, and he
17 got Kyriell off of Brittney, put him in a headlock, they started fighting.

18 Q Who put who in a headlock?

19 A Tommy put Kyriell in a headlock.

20 Q Okay. And one thing I forgot to do, I'm sorry. Do you see
21 Thomas in the courtroom today?

22 A Yes.

23 Q Can you point to him and say something that he's wearing?

24 A He's wearing a collared shirt.

25 THE COURT: The record reflect she's identified the Defendant.

1 BY MR. LONG:

2 Q Okay. So let's go slow, so Tommy ran to Kyriell, what
3 happened next?

4 A They -- he -- when he put him in the headlock, after he put --
5 after he released him, they started fighting.

6 Q Okay. And what do you mean by, fighting, what was going on?

7 A Like, they were squaring up. And then they were moving,
8 Brittney was yelling, Tommy was squaring up, backing up, Brittney was
9 yelling. Ezekiel was getting out the car. He was on the passenger side.
10 He ran all the way around the driver side, they were -- you can't really see
11 it on the picture but. They were in the street. And it was a car parked in
12 front of my driveway. So that was the car that Ezekiel got out of. And
13 then they ran back in the street, they was squaring up, it was two-on-one,
14 they were yelling and fighting.

15 MS. BLUTH: I apologize, I don't mean to interrupt you. I'm just
16 going to object, when she says "they" and "he" I can't follow who it is. So
17 if she could just name it, it would help me so much.

18 MR. LONG: Yeah, I'm going to -- I'll clear it up.

19 MS. BLUTH: Okay. Thank you.

20 BY MR. LONG:

21 Q So Angel, let's go -- let's go a little slower. So you're saying --
22 let's go back to where Kyriell and Tommy are in a headlock.

23 A U'm-h'm.

24 Q Who has who in headlock?

25 A Tommy had Kyriell in a headlock.

1 Q Okay. And where are you at this time?

2 A I'm standing in the driveway.

3 Q Can you show us where on this picture?

4 A It was about the edge of the driveway so.

5 Q Okay.

6 A As far as the edge is.

7 Q And were you yelling anything?

8 A I wasn't yelling anything.

9 Q Okay. Are you trying to help?

10 A I was just watching Payton -- I mean, not Payton. I was

11 watching Londyn. She was -- almost fell out the car that was parked in

12 front of the driveway.

13 Q Okay. Let's stick with Kyriell and Tommy, so they're in a

14 headlock, and they break free or did they break apart?

15 A He let him go.

16 Q Who let who go?

17 A Thomas let Kyriell go.

18 Q Okay. And then after Thomas let Kyriell go, what happened

19 next?

20 A Thomas and Kyriell started squaring up and.

21 Q By, squaring up, what do you mean?

22 A Like, like, squaring up.

23 Q And for the record, you're holding your fists about chest level?

24 A Yes.

25 Brittney's trying -- Brittney's yelling, Tommy, Kyriell stop.

1 Q Okay. So Brittney's yelling?

2 A Yes.

3 Q What is Brittney saying?

4 A Stop.

5 Q Okay. Who's she yelling at, if you know?

6 A Tommy.

7 Q Okay. Is Brittney trying to grab anybody?

8 A No.

9 Q Okay. She's just yelling?

10 A Yes.

11 Q Okay. What's the baby doing?

12 A The baby -- Londyn she was in the car, the door was open, she
13 was standing up in the seat, in her car seat, she was standing up in her
14 car seat with her head out the window. Well, not the window, but the door
15 because it was open.

16 Q Okay. And, now, Tommy and Kyriell are squared up to fight?

17 A Yes.

18 Q What happens next?

19 A They back -- Tommy and Kyriell backup behind the car as
20 Ezekiel is getting out the car going around from the passenger side.

21 Q Let's stop there, Ezekiel gets out of the passenger side of what
22 car?

23 A It was a white Jetta parked in front of the driveway.

24 Q Do you know whose car it was?

25 A No.

1 Q Okay. Do you know who brought that car to your house?

2 A Kyriell was driving.

3 Q Okay. So Ezekiel got out of the passenger side, what
4 happened next?

5 A They all -- Ezekiel, Thomas, Kyriell all end up behind the car in
6 the -- behind the car in the street fighting.

7 Q Okay. And what are they doing fighting, I mean, is it wrestling,
8 are they throwing punches, what's going on?

9 A They're throwing punches.

10 Q Okay. Do you see anybody land a punch on Thomas?

11 A Both of them did.

12 Q Okay. Did you see Thomas fall down?

13 A He didn't fall down until we were running back in the house.

14 Q Okay. And while this fight was going on, did you hear anybody
15 yelling besides Brittney?

16 A I heard Kyriell yelling. He was like, go get my thing out the car,
17 talking to Ezekiel.

18 Q Okay. He said, go get my thing?

19 A Yes.

20 Q Okay. Earlier -- okay. So he said, go get my thing, did you
21 hear Ezekiel yell anything?

22 A No, Kyriell just said, I got something for you, go get my thing out
23 the car.

24 Q Okay. Did anybody threaten to shoot Thomas?

25 A That's a threat when you say, go get my thing out the car,

1 threatening I have something for you, that's the threat to shoot Thomas
2 right there.

3 Q You understood that as a threat?

4 A Yes.

5 MS. BLUTH: Objection, speculation.

6 THE COURT: Sustained.

7 BY MR. LONG:

8 Q Okay. And so the fight is going on in the street?

9 A Yes.

10 Q Kyriell is yelling, go get my thing, I've got something for you?

11 A Yes.

12 Q Brittney's yelling?

13 A Yes.

14 Q Anybody else yelling?

15 A Just Kyriell, Brittney. Thomas just squaring up in the street with
16 Kyriell and Ezekiel.

17 Q Okay. Did you see Ezekiel fall?

18 A No.

19 Q Okay. Did you see Thomas go back inside?

20 A No.

21 Q Okay. What did you do at this point in this fight?

22 A I got, I grabbed Londyn, because Brittney was yelling at me to
23 grab her.

24 Q Okay.

25 A And I ran back in the house. Tommy was running behind me,

1 so he slipped in the driveway.

2 Q Okay.

3 A And got up and ran behind me.

4 Q Okay. So you didn't see the whole fight because you were
5 getting the baby; right?

6 A Yes.

7 Q Okay. Now, while you were getting the baby, did you hear
8 anything else?

9 A No.

10 Q Okay. And when you went back inside, you took the baby, and
11 Thomas followed you?

12 A Yes.

13 Q Okay. And before this occasion, had you ever seen Ezekiel
14 before?

15 A No.

16 Q Okay. You didn't know who he was?

17 A No.

18 Q And you have before had problems with Ezekiel?

19 A No.

20 Q Okay. And to your knowledge, only if you know, has Thomas
21 and Ezekiel ever had any problems?

22 A No, he never knew him.

23 Q Okay. Now, at the preliminary hearing, the hearing that we had
24 in North Las Vegas, do you remember testifying?

25 A Yes.

1 Q Do you remember testifying that somebody should kill this --
2 MS. BLUTH: Judge, I apologize, I'm going to have to object to
3 the form of the question.

4 THE COURT: Sustained.

5 MR. LONG: Okay. I'll pass the witness.

6 **CROSS-EXAMINATION**

7 BY MS. BLUTH:

8 Q Hi Angel.

9 A Hi.

10 Q We've never met before; right?

11 A Right.

12 Q Okay. So I'm going to ask you some questions. It's just going
13 to take me a second to setup; okay?

14 A Okay.

15 Q Okay. Before we get into the incident that happened on
16 December 11th, I want to ask you some background questions; all right?

17 A All right.

18 Q So during that time period, so the fall/winter of this last year,
19 who was all living in that house with you at that time?

20 A Tommy, his sister Sharon, me, my mom, Payton, and my Auntie
21 Sandy.

22 Q And your Auntie Sandy?

23 A Yeah.

24 Q Okay. And would Brittney stay there sometimes with Londyn?

25 A Yeah, she would spend the night.

1 Q Okay. And then, I think, Mr. Long had asked you, but Payton is
2 your half-sister?

3 A Yes.

4 Q And Thomas is her father?

5 A Yes.

6 Q And your mom is Payton's mom?

7 A Yes.

8 Q Do I have that right?

9 A Yes.

10 Q Okay. Now, how long have you known Thomas for?

11 A For like three, four years. Payton is three, so, like, four or five
12 years.

13 Q Okay.

14 A Yeah.

15 Q And Payton is kind of a daddy's girl; right, she really loves her
16 dad?

17 A Yeah, she does.

18 Q Okay. And this whole incident or this whole thing has been very
19 difficult for you and your family; is that fair?

20 A Yes.

21 Q And especially your mother?

22 A U'm-h'm.

23 Q Is that a yes?

24 A Yes.

25 Q Okay. Do you want a drink of water?

1 A No.

2 Q You okay?

3 MR. LONG: There's some Kleenex there.

4 BY MS. BLUTH:

5 Q If at any point in time you need a break, you just let me know
6 and we'll take a break; okay?

7 A Okay.

8 Q Okay. And it's been difficult for you; is that fair?

9 A Yes.

10 Q And for Payton?

11 A Especially for Payton.

12 Q Okay. So I want to ask you a few questions about
13 December 11th in the evening hours; okay?

14 A Okay.

15 Q All right. So I want you to tell me, like, shortly before this
16 happened, so shortly before Kyriell comes to the house, who is all inside
17 the house with you?

18 A Thomas, Sharon, Tamisha, Payton, Brittney, Londyn.

19 Q Okay. And I can't remember if you said this earlier or not, I
20 apologize, but Sharon is related to you guy's how?

21 A She's Tommy's sister's auntie.

22 Q Okay. Thank you.

23 So when you're in your room, you're upstairs in that room that
24 you showed us on the TV; right?

25 A Yes.

1 Q And you have the TV on?

2 A Yes.

3 Q And you start hearing something, and you just hear what's
4 going on, you don't actually see what's going on outside; correct?

5 A No, I looked out the window after I heard it and saw.

6 Q Okay. So after this whole thing happens, you go and you speak
7 to the police; right, and you do what's - a recorded statement?

8 A Yes.

9 Q And then there was a preliminary hearing where you testified as
10 well; right?

11 A Yes.

12 Q Okay. Have you had the opportunity to look through those
13 statements before you came to court?

14 A No.

15 Q Okay. So I'm just going to ask you some questions.

16 MS. BLUTH: So I'm on page five, Counsel.

17 May I approach the witness, Your Honor?

18 THE COURT: Yes.

19 BY MS. BLUTH:

20 Q So Angel if you wouldn't mind reading this question to yourself
21 and then this answer and letting me know when you're done.

22 A Read it out loud or?

23 Q No, just to yourself.

24 And then as soon as you're done, let me know when you're
25 done and then I'm going to have some questions for you; okay.

1 A [Witness complies.]

2 Q Okay. So when you were speaking to the police they asked you
3 what car is Brittney getting slammed onto, were you able to see that, and
4 you say, no, I just heard it; is that right?

5 A Yes.

6 Q Okay. So what I want to do is, Mr. Long was using this exhibit,
7 which is State's 52; okay.

8 So today you're saying that you actually looked out the window
9 and you did see Kyriell slamming Brittney into a car; is that right?

10 A Yes.

11 Q And then the car that you said you -- today that you're saying
12 you saw Brittney being slammed into, was parked in the driveway?

13 A Yes.

14 Q So not -- like, not at the end of the driveway, in front of the
15 house but actually physically in the driveway?

16 A Yes.

17 Q All right. And was it on this side, on the right side where my pen
18 is, or was it on this side?

19 A On the right side where your pen is.

20 Q On the right side where my pen is; okay.

21 Now, before you get outside, whether it's up in your room or as
22 you're coming downstairs, you can hear Brittney and Kyriell yelling at
23 each other; is that right?

24 A Yes.

25 Q And at that point where you hear them yelling at each other, you

1 hear Brittney saying, I hate you, I don't want to talk to you anymore. And
2 Kyriell's saying, I love you too much for this --

3 A Yes.

4 Q -- please stop, I love you too much for this?

5 A Yes.

6 Q Okay. Now, when you go -- when you get outside, so like when
7 you physically come outside, where are Brittney and Kyriell as you walk
8 out the front door. Can you show me where they're standing?

9 A So the car -- I can't draw on it.

10 Q Is it not drawing? Oh, there you go.

11 A The cars like this.

12 Q Okay.

13 A That's the hood, Brittney is right there against the car, Kyriell is
14 facing her in the hood, with his arms on her biceps.

15 Q Okay.

16 A And that's where they were when we came out the house.

17 Q Okay. So I just want to make sure, when we're talking about,
18 they're at the car, we're still talking about this car that's parked in the
19 driveway; right?

20 A Yes.

21 Q We're not talking about the cars, Brittney's and the car that
22 Kyriell came up in?

23 A Correct.

24 Q Okay. So, now, when you -- your testimony today is that when
25 you got outside Kyriell had his hands on Brittney's wrists?

1 A No.

2 MR. LONG: No.

3 BY MS. BLUTH:

4 Q Or I --

5 MR. LONG: Objection, Your Honor, misstates testimony.

6 BY MS. BLUTH:

7 Q Okay. Go ahead, go ahead and correct me, I'm sorry.

8 A No, he had her on her muscles, her forearm.

9 Q Like her biceps?

10 A Yes.

11 Q Okay. I apologize, I misstated what you said.

12 And when you first come outside, you hear Kyriell say to
13 Brittney, like, you're never going to see Londyn again?

14 A Yes.

15 Q After you get outside, you start a conversation with Kyriell,
16 asking him, like, why are you doing that, what's going on; right --

17 A Yes.

18 Q Or why did you do that, why are you doing that?

19 And at that point Kyriell lets Brittney go?

20 A No, Tommy got Kyriell off of Brittney.

21 Q Okay. So you're saying that Tommy got in between or got
22 involved first before Kyriell let Brittney go?

23 A It was like same time type of -- because it wasn't like he could
24 just pull him off of her. He saw Tommy hail up.

25 Q Okay. So my question -- I guess, my question is, is when you

1 and Thomas come outside --

2 A Yes.

3 Q -- before Thomas physically engages with Kyriell --

4 A Yes.

5 Q -- does Kyriell take his hands off of Brittney?

6 A No.

7 Q Okay. So --

8 MS. BLUTH: Page nine, Counsel.

9 BY MS. BLUTH:

10 Q Okay. So if you wouldn't mind reading right here in the middle,
11 it starts with -- right here and then to right there; okay. And I'm going to
12 ask you some questions.

13 A [Witness complies.]

14 Q Okay. So when you spoke to the police, on page nine, you
15 stated that you said to Kyriell, like, why are you doing that, and at that
16 point he let Brittney go?

17 A U'm-h'm.

18 Q And then he and Thomas started fighting?

19 A Yes.

20 Q Okay. So by the statement you gave the police, by the time that
21 you and Thomas get out there, and you state to Kyriell, why are you doing
22 this, what's going on, he let's go of Brittney?

23 A Yes.

24 Q Okay. Now, who threw the first punch? When I say, who, I
25 mean who between Kyriell and Thomas threw the first punch?

1 A I didn't see who threw the first punch.

2 Q Okay. So when they -- when you stated that, they started
3 grabbing each other, they meaning Kyriell and Thomas --

4 A U'm-h'm.

5 Q -- or I don't know, what were the exact words you used? Did
6 you say locking with each other? Tell me what -- I don't want to misstate
7 what you said?

8 A They were locking, like, like, wrestling, they were like.

9 Q Okay.

10 A Yes.

11 Q And so for the record, you have your hands up in front of you,
12 kind of in a circle, like you're giving somebody like a bear hug?

13 A Yes.

14 Q Okay. And each of them have their hands on one another?

15 A Yes.

16 Q Now, with Kyriell, is his head up where Thomas's is or his head
17 down kind of in Thomas's body?

18 A Down.

19 Q Down in Thomas's body?

20 A Yes.

21 Q Okay. Now, I want to use a different picture, if I can, for -- with
22 you. I'm going to show you now State's Exhibit 1, but I don't like this one.
23 So I'm going to use a different one.

24 I'm going to use State's Exhibit 3; okay. So just to orientate
25 you -- all right --you see your house there at 3999?

1 A Yes.

2 Q Okay. So when Thomas and Kyriell start locking onto each
3 other, you stated that they kind of started moving around; right?

4 A Not while they were locking, when they let go they were moving
5 around.

6 Q Okay. So what caused them to let go of one another?

7 A Brittney was yelling.

8 Q And at some point Brittney was actually trying to pull Thomas
9 off of Kyriell; is that right?

10 A Right.

11 Q And so when Brittney is able to separate them, could you show
12 me where they were at that point?

13 A Okay. This is a car, the cars right here.

14 Q Okay.

15 A They were right here. When they separate Thomas goes right
16 here.

17 Q Okay. And where does Kyriell go?

18 A He follows him right there.

19 Q Okay. And just, because I'm going to make a record of what
20 you just drew, so right in front of the house there was a vehicle. Was that
21 the vehicle that Kyriell showed up in?

22 A Yes.

23 Q Okay. And so after they separate, Thomas goes into -- or --

24 A Go behind the car in the street.

25 Q Okay. Behind the car, up the street to where the house is with

1 the dirt lot; correct?

2 A U'm-h'm.

3 Q Yes? Is that --

4 THE COURT: Yes?

5 THE WITNESS: Yes, sorry.

6 BY MS. BLUTH:

7 Q That's okay. It's hard to get used to.

8 And then you said Kyriell kind of follows him up that direction; is
9 that right?

10 A Yes.

11 Q All right. So at what point did Ezekiel get out of the car?

12 A When -- as soon as the -- the bear hug, whatever you want to
13 call it, it was over, he got out the car, he ran from the passenger side all
14 the way this way. Thomas is back here. Kyriell and Ezekiel is on this side
15 of him and they were fighting.

16 Q Okay. So you kind of drew a little bit off the map, so should I
17 zoom out, would that be -- oops, no that's going to mess up your whole
18 drawing.

19 So one sec; okay.

20 All right. So I want you to draw to me where Ezekiel went?

21 A So this is the car.

22 Q Okay.

23 A More like this.

24 Q Okay. Now, during -- while this is going on, after Ezekiel gets
25 out of the car, you -- Londyn is kind of losing her mind at this point; right?

1 A Yeah.

2 Q And so you run to grab Londyn and take her into the house?

3 A I didn't grab her until like after a couple of punches were thrown,
4 and I saw it, then I grabbed her, we ran in the house.

5 Q Okay. So, I just want to make sure I have this right timing-wise;
6 okay. So Ezekiel gets out of the car?

7 A Yes.

8 Q And you said a couple of punches are being thrown?

9 A Yes.

10 Q Who's throwing the punches?

11 A Ezekiel, Kyriell, and Thomas.

12 Q Okay. And so everybody's kind of fighting all at the same time?

13 A Yes.

14 Q And so many punches would you say were thrown at that point
15 in time before you grab Londyn and you get out of there?

16 A I don't know. Probably like five or six punches.

17 Q Was it pretty quick?

18 A Yes.

19 Q Okay. Speaking of timing, from the moment you get outside
20 and Kyriell and Thomas lock --

21 A U'm-h'm.

22 Q -- to the moment you grab Londyn and get inside, how long do
23 you think you were out there, seconds, minutes?

24 A Probably under two minutes. Yeah, it was fast.

25 Q Okay. And then after you grab Londyn, you go immediately into

1 the house?

2 A Yes.

3 Q And so when you go into the house, Ezekiel is still standing?

4 A Yes.

5 Q And so you don't know how Ezekiel gets to the ground?

6 A No.

7 Q Before you go into the house, is that when you see Thomas
8 fall? I'm trying to gauge --

9 A Yeah, he falls. Right here, in the driveway, running behind me
10 in the house.

11 Q Okay. So when you're running into the house, Thomas is
12 running in, not with you, but right after you?

13 A Yes.

14 Q And at that point in time, Ezekiel is still on his feet?

15 A Yes.

16 Q Okay. Even though Thomas is almost into the house with you?

17 A Yes.

18 Q And you're sure you see Ezekiel standing up in the street?

19 A Yes.

20 Q Now, there's a point when you are outside, when the fight is
21 going on and you and Brittney are yelling at each other and calling each
22 other stupid; right?

23 A No, I didn't yell at her until I ran in the house.

24 Q Okay.

25 A And I locked the door on her. I didn't want her to come in the

1 house. So I locked on the door on her, so she was banging on the door,
2 and I was just yelling. We were yelling at each other.

3 Q Okay. Just one second.

4 So when you and Brittney were yelling at each other, is Thomas
5 already inside the house, or you don't know what's going on outside?

6 A He was already inside the house.

7 Q Okay. Now, I'm going to show you page 127 of when you
8 testified at the preliminary hearing; okay.

9 Start right here on line 4, if you go, and go to line 12.

10 A I don't understand this line.

11 Q This line?

12 THE COURT: You've got to talk into the mic.

13 MR. LONG: Yeah, you need to talk into the microphone.

14 BY MS. BLUTH:

15 Q That's okay. It's hard to get used to.

16 Show me where you were, I'm sorry.

17 A Is this a -- I don't understand if this is a question or what is -- is
18 it misworded?

19 Q So in this exchange you're asked, and you have no idea what
20 was going on outside when you and Brittney are exchanging inside?

21 And you say -- and then they continue the question, what
22 Thomas did and Ezekiel?

23 A U'm-h'm.

24 Q And you say, yes, correct?

25 A Okay.

1 Q I don't want to put words in your mouth; is that what it says?

2 A Yes, that's what it says.

3 Q Okay. So at the point in time when Brittney -- you say Brittney

4 separates Thomas and Kyriell, at that point in time there's like a break -- a

5 break in the fight; correct?

6 A Yes.

7 Q They are -- those two people are separated?

8 A Yes.

9 Q At that point in time Thomas doesn't go into the house?

10 A No.

11 Q He stays outside?

12 A Yes.

13 Q Okay. When you go into the house, tell me where you go?

14 A I ran upstairs.

15 Q Do you still have Londyn at that point?

16 A Yes.

17 Q Okay. And what do you do?

18 A Payton's asking questions and I'm just trying to answer them.

19 And then I run back downstairs, I still have Londyn on my hip, but I had

20 locked Brittney out so I hear her banging on the door, so that's when I ran

21 downstairs.

22 Q And where's Thomas when this is going on?

23 A I don't know.

24 Q Okay. So when you run inside the house and you say you lock

25 Brittney out?

1 A Yes.

2 Q Does Thomas come in with you or do you lock it before he gets
3 there?

4 A He came in with me.

5 Q Okay. And so you go upstairs and you don't know what he
6 does?

7 A No.

8 Q Now, but you know he's inside the house; right?

9 A Yeah, I know he's in the house.

10 Q Okay. When you go upstairs you look outside your window and
11 you see Ezekiel has fallen to the ground at that point?

12 A Yes.

13 Q Okay. Now, I want to try to go over -- at the end of your
14 statement to the police, do you remember when they tried to -- for you to
15 get a -- give a chronological order of how things happened. Do you
16 remember that question -- those questions?

17 A Yes.

18 Q All right. And --

19 MS. BLUTH: Page 27, Counsel.

20 BY MS. BLUTH:

21 Q I'm going to turn to page 27, so you can read it.

22 Okay. So start at page 27 for me, just read it to yourself, and I'm
23 going to have some questions when you're done; okay.

24 A [Witness complies.]

25 Q Okay. So when they ask you for the chronological order at the

1 end of your interview, you state that, after the first couple of punches, the
2 other guy, meaning Ezekiel, gets out of the Jetta and comes over, and it's
3 now two-on-one; right?

4 A Yes.

5 Q And then at some point they kind of break apart and Tommy
6 comes back towards the house and runs towards the house; right?

7 A Yes.

8 Q And then you state, that's when a second fight occurs and that's
9 when Kyriell punches Tommy in the nose?

10 A Yes.

11 Q And then Tommy starts running towards the house and he slips
12 and falls?

13 A Yes.

14 Q But that's a different than what you're saying today?

15 A Different how?

16 Q Well, I just -- so, today, you're -- you stated that it was Kyriell
17 and Thomas fighting and Brittney breaks them up; right?

18 A Right.

19 Q And so they're broken up at that part?

20 A U'm-h'm.

21 Q And then Ezekiel gets out?

22 A Yes.

23 Q And it becomes two-on-one?

24 A Yes.

25 Q And then -- you, after you see a couple of punches being

1 thrown, you run, you get Londyn, and as you grab Londyn and run in, you
2 see Thomas running in?

3 A Yes.

4 Q Is that right?

5 A Yes.

6 Q Okay. So but when you spoke to the police you said that there
7 was some type of second fight on Thomas's way back to the house and
8 that's when Kyriell punches him in the nose?

9 A Yes.

10 Q Okay. But, so, which one of those is the right way?

11 A The -- the one I told the police.

12 Q Okay. So the one that you told the police that when Kyriell
13 comes -- when Thomas starts running back to the house there's a second
14 fight with Kyriell and Kyriell punches Thomas in the nose?

15 A Yes.

16 Q Okay. So Ezekiel's not even involved at that point?

17 A No.

18 Q And Ezekiel's standing in the middle of the street and he's still
19 standing?

20 A Yes.

21 Q Okay. Who threw the first punch between Ezekiel and Thomas
22 when those two started fighting?

23 A Ezekiel.

24 Q And you -- obviously you know Thomas had, you know, like a
25 cut on his -- on the bridge of his nose; right?

1 A Yes.

2 Q And when we were just going over your statement you stated
3 that that was from Kyriell punched him on the nose when Thomas was on
4 the way back into the house; is that right?

5 A Right.

6 MR. LONG: Object, misstates her testimony. She doesn't say
7 it gave him that wound.

8 MS. BLUTH: Oh, let -- let me clarify then.

9 THE COURT: Clarify. Sustained.

10 BY MS. BLUTH:

11 Q Did you see Tommy sustain that injury to his nose when he
12 was -- when Kyriell punched him before he came into the house?

13 A I seen the wound on his nose when he was fighting Ezekiel in
14 the street.

15 Q Okay. So -- and then Kyriell punched him again in the nose
16 before he ran in?

17 A Well, yes.

18 Q Okay.

19 A Punched him somewhere in the face.

20 Q Okay. Now, after you get into the house, go upstairs, and then
21 you come back downstairs, how does Thomas leave the house? Which
22 way does he go?

23 A He left out the back door.

24 Q Okay. When you speaking to the police --

25 MS. BLUTH: Page 15, Counsel.

1 BY MS. BLUTH:

2 Q -- you stated that he went out the door and his car is gone so he
3 had to leave in that car; is that right?

4 A When I spoke to the police?

5 Q Yeah. Do you want -- and I can show it to you. I don't want you
6 to think I'm putting words in your mouth.

7 Page, 15, if you just start right there.

8 A Okay.

9 Q So you tell the police, when you're speaking in your voluntary
10 statement, that Thomas left out the door and his car isn't in the driveway
11 so he had to leave in his car; is that right?

12 A Right.

13 Q But today you're saying that he went out the back door?

14 A Yes.

15 Q Okay. I want to ask you some questions about after Thomas
16 leaves and obviously we all know at some point the police come and like
17 an investigation happens; right?

18 A Right.

19 Q So while the police are there, Thomas has already left?

20 A Yes.

21 Q What are -- what are you guys doing inside the house?

22 A The police told us to come outside the house and I was sitting in
23 the backseat of the police car --

24 Q Okay.

25 A -- until they questioned me.

1 Q So was there a period of about 30, 40 minutes though when the
2 police are there and you guys are still inside the house not coming out?

3 A As soon as they came they told us to come out the house. It
4 wasn't 30, 40 minutes though.

5 Q Okay. So as soon as the police asked you to come out the
6 house, you came out?

7 A Yes.

8 Q Did they knock on the door and ask you to come out or did they
9 use one of those bullhorns like exit --

10 A They used a bullhorn.

11 Q Did you ever go out the house and check on Ezekiel or help
12 Kyriell in anyway?

13 A No.

14 Q Did anybody from inside your house go and help Ezekiel?

15 A Kyriell was telling Brittney to call the police.

16 Q Now, as soon as this goes on, you start messaging your mom
17 or calling your mom; is that right?

18 A Right.

19 Q Where does Brittney go after she -- you let her back in the
20 house?

21 A She -- we were arguing. She got Londyn from me and then she
22 went outside to her car and put Londyn in the car and left.

23 Q Okay. So did you ever see Kyriell with any weapons?

24 A No.

25 Q Did you ever see Ezekiel with any weapons?

1 A No.

2 Q Did you ever hear -- or excuse me, did you ever see Tommy
3 with any weapons?

4 A No.

5 Q When you were speaking to the police they were asking those
6 questions too, like, you know, who had the weapon? Did you see
7 anybody with a weapon?

8 And you tell the police that you didn't see anybody with a
9 weapon but you knew that Tommy did not have a weapon or would not
10 have had a weapon.

11 A Yes.

12 Q What time of night do you think that this happened at, if you
13 remember?

14 A I don't remember.

15 Q So at what point does your mom get back to the house?

16 A She comes after all the police cars are there and taped off the
17 scene. I'm in the back of the police car. So she -- it took her about -- I
18 don't -- they didn't tell me when she got there. I didn't see her there until
19 they were finished questioning me. So I don't even know when she got
20 there.

21 Q Okay. But at some point after the police leave, you guys get to
22 go back into your home; right?

23 A Yes.

24 Q And so that would be you, your mother, Tamisha, Sandy, and
25 Brittney?

1 A Yes.

2 Q And the babies obviously?

3 A Yes.

4 Q Okay. Now, while you're there you guys talk about what
5 everybody saw and what had gone on?

6 A Yes.

7 Q And no one knows where Thomas is at that point?

8 A No.

9 Q And you guys are trying to call him and text him and try to find
10 out where he is?

11 A Yes.

12 Q But he's not answering?

13 A Correct.

14 Q And his phone is going straight to voicemail?

15 A Yes.

16 Q But after some time he comes back to the house; is that right?

17 A Right.

18 Q Do you know what time it was that he came back?

19 A No.

20 Q Do you know how many minutes or hours went by before he
21 came back?

22 A It was hours.

23 Q All right. And then when he comes back, do you guys talk with
24 him about what had happened?

25 A Well, I didn't talk to him. My mom just told him, he should turn

1 himself in.

2 Q Okay. And how long after he comes back does your mom and
3 him leave for the police department?

4 A As soon as they got off the phone with the detective.

5 Q So how long would you say that is though after Thomas got
6 home?

7 A Not even an hour he was home.

8 Q Okay. How are you doing? Do you need some water?

9 A No.

10 Q That car that we were originally talking about that was in the
11 driveway, whose car was that?

12 A That's my car.

13 Q Your car?

14 A Yes.

15 Q And at some point that car, right after this incident, that car
16 leaves the residence. Do you know who took it?

17 A No.

18 Q Was anybody in the house that left the house and you didn't see
19 them anymore?

20 MR. LONG: Your Honor, I'm going to object. She's asking
21 some -- I'm going to object as to vague. She's asking if someone left that
22 she didn't see.

23 MS. BLUTH: No. I'm asking her was someone in the home and
24 then left the home --

25 THE COURT: Okay. You can answer that.

1 BY MS. BLUTH:

2 Q -- besides Thomas. Do you understand my question?

3 A Yeah.

4 Q So was there someone inside the home that left the home?

5 A Two people left but.

6 Q Okay. Who with that?

7 A My auntie left.

8 Q Okay.

9 A Well, she left before. And then I think it was Tamisha.

10 Q Okay. So your auntie, which auntie would that be?

11 A Sandy.

12 Q And Sandy left before this incident even took place; right?

13 A Right.

14 Q So Tamisha left?

15 A Yes.

16 Q Does Tamisha drive that car sometimes?

17 A No.

18 Q Okay.

19 A Everybody -- well, everybody drives it 'cause I can't. I don't
20 have a license so.

21 Q So everyone kind of uses your car?

22 A Yeah.

23 Q But is Tamisha one of those people that sometimes uses your
24 car?

25 A Yes.

1 Q Now, during this time period, like this -- in December of 2017,
2 was Thomas working?

3 A Yes.

4 Q And where did he work at?

5 A I didn't -- I don't know where he worked. He did -- he had a
6 couple of jobs.

7 Q Okay. What type of jobs were they?

8 A They were like handyman jobs because he fixed dishwashers,
9 and refrigerators, washing machines.

10 Q So was it like at job where you go every day and work like an 8
11 to 5 or was it just like if he got a call to work on something?

12 A He worked at Sears and he worked at McDonald's repairing.

13 Q Okay.

14 A And he did another job too. I don't know what it was.

15 Q Okay. Now, when the car that -- so Kyriell and Ezekiel come in
16 like a white Jetta you talked about; right?

17 A Yes.

18 Q You didn't see that car pull up?

19 A No, because Brittney told me she was going to drop Londyn off
20 to him.

21 Q Okay. So you didn't know who was driving the car and who was
22 in the passenger when the car arrived to the house?

23 A Right.

24 Q Now, I want to ask you some questions, you said that Kyriell
25 yelled, go get my thing out of the car or I got something for you,

1 something to that affect; right?

2 A Yes.

3 Q When Kyriell said that, can you explain to me at what part in the
4 incident that was said? So, like, was it when they -- he and Brittney are
5 still in the driveway? Can you explain it to me?

6 A It was right here. Mind you, Tommy is on this side and they're
7 on this side and the car is way over here.

8 Oh, can you hear me?

9 Q Yeah, I can hear you. Thank you.

10 Okay. So I just want to put on the record what you just said.
11 So you're over here, kind of out in front -- I'm going to mess up your
12 drawing in one second but I'll get it back. So right in front of the 3984
13 residence; right?

14 A Right.

15 Q And Thomas is on the left side of the picture and Kyriell and
16 Ezekiel are on the right side of the picture?

17 A Yes.

18 Q And at that point -- it's at that point you're saying that Kyriell
19 says, go get my -- go get my thing out of the car, I got something for you?

20 A Yes.

21 Q Okay. Now, at no point does Kyriell go to his car and get
22 anything?

23 The judge hiccupped.

24 A No. He didn't.

25 Q She couldn't figure out where that voice was coming -- noise

1 was coming from. It's okay.

2 THE COURT: It's not bad manners; just good soda.

3 BY MS. BLUTH:

4 Q So at no point did Kyriell go to his car and grab something?

5 A Correct.

6 Q And at no point did Ezekiel go to the car and grab something?

7 A Correct.

8 MS. BLUTH: Court's indulgence.

9 BY MS. BLUTH:

10 Q All right. I've got a few more for you.

11 All right. So I just want to ask you a few questions about whose
12 room is whose first; okay?

13 A Okay.

14 Q So if we go inside and we go upstairs --

15 MR. LONG: Your Honor, I'm going to object. What's the
16 relevance of this?

17 THE COURT: Well, she said she was in the front of the house
18 and she went to get Thomas and he's in the back of the house or. I think
19 it's relevant --

20 MR. LONG: I'll withdraw my objection.

21 THE COURT: -- I think it's relevant and I'll let her ask these
22 questions.

23 BY MS. BLUTH:

24 Q All right. So State's 108, let me zoom out for you, whose room
25 is that?

1 A My mom and Thomas.

2 Q Okay. And -- one second; all right, there we go.

3 And is this upstairs?

4 A Yes.

5 Q Okay. I'm going to show you State's 113, is that the same

6 room?

7 A Yes.

8 Q Okay. And then there's like a little pink bed, whose bed is that?

9 A Payton's.

10 Q Is that where Payton was sleeping during that time period?

11 A No, Payton was on my mom's bed.

12 Q Okay. And, now, I'm going to show you State's 95, whose room

13 is that?

14 A Payton's room.

15 Q State's 96, is that the same room, just a different view?

16 A Yes.

17 Q State's 99?

18 A That's my room.

19 Q State's 100, same room, just different view?

20 A Yes.

21 Q Showing you State's 104?

22 A That's my auntie's room, Sandy.

23 Q Okay. Just going to show you, same room, different view, 106;

24 is that right?

25 A Yes.

1 Q Okay. Now, today you used the term, "squaring up." What
2 does squaring -- what does that term mean to you?

3 A When you're in a fight, right before the fight, you -- when you
4 put your fists up so you can fight.

5 Q Okay. So for the record, you just kind of put your fists up in
6 front of your face; right?

7 A Yes.

8 Q Now, where was the first time you heard that term?

9 A The first time I heard the team?

10 Q Yeah, like how do you know that term?

11 A It's like what you do when you fight. It's always been a term.

12 Q But so would you agree with me that when you spoke to the
13 police you never used that term "squaring up" or at the preliminary
14 hearing?

15 A Yes.

16 Q So did you -- where did you hear that term or -- today's the first
17 time you're using it I guess. Is there a reason for that?

18 A I'm using it because the first time I used it, at the hearing, I said,
19 jumping around, and I get -- nobody understood that from squaring up.
20 It's the same thing as jumping around.

21 Q Okay. So today you're using squaring up because when -- at
22 the prelim when you were talking about everybody jumping around each
23 other no one knew what you were you talking?

24 A Yes.

25 Q Okay. Now, in your statement to the police you were asked

1 several times whose car was it in the driveway and you said that it was
2 Tommy's car?

3 A Correct.

4 Q So is it your car or is it Tommy's car?

5 A It's mines but he drives it. Everybody drives it. But he drives it
6 more than everybody else.

7 Q Now, does he have his own car?

8 A Yes.

9 Q From the moment that Ezekiel goes to the ground, I know you
10 don't see that because Ezekiel's still standing when you go inside, but
11 when you go upstairs you see him -- Ezekiel on the ground; right?

12 A Yes.

13 Q From the time Ezekiel is on the ground to the time the police
14 call you out, you, nor anyone in your house, go outside to Ezekiel or help
15 render aid?

16 A Correct.

17 Q And, you, or no one in your house, calls 9-1-1?

18 A Correct.

19 Q Now, if you can, I want you to turn to page 11 for me. When
20 you spoke to the police on page 11 you discussed the fact that it was
21 Kyriell that punched Defendant -- punched Mr. Cash in the nose causing
22 his nose to bleed.

23 A Okay.

24 Q Is that right?

25 A Yes.

1 Q Okay. Could you please also turn to page 21 where you said
2 that it was Kyriell who punched the Defendant in the nose causing him to
3 bleed.

4 A Okay, yeah.

5 Q Okay. And then could you lastly please turn to page 27 where
6 you stated that it was Kyriell who punched Mr. Cash in the nose causing
7 him to bleed.

8 A Yes.

9 Q Where was Tamisha when all of this was going on?

10 A She was standing in the driveway with me.

11 Q With you?

12 A Yes.

13 Q Was she there the entire time you were there?

14 A Yes.

15 Q And when did she run back into the house?

16 A I don't know. She could have ran back after Tommy. She ran
17 back in the house so.

18 Q So you don't know when she ran in?

19 A She ran in. Well, no, I don't know if she ran, I'm sorry.

20 Q Okay. Do you know if she ran in before you or after you or just
21 simply don't know?

22 A After.

23 Q And how do you know that?

24 A Because I ran in the house first and she was still outside.

25 Q Okay. So you saw her outside before you ran in?

1 A Yes.

2 Q Now, you and Tamisha did talk about what you had seen go on
3 before you were each questioned by the police officers?

4 A Yes.

5 Q And you and Tamisha and your mom have talked about what
6 happened several times between today and the incident?

7 A No.

8 Q You haven't talked about it?

9 A I don't really talk about it.

10 Q Okay. So the night that it happened, you talked to your mom
11 and Tamisha?

12 A Yes.

13 Q And you talked about what had happened between the time you
14 spoke to the police and the preliminary hearing?

15 A Yes.

16 Q But between the preliminary hearing and today you haven't
17 spoken to your mom and Tamisha?

18 A No.

19 Q And when the Defendant came -- or when Mr. Cash came into
20 the house after the fight, he was yelling, where's my phone, where's my
21 phone, and then he leaves?

22 A Yes.

23 Q So the room that you ran into, when you went to get Thomas
24 originally before everything went down, is that the room that he and your
25 mom share together?

1 A Yes.

2 Q And then lastly, when the -- when you run into the house after
3 the incident takes place, that white car that's yours, but everybody else
4 drives it, is -- still in the driveway; right?

5 A When I ran in the house --

6 Q Yeah.

7 A -- yes.

8 Q When you leave -- when you walk out and talk to the police that
9 car is gone?

10 A Yes.

11 Q So who took that car?

12 A I don't know.

13 MR. LONG: Objection, Your Honor, speculation.

14 MS. BLUTH: If she knows and her answer is she doesn't.

15 THE COURT: She didn't know.

16 MS. BLUTH: Thank you so much.

17 I'll pass the witness.

18 Thank you.

19 **REDIRECT EXAMINATION**

20 BY MR. LONG:

21 Q Okay. Angel, we shouldn't be much longer. I know this is hard
22 for you. Are you doing okay?

23 A Yes.

24 Q Do you need water?

25 A No.

1 Q Okay.

2 All right. The State has asked you about what you talked to the
3 police about on the night in question. On the night in question did you tell
4 the police that you saw Kyriell slamming Brittney against a car?

5 A Yes.

6 MR. LONG: If I could approach the witness, Your Honor?

7 THE COURT: Sure.

8 MR. LONG: Page 8, Counsel.

9 BY MR. LONG:

10 Q Go ahead and from right here where this Q is, read down to
11 this Q.

12 THE COURT: She said yes. Are you trying to refresh her
13 recollection? She said yes.

14 MR. LONG: Yes, I'm refreshing her recollection.

15 THE COURT: You can't. She already said yes.

16 BY MR. LONG:

17 Q On the night that you spoke with the police, did you tell the
18 police that Kyriell said he had a gun?

19 A Yes.

20 Q Okay.

21 MS. BLUTH: Can I have a page number, Counsel, please.

22 MR. LONG: Page 10 and 11.

23 MS. BLUTH: Thank you.

24 BY MR. LONG:

25 Q Now, when I questioned you earlier, during -- you stated that

1 during this fight, you didn't see everything because you turned to get the
2 baby; correct?

3 A Yes.

4 Q When you were getting the baby, where was this fight in relation
5 to you?

6 A In the street.

7 Q Okay. And what direction were you facing?

8 A When I got the baby, I was facing towards the driveway,
9 running.

10 Q Okay. But you hear this fight going on?

11 A Yes.

12 Q But you were facing the baby?

13 A Yes.

14 Q So you don't know exactly what happened in this fight?

15 A No.

16 Q Okay. Now, the State asked you when Thomas came outside,
17 it was your testimony, that Kyriell let Brittney go, and then the fight was
18 between Thomas and Kyriell; correct?

19 A Correct.

20 Q Okay. About how much time elapsed between Kyriell letting go
21 of Brittney and Thomas and Kyriell fighting, if you can?

22 A Under six seconds.

23 Q Under six seconds?

24 A Yes.

25 Q Now, six seconds, that's kind of a strange number, where did

1 you get that from?

2 A It just -- it just all went by so fast. So it wasn't like the fight
3 lasted over five minutes because it just went so fast.

4 Q Okay. Did Thomas ever stop, from the time he ran out of his
5 house, to the time he was fighting with Kyriell?

6 A No.

7 Q Okay. So it's your testimony under oath today that Thomas
8 went straight to Kyriell and the fight began?

9 A Yes.

10 Q Okay. Now, when the police asked you about, you know,
11 Thomas getting hit in the nose, didn't you -- didn't you tell the police that
12 you guessed --

13 A Yes.

14 Q -- it was Kyriell?

15 A Yes.

16 Q Did that mean you didn't know for sure?

17 A Correct.

18 Q Sitting here today, do you know who smacked Thomas in the
19 face that caused his nose to bleed?

20 A No.

21 MR. LONG: Court's indulgence.

22 I'm going to pass the witness.

23 **RECROSS-EXAMINATION**

24 BY MS. BLUTH:

25 Q All right. So Mr. Long had just asked you some questions about

1 you told the police that you guessed that it was Kyriell that hurt the
2 Defendant's -- Mr. Cash's nose; right?

3 A Right.

4 Q Okay. But I -- when I gave you the opportunity to read the
5 statement to the police, on pages 21 and 27, at no point do you say, you
6 guess, you tell the police that it was Kyriell that socked him in the nose
7 and his nose starts bleeding. I mean, you were very clear. It's not, like, I
8 guess this is what happened.

9 Would you agree with me in that?

10 A Would I -- I would agree with him that I did guess who punched
11 Tommy in the nose because I really didn't know.

12 Q Okay. But on page 21 you state, he, meaning Kyriell, he socks
13 him in the nose and his nose starts bleeding. You didn't say, I guess,
14 that's what you said happened?

15 A Correct.

16 Q And then again on page 27, when they're going over the
17 chronology with you they ask, now, is this when the second fight occurs
18 and that's when Kyriell punches Tommy's in the nose -- or makes his nose
19 bleed. And you say, yes or yeah.

20 A Yeah.

21 Q Okay. And Mr. Long had asked you a question that from the
22 moment Tommy comes out of the house and starts going, he never stops,
23 like, it's a continuous --

24 A Yes.

25 Q -- fight? Okay.

1 But when you were talking to the police and when you testified
2 today, you stated that you went out and said, Kyriell, like, Kyriell, what's
3 going on? Why are you doing that?

4 And he let go of Brittney at that point in time; correct?

5 A Correct.

6 Q And he and Thomas -- then Thomas goes after him and they
7 start fighting?

8 A Correct.

9 Q Now, Thomas is the original person who goes after Kyriell at
10 that first time; right?

11 A Yes.

12 MR. LONG: Objection, calls for legal conclusion.

13 MS. BLUTH: No, I'm asking her chronologically.

14 THE COURT: Overruled.

15 BY MS. BLUTH:

16 Q So that's when it starts; right, so Thomas goes after Kyriell?

17 A Yes.

18 Q Those two start fighting and Brittney's able to break those two
19 up, push them apart?

20 A She couldn't push them apart. It just broke up.

21 Q Okay. She gets involved; right?

22 A Yeah.

23 Q And those two break up?

24 A Yes.

25 Q So there's a stop in the conduct right there?

1 A Yes.

2 Q Okay. And then at some point, right thereafter, Ezekiel -- it's
3 your testimony that Ezekiel and Kyriell and Thomas are all three fighting?

4 A Yes.

5 Q But then that breaks up and Thomas goes back towards the
6 house and there's a break there; correct, nobody's fighting there?

7 A Correct.

8 Q And then there's another fight between him and Kyriell right
9 before he goes into the house where Kyriell punches him in the nose?

10 A Yes.

11 Q And that's when Ezekiel was still standing?

12 A Yes.

13 Q So during this, you know, very quick two or three minutes, there
14 are breaks in the conduct where people are not fighting?

15 A Yes.

16 MS. BLUTH: Thank you so much.

17 Nothing further, Angel.

18 MR. LONG: I don't have anything further, Your Honor. She's
19 released.

20 THE COURT: Thanks.

21 Jury --

22 MR. LONG: I have no intention --

23 THE COURT: Wait --

24 MR. LONG: -- of recalling her.

25 THE COURT: -- wait, wait, wait. See he doesn't run the show, I

1 do.

2 Does the jury have any questions about -- okay, write them
3 down. Seat number and then I'll see the attorneys in the hall.

4 You just wait right there; okay.

5 THE WITNESS: Okay.

6 [Pause in proceedings while the Court and Counsel discuss jury
7 questions]

8 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

9 THE COURT: Was the light on inside your bedroom when you
10 were looking out the window and saw Brittney being banged on the car?

11 THE WITNESS: Yes.

12 THE COURT: Follow-up, Defense?

13 MR. LONG: Yes.

14 **FOLLOW-UP EXAMINATION**

15 BY MR. LONG:

16 Q So, Brittney, you were in your bedroom; correct?

17 THE COURT: That would be Angel.

18 BY MR. LONG:

19 Q Angel, you were in your bedroom?

20 A Yes.

21 Q Light was on?

22 A Yes.

23 Q Television on?

24 A Yes.

25 Q What directed your attention to outside?

1 A I heard noise.

2 Q Okay. Now, how can you see outside if the lights on and it's
3 dark outside?

4 A The lights on.

5 Q Yeah, like, if you looked out your window, wouldn't you just see
6 your reflection?

7 A No, because you, noisy, and you look out the window with your
8 hands cuffed and just -- and you clearly see him banging her up against
9 the car.

10 Q Okay. And is that what you did?

11 A Yes.

12 MR. LONG: All right. I don't have anything further.

13 THE COURT: State?

14 MS. BLUTH: No thank you.

15 THE COURT: Did Tom fall flat on his face during his fall before
16 he went into the house?

17 THE WITNESS: It was, like, he didn't fall -- no, he didn't fall on
18 his face.

19 THE COURT: Follow-up, Defense?

20 MR. LONG: No follow-up.

21 THE COURT: Follow-up, State?

22 **FOLLOW-UP EXAMINATION**

23 BY MS. BLUTH:

24 Q Where was it? Can you tell me again where was it that he
25 actually falls?

1 A In the driveway.

2 Q In the driveway? Before the driveway?

3 A Like, at the curb.

4 Q Okay. Right -- so right, like, right when you enter onto the
5 driveway?

6 A Yes.

7 MS. BLUTH: Okay. Thank you so much, Angel.

8 THE COURT: This is going to be a compound question. How
9 did Tom land before going into the house, hit his head or face, fall to his
10 knees, hands and knees?

11 THE WITNESS: He fell on his knees.

12 THE COURT: Okay. Follow-up, Defense?

13 MR. LONG: No follow-up.

14 THE COURT: Follow-up, State?

15 MS. BLUTH: No, Your Honor.

16 THE COURT: All right. Thank you. Now you can go. Thanks.

17 THE WITNESS: Okay.

18 THE COURT: Call your next witness.

19 MR. LONG: Defense calls Tamisha Kinchron.

20 MS. BLUTH: Judge, the jurors need a break.

21 THE COURT: Oh, you need a break? All right. Let's take a
22 five minute recess.

23 This will be the last witness today.

24 During the recess you're not to talk or converse among
25 yourselves or with anyone else on any subject connected with this trial.

1 Or read or watch or listen to any report of or commentary on the trial or
2 any person connected with this trial by any medium of information,
3 including, without limitation, newspapers, television, radio, or the Internet.
4 Or form or express an opinion on any subject connected with the trial until
5 the case is finally submitted to you.

6 Please do not get on social media, do not get on computer. Be
7 five minutes and then it'll be one more witness and you'll have it tomorrow.
8 They'll argue for you tomorrow.

9 [Outside the presence of the jury]

10 THE COURT: Okay. The jury's gone. Take five minutes.

11 [Recess taken at 2:35 p.m.]

12 [Jury trial resumed at 2:47 p.m.]

13 [In the presence of the jury]

14 THE MARSHAL: All rise, please.

15 And be seated.

16 THE COURT: Stipulate to the presence of the jury.

17 MS. DIGIACOMO: Yes, Your Honor.

18 MR. LONG: Yes.

19 THE COURT: All right. Call your next witness.

20 MR. LONG: Tamisha Kinchron.

21 **TAMISHA KINCHRON**

22 THE CLERK: Please be seated, state and spell your name for
23 the record.

24 THE WITNESS: My name is Tamisha Kinchron. You spell it
25 T-a-m-i-s-h-a, K-i-n-c-h-r-o-n.

1 THE COURT: Go ahead.

2 DIRECT EXAMINATION.

3 BY MR. LONG:

4 Q Tamisha, do you know Mr. Thomas Cash?

5 A Yes, I do.

6 Q Do you see him in court today?

7 A Yes.

8 Q Can you point to him and say something he's wearing.

9 A He's right there. He's wearing a gray shirt.

10 THE COURT: Let the record reflect she's identified the
11 Defendant.

12 BY MR. LONG:

13 Q Okay. And Tamisha how do you know Thomas?

14 A He's my uncle.

15 Q Okay. So your parent and his parent are brother or sister?

16 A Yes, my mom is his sister.

17 Q Okay. And do you stay with Thomas?

18 A No.

19 Q Okay. Think back to December 11th, 2017, were you at
20 Thomas's house?

21 A Yes.

22 Q And where is this house?

23 A I think, I can't remember exactly. I think it's 3939 Walnut. I
24 think off of Walnut. I'm not exactly sure of the exact address.

25 Q But you know which house is Thomas's?

1 A Yes, I do, yes.

2 Q Okay. And what were you doing over there?

3 A I was staying over there for a while, because I had some issues
4 going on in my life at that time.

5 Q Okay. And you were welcome over there?

6 A Of course.

7 Q Okay. Who else was staying over there?

8 A It was Antoinette, Payton, Brittney, my cousin Sandy, and my
9 Auntie Sharon.

10 Q Okay. And think back to December 11th, 2017, did you witness
11 a fight?

12 A Yes.

13 Q And where did this fight occur?

14 A Outside in front of the house.

15 Q Outside in front of whose house?

16 A The next door -- well, like in front of my uncle's -- it was in
17 between my uncle's house and the neighbor's house.

18 Q Okay.

19 A Yes.

20 Q So starting from the beginning, I guess, where did -- or when
21 did you start to see this fight? What drew your attention to where the fight
22 was occurring?

23 A Angel had screamed to my uncle, saying that the boy's out
24 there are jumping on her sister.

25 Q Okay. Now, you said Angel --

1 A Yes.

2 Q -- screamed to your uncle?

3 A My Uncle Tommy.

4 Q Okay. Did you hear this?

5 A Yes, I did.

6 Q Okay. Where were you in the house?

7 A I was sitting downstairs on the couch watching TV.

8 Q Okay. Do you remember what you were watching?

9 A No.

10 Q Okay. And was the TV up very loud?

11 A No.

12 Q Okay. You could hear Angel say that upstairs?

13 A Yes.

14 Q Okay. What happened next?

15 A I saw him -- after she said that, my Uncle Tommy and Angel

16 come running down the stairs and they go --

17 Q Who's in first?

18 A My Uncle Tommy was first. Angel was behind him.

19 Q Okay. Let's stop there for a minute, did you see Tom, Tommy

20 as you call him --

21 A Yes.

22 Q -- did you see him stop anywhere, pick anything up?

23 A No.

24 Q Okay. So went straight to the door?

25 A Went straight to the door.

1 Q How fast was he moving?

2 A He was moving pretty fast, real fast.

3 Q Okay. And what did you do after you saw Tommy and Angel
4 head out the front door?

5 A I jumped up and -- well, limped out the door right behind them.

6 Q Now, why do you say, limped?

7 A Well, because my ankle was -- it was fractured. It was, like, real
8 swollen at that time.

9 Q Okay. So you went outside the front door after Tommy and
10 Angel?

11 A Yes.

12 Q Okay. When you went outside, what did you see?

13 A I saw my uncle go up to Kyriell and Brittney because Kyriell had
14 her on top of the car.

15 Q Okay. Now, let's stop there for a minute, you know who Brittney
16 is; correct?

17 A Yes, I do.

18 Q You're her --

19 A Well --

20 Q -- aunt, I guess?

21 A I guess, you could say that.

22 Q Okay. You're --

23 A In-law so.

24 Q -- related to her?

25 A Yes.

1 Q Had you ever met Kyriell before?

2 A No.

3 Q Okay. How did you know the -- who she was fighting with?

4 A Well, I didn't know until after the fact but I figured it out.

5 Q Did you see Brittney leave the house any time before Tommy
6 and Angel?

7 A Yes.

8 Q And what was she carrying?

9 A She stopped in front of the door. She was carrying her
10 daughter, coming down the stairs.

11 Q Okay.

12 A When she got to the front door, it was a car seat right there, and
13 she grabbed it and went out the door.

14 Q Okay. Any diapers bags?

15 A No, I didn't see a diaper bag. I just seen the car.

16 Q Okay. So just baby and car seat?

17 A And the car seat.

18 Q Okay. That was before Tommy and Angel?

19 A Yes.

20 Q Okay. After Brittney went outside, before Tommy and Angel,
21 did you hear anything from outside?

22 A Yes.

23 Q What did you hear?

24 A I heard a female voice.

25 Q Okay. And what was this female voice doing, singing or?

1 A She was screaming.

2 Q Okay. Was she screaming anything that you could understand?

3 A No.

4 Q Okay. How do you know it was screaming and just not just
5 Christmas carol?

6 A Because she was real loud, real loud.

7 Q Okay. Did you recognize the voice?

8 A No.

9 Q Okay. So Brittney's outside, you hear screaming --

10 A U'm-h'm, yes.

11 Q -- did you go out to investigate the screaming?

12 A No.

13 Q Why not?

14 A Well, I thought it was somebody walking down the street
15 because there was a gang of kids out there walking down past the house.

16 Q Okay.

17 A So I didn't think nothing of it.

18 Q All right. Then Tommy and Angel leave?

19 A Yes.

20 Q And then at that point you decide to exit your home?

21 A Yes.

22 Q Okay. And, now, let's start from there again, what do you see
23 when you get outside?

24 A I see my uncle run up to Brittney and Kyriell.

25 Q Okay.

1 A Trying to break them apart.

2 Q All right. How does he try and break them apart?

3 A He was like getting in between them, like, pushing them away

4 from each other.

5 Q Okay. And is anybody yelling anything at this point?

6 A Yes. Brittney's telling him to stop.

7 Q Telling who to stop, if you know?

8 A My Uncle Tommy.

9 Q Okay. All right. So he's telling them to stop?

10 A Yes.

11 Q Okay. What do you see next?

12 A I see Kyriell swing on my uncle.

13 Q Okay. Did it connect?

14 A Yeah.

15 Q Okay. And what does your uncle do?

16 A He turned around and swung back.

17 Q Okay. Did that connect?

18 MS. DIGIACOMO: I'm sorry, I can't hear.

19 THE COURT: I couldn't hear it either.

20 MR. LONG: Oh, she said, turn around swing back.

21 BY MR. LONG:

22 Q All right. You're going to have to speak a little --

23 A Okay. I speak a little louder.

24 Q Okay. So let's go to where you said you saw Tommy go to

25 Kyriell, what did you see next?

1 A After he got up there to Kyriell, he broke him and Brittney apart.

2 Q Okay.

3 THE COURT: He who?

4 THE WITNESS: Uncle Tom -- my Uncle Tommy broke Brittney
5 and Kyriell apart.

6 BY MR. LONG:

7 Q Okay. And then what did you see next?

8 A Brittney starts screaming, telling my Uncle Tommy to stop.

9 Q Okay.

10 A And then Kyriell swung on my Uncle Tommy.

11 Q Okay. And did that punch connect?

12 A Yes, it did.

13 Q Do you know where it connected?

14 A Somewhere in his face.

15 Q Okay.

16 A I couldn't see exactly where.

17 Q Okay. And what did you see after that?

18 A I seen Kyriell swing -- I mean, my uncle swing back on him, and
19 Brittney start grabbing my uncle, trying to pull him, while Kyriell was still.

20 Q Let's stop there for a minute, how is Brittney grabbing your
21 uncle?

22 A Pulling him by the back of his shirt.

23 Q Okay. So Brittney is behind Tommy?

24 A Yes.

25 Q Grabbing his shirt?

1 A Yes.

2 Q Okay. And screaming to stop?

3 A Stop, yes.

4 Q Okay. And is Tommy stopping?

5 A No.

6 Q Okay. What do you see next?

7 A They was still tussling.

8 Q Okay. By tussling, what do you mean?

9 A Like fight -- well, swinging at each other.

10 Q Okay. Do you know if any of these punches were landing?

11 A Not all of them.

12 Q Okay. So swinging and missing?

13 A Yes.

14 Q Okay. What do you see next?

15 A Well, I seen my uncle start backing up and I see Kyriell look up

16 and tell someone, before I notice it was somebody running up, saying to

17 bring my -- if I can the word?

18 Q Go ahead, we're all adults.

19 A Bring my shit.

20 Q Okay. So bring my shit.

21 Did he say anything else?

22 A He told the guy -- at the time I did not know his name.

23 Q Okay. Let's stop for a minute, you're saying the guy --

24 A Yes.

25 Q -- right now there's Brittney, there's Thomas --

1 A Yes.

2 Q -- there's Kyriell?

3 A Yes.

4 Q Who is the guy you're referencing?

5 A The guy I found out name is Ezekiel.

6 Q Okay. Where did Ezekiel come from?

7 A He came from a white car that was parked in front of the house.

8 Q Okay. Did you see this person, you now know is Ezekiel, get
9 out of the car?

10 A Yes, I did.

11 Q What side of the car did he get out of?

12 A He got out the front passenger drive.

13 Q Okay. Now, when he got out, did you see him move towards
14 the fight?

15 A Yes, he did. He ran over there to the fight.

16 Q Because he ran, that was going to be my next question.

17 A Yes.

18 Q Is he moving fast or is he moving slow?

19 A Yes, he's moving fast.

20 Q Okay. And are you able to tell how big, small this guy is?

21 A He -- I know he was kind of tall, but he wasn't a big built. He
22 was kind of slim.

23 Q Okay. Do you remember what he was wearing?

24 A Not really. I can't remember that.

25 Q Okay. So he went to this fight, as far fast --

1 A Yes.

2 Q -- quickly?

3 What happens next?

4 A Him and -- well, Ezekiel and Kyriell that's when they're both
5 start trying to attack my Uncle Tommy.

6 Q Okay. And what do you mean by, trying to attack?

7 A He's trying to fight him, like, jump on him.

8 Q Okay. And what does Tommy do?

9 A Jump -- he starts jumping back, like, trying, like, to protect
10 himself.

11 Q Okay. So it's a fight?

12 A Yes.

13 Q Ezekiel, Kyriell versus Tommy?

14 A Yes.

15 Q Now, how does this fight end?

16 A Well, it ended in -- how do I have to -- how do I -- explain this.

17 After --

18 Q Let me just ask --

19 A Yeah.

20 Q -- rather than just saying how it happened.

21 Do you ever see your uncle go down?

22 A Yes.

23 Q Okay. Does he go down in the street? Does he go down in the
24 driveway?

25 MS. DIGIACOMO: Objection, leading. He's the one that told

1 her --

2 THE COURT: Overruled.

3 MS. DIGIACOMO: Okay.

4 THE COURT: Overruled, I'll let her answer that.

5 BY MR. LONG:

6 Q Okay. So the question was, which you can answer, did you
7 ever see your uncle go down?

8 A Yes.

9 Q Okay. Where did he go down?

10 A It was on the sidewalk across the street.

11 Q Okay. And do you know why he went down?

12 A Because Ezekiel hit him.

13 Q Okay.

14 A I mean, yeah, not Ezekiel, Kyriell.

15 Q Okay.

16 A Sorry for the.

17 Q And when he went down, how does he go?

18 A He went on one knee.

19 Q Okay. And then did -- what happened next?

20 A He got up and he ran. And I just noticed that he had blood
21 coming from his face.

22 Q Okay. And so you're saying Tommy got up and he ran?

23 A Yes.

24 Q Okay. Where did Tommy run to?

25 A He ran into the house.

1 Q Okay. What did he do after he got inside the house?

2 A He went to his room, up in his bathroom.

3 Q Okay. And did you follow Tommy into the house?

4 A Yes, I did.

5 Q Okay. Did you see him inside the house?

6 A Yes, I did.

7 Q Did you see him leave the house?

8 A No, I didn't.

9 Q Okay. Do you know if he left in a car?

10 A No, I didn't see a car leave. He didn't go in a car.

11 Q Okay. And at that time, did you know anybody had been hurt in

12 the front yard?

13 A Yes.

14 Q Okay. How did you know?

15 A Well, 'cause after my uncle had past -- running past me, going

16 to the house, I was still standing out there, and I looked and looked over

17 at the gentleman, which is Ezekiel, he was standing up there and next

18 thing you know I see him fall down.

19 Q Okay. Now, you had testified earlier, and I know we don't like to

20 use the word, but you said that somebody was yelling, get my shit?

21 A Yes.

22 Q Who was yelling that?

23 A It was Kyriell.

24 Q Okay. Was anyone else yelling anything?

25 A They was just saying a whole lot of stuff like.

1 Q What?

2 A Saying he -- well, he -- Kyriell after --

3 MS. DIGIACOMO: Objection, hearsay.

4 MR. LONG: It's not offered for the truth of the matter asserted,
5 Your Honor.

6 MS. DIGIACOMO: Yes, it is.

7 THE COURT: What would it be offered for then if it's not the
8 truth?

9 MR. LONG: Well, Your Honor, what's going on here is they're
10 saying, get my gun, do this, do that.

11 THE COURT: Well --

12 MR. LONG: We're not saying he's going to do that, we're going
13 to what's Thomas hearing.

14 THE COURT: You're not a witness. You can't say what they're
15 saying so. I will sustain the objection.

16 MR. LONG: Okay.

17 BY MR. LONG:

18 Q Did you hear anyone threaten Thomas?

19 A Yes.

20 Q Who?

21 A Kyriell.

22 Q How did he threaten Thomas?

23 A He said he was going to kill this old mother fuckin', --

24 MS. DIGIACOMO: Object --

25 THE WITNESS: -- blow this shit up.

1 THE COURT: I'm going to let it go.

2 MS. DIGIACOMO: That's fine.

3 BY MR. LONG:

4 Q Go ahead and finish the answer.

5 A He said --

6 MS. DIGIACOMO: Is she says anymore I'm objecting.

7 THE COURT: Well, she said -- she said. If she goes more,
8 then I'll stop it.

9 MR. LONG: Okay.

10 BY MR. LONG:

11 Q Did anyone threaten to blow up Thomas's house?

12 A Yes.

13 MS. DIGIACOMO: Objection.

14 THE COURT: Sustained.

15 MR. LONG: Okay.

16 THE COURT: Disregard.

17 BY MR. LONG:

18 Q Now, you had never seen Kyriell before this night; right?

19 A No.

20 Q You had never seen Ezekiel before this night?

21 A No.

22 Q And you didn't know of any problems between Brittney and the
23 father of her child?

24 A No.

25 Q Okay. Now, when the police came, did you give them an

1 interview?

2 A Yes, I did.

3 Q Okay. And did you tell them what you just told me here?

4 A Yes, I did.

5 Q Okay. Did you cooperate?

6 A Yes, I did.

7 Q Now, when the police came they used a bullhorn to get you out
8 of the house; correct?

9 A Yes.

10 Q Okay. How many times did they have to call you out before you
11 came out?

12 A Just that once.

13 Q Okay. So you came out?

14 A Yes.

15 Q Cooperate fully?

16 A Cooperated.

17 MR. LONG: Okay. I'll pass the witness.

18 MS. DIGIACOMO: May I, Your Honor.

19 THE COURT: Yeah.

20 **CROSS-EXAMINATION**

21 BY MS. DIGIACOMO:

22 Q All right. So when you first run out of the house you said that
23 the Defendant went first -- or excuse me, Tommy went first and then
24 Angel ran behind him?

25 A Yes.

1 Q Okay. Now, do you recall when you talked to the police you
2 said the opposite, you said that Angel went first and Tommy was right
3 behind her?

4 A I didn't -- well, I -- no.

5 Q Do you remember that?

6 A No, I don't.

7 Q If I was to show you your statement would that --

8 A Yes, you can show it to me because I don't remember.

9 Q Okay. Wait, we cannot both talk at the same time or we're
10 going to get yelled at. So you have to let finish before you say anything;
11 okay.

12 So my question was, if I showed you your statement, would that
13 refresh your recollection?

14 A Yes.

15 MS. DIGIACOMO: Okay. And, Your Honor, may I approach?

16 THE COURT: Yes.

17 MS. DIGIACOMO: Page six, Counsel.

18 BY MS. DIGIACOMO:

19 Q All right. I'm going ask you to read this to yourself first and then
20 I'll ask you; okay.

21 A Okay.

22 Q So I'm going to ask you to read these lines right here.

23 A [Witness complies.]

24 Q Did that refresh your recollection as to what you told the police
25 that night?

1 A Thinking back that far, no.

2 Q Okay. So as you sit here today, you don't remember who went
3 out of the house first?

4 A Well, thinking back that far, I've been going through some stuff
5 so my brain is kind of, like, messed up right now.

6 Q Okay.

7 A So if I did say Angel went out first and then my Uncle Tommy, I
8 know they both went out the door before I did.

9 Q Okay. So you're not sure which one went out but they both
10 went out before you?

11 A Yes.

12 Q Okay. When you got outside, because you said you were a
13 little bit behind them because of your ankle?

14 A Yes.

15 Q Where was Angel?

16 A She was standing like on the side of, like, in the parking lot. I
17 mean, like, the driveway.

18 Q She's standing --

19 A Because it's a driveway. 'Cause the cars was blocking right in
20 front of the driveway.

21 Q Let me ask you --

22 [Colloquy between District Attorneys]

23 BY MS. DIGIACOMO:

24 Q Okay. Let me show you State's Exhibit 52, all right, do you
25 recognize this house?

1 A Yes.

2 Q Is this the house that Tommy and his family lived in?

3 A Yes.

4 Q So where would the front door be, as we're looking at the
5 driveway, would the front door be to the left or the right?

6 A From your-all view?

7 Q From this view in this photo?

8 A Okay. On my side it's the left.

9 Q Okay. So it would be on the left side of the garage?

10 A Yes.

11 Q Okay. That night, when you ran outside, was there a car
12 parked in this driveway?

13 A Yes, it was a white car parked there.

14 Q All right. Was it parked on the left side of the driveway or the
15 right side?

16 A The right side.

17 Q Okay. Was there a car, anything in the left side?

18 A No.

19 Q So when you come outside, where do you go?

20 A We walk around the back of the car 'cause it's like pulled out
21 from the drive -- I mean, in front of the garage. So it's like a lot of space
22 right there.

23 Q So you went -- or walked around --

24 A Around the car and came up, like, the little gravel right there on
25 the side.

1 Q Okay. So can you put an X on the photo for the jury?

2 A Like how could I do that?

3 Q Oh, I'm sorry. If you touch the screen, you can draw.

4 A Right here.

5 Q Yes.

6 A We went through this gravel.

7 Did I do that right? Because I think it went wrong.

8 Q All right. So when you say, this gravel, you are on the gravel on

9 the --

10 A This. Yes, on that side where you point out.

11 Q On the right side of the house?

12 A Yes.

13 Q Correct?

14 A Yes.

15 Q And you said, we, who's we?

16 A It was me and Angel 'cause we came around the car and I kind

17 of walked off a little bit but she was still by the car a little bit.

18 Q Okay. But Angel and Tommy got outside before you did?

19 A Yes.

20 Q So when you come around this corner, where is Angel?

21 A I couldn't -- I don't even remember where exactly she was at

22 that time.

23 Q Okay.

24 A 'Cause I was focused on my uncle.

25 Q Okay. When you come around this corner then, where's your

1 uncle?

2 A He's over there, like, 'cause it was a car parked right there in
3 front of that white car where I told you was. He was right there pulling
4 Kyriell off of Brittney.

5 Q Okay. So let's backup, you said there's two white cars?

6 A Yeah.

7 Q One in the drive --

8 A Yeah, Britt -- yes, okay.

9 Q Let me --

10 A Okay. I'm sorry, I'm sorry.

11 Q Okay. There's one in the driveway?

12 A U'm-h'm.

13 Q Yes?

14 A Yes.

15 Q And one parked across the front blocking both driveways?

16 A The driveway.

17 Q Okay. So you come around this corner, where exactly is your
18 uncle?

19 A Right there where your pen is, but on the street view, the street
20 part, 'cause the car is parked on the street.

21 Q Okay. So -- and I'm sorry, when you're saying, the car is
22 parked on the street, which car are you talking about, the one that was in
23 the driveway or the one that was blocking the driveway?

24 A The one that was blocking the driveway.

25 Q Okay. So your uncle is close to the car in the street that's

1 blocking the driveway?

2 A Yes.

3 Q Okay. Where is Kyriell?

4 A Kyriell is right behind the car, like, right on the side of the back
5 part of the car.

6 Q Let me ask you, is this car that's blocking this driveway --

7 A U'm-h'm.

8 Q -- is the front of the car facing left in this picture or were the
9 back -- were the front of the car be facing to the right?

10 A It's facing the left.

11 Q The left.

12 So the back end would be to the right?

13 A Yes.

14 Q Kyriell is behind the car?

15 A Yes.

16 Q Your uncle is where?

17 A They like right there behind like on the tail end of the trunk part.

18 Q They're both --

19 A Yeah, 'cause that's where him and Brittney was.

20 Q Okay. So, I'm sorry, so Brittney's also in the street on the
21 trunk --

22 A They right -- yes.

23 Q -- of the car that's blocking the driveway?

24 A Yes.

25 Q So neither Brittney nor Kyriell are by the car that's parked in the

1 driveway?

2 A No.

3 Q Okay. You don't know where Angel is?

4 A No, I wasn't looking for Angel at that time.

5 Q All right. What is your uncle doing at the time that you come
6 around this corner out in the driveway?

7 A He was grabbing Kyriell trying to break him and Brittney up from
8 him, like, slamming her on the car.

9 Q Okay. Did you see Kyriell slam Brittney on the car?

10 A No.

11 Q Okay. So you're just going by what you heard?

12 A No. 'Cause when my uncle got to him, he had her on top of the
13 car. He --

14 Q No, no, no. Did you see that?

15 A Yes, I saw that.

16 Q I thought you said you did not see --

17 A I did not say I didn't see --

18 Q You have to let me finish --

19 A Okay.

20 Q -- and then I'm going to let you finish; okay.

21 A All right.

22 Q All right. So let's step back. So when you come outside --

23 A Yes.

24 Q -- Kyriell is at the back of the car?

25 A Yes.

1 Q And Brittney is on the hood of the car?

2 A He's holding her on the hood of the car.

3 Q Okay. How is Kyriell holding her on the hood?

4 A He -- he had her body, like, with his arms wrapped around her
5 arm. His hands wrapped around her arm. And he had her, like, in a
6 position of he was slamming her on the car.

7 Q Okay. But didn't see him slam?

8 A I didn't see him slam. But I just seen her, like, lying on the car
9 with his arms on her.

10 Q Okay.

11 A Hands on her arms.

12 Q My turn now. So you were making a motion with both of your
13 hands as pointing to your upper --

14 A Well, I can't --

15 Q -- arm --

16 A Well --

17 Q -- let me finish.

18 So you're pointing to your upper arms and that's where Kyriell
19 was holding Brittney on the car?

20 A Well, it's in between the elbow and the shoulder blade, that part
21 of the arm.

22 Q So the biceps?

23 A Yes.

24 Q Okay. Perfect.

25 She's laying on the car?

1 A Yes.

2 Q Kyriell's holding her biceps?

3 A Yes.

4 Q And what is your -- and so where -- what does your uncle do?

5 A He go over there and grab him off of her. Like break them up,

6 like.

7 Q So he physically grabbed Kyriell?

8 A No, he didn't grab.

9 Q He didn't grab Kyriell?

10 A He -- let me think. Yes, he grabbed Kyriell and grabbed him off

11 of her.

12 Q Okay. How did he grab him?

13 A By his arms.

14 Q So your -- did your uncle use both of his arms to grab Kyriell's

15 arms to pull him off?

16 A Yes.

17 Q Okay. Now, when you get out there, when you first come

18 around the corner, do you hear anyone saying anything?

19 A The first time -- yeah, he was -- Kyriell was saying, come on.

20 Q No, no, no.

21 Okay. So I just asked you, yes or no?

22 A Yes.

23 Q You heard --

24 A Yes.

25 Q -- somebody --

1 A Yes.

2 Q -- say something?

3 A Yes.

4 Q Did you hear Angel say something?

5 A No, I didn't hear Angel say nothing.

6 Q Did you hear Angel -- you didn't hear her yelling, what are you
7 doing?

8 A I can't remember her saying anything.

9 Q Okay. And it's your testimony that the only reason Brittney and
10 Kyriell broke up was because your uncle grabbed him?

11 A Yes.

12 Q Now, what was the lighting like outside?

13 A It was, like, it was dark. It had the streetlights on. But it was
14 dark and it was Christmas time. And the house across the street had their
15 lights on.

16 Q Okay. But isn't it true it was hard to see what was going on
17 because it was dark outside?

18 A Not -- you could see majority of the stuff but not --

19 Q The majority?

20 A Yes.

21 Q Okay. But didn't you testify previously that it was hard to see
22 what was going on?

23 A Okay. Yes.

24 Q You did?

25 A I'm -- it was -- probably on certain things but not everything.

1 Q No, and I'm not staying that.

2 A Yeah.

3 Q I'm just saying, it was hard to see what was going on because it
4 was dark outside?

5 A Yeah.

6 Q Okay. And that's a yes for the record?

7 A Yes.

8 Q All right. Now, you said just now that when your uncle went
9 outside he ran over to where Kyriell was?

10 A Yes.

11 Q Okay. Now, when you talked to the police that night, do you
12 recall telling them that you saw the Defendant just walking up to Brittney?

13 A No.

14 MS. DIGIACOMO: Okay. Page five, Counsel.

15 BY MS. DIGIACOMO:

16 Q All right. I'm going to show you your statement again. The
17 statement you gave to the police was recorded; right?

18 A Yeah.

19 Q Were you ever given this to review before coming today?

20 A No, I haven't got nothing. That's why I don't understand what
21 you're saying.

22 Q Okay. So this -- if you see on the outside, that's your name;
23 correct?

24 A U'm-h'm.

25 Q And it's got the detectives, they told you it was being recorded;

1 correct?

2 A Yes.

3 Q All right. So this is a transcript.

4 Let me see -- all right. So if you can read this answer right
5 here.

6 A Well, I did --

7 Q Okay.

8 A -- well, saying walked up, that wasn't the right answer.

9 Q Wait -- okay.

10 A The question -- I mean, answer.

11 THE COURT: Don't just mumble. Wait until you're asked a
12 question and then you answer the question, please.

13 BY MS. DIGIACOMO:

14 Q After reviewing page five of this statement, does that refresh our
15 recollection as to what you told the police that night?

16 A Yeah.

17 Q Okay. And you told the police that night, so my uncle walked
18 up; correct?

19 A Yes.

20 Q All right. But you're saying that's not what happened?

21 A It wasn't -- it wasn't meaning, like, walked up. Like he just, like,
22 just strolled up to the guy and just did.

23 I mean, at that time I was just talking. It was a whole lot of stuff
24 going on, the baby crying, and we trying to just figure out how we can get
25 her calm down.

1 And it was just -- so, if me saying, walked up, it wasn't a walk.
2 He did not literally just walk up to them.

3 Q Okay. So you're saying now your testimony is he ran up,
4 Tommy ran up?

5 A Yeah, he ran up to the Defendant, I mean, um, Kyriell, I guess.

6 Q Okay. And you said you saw Kyriell just holding her on the
7 trunk of the car --

8 A Yes.

9 Q -- until Tommy came up?

10 A Yes.

11 Q So you don't know what was happening before you got out
12 there; correct?

13 A No.

14 Q All right. And it's your testimony as well that -- well, let me ask
15 you this, you -- did Tommy say anything to anyone before he went over
16 and grabbed Kyriell?

17 A No.

18 Q But if something had happened before you got outside, you
19 wouldn't know; correct?

20 A No, I wouldn't have known.

21 Q So Tommy grabs Kyriell, what does he do?

22 A He pull them apart.

23 Q Okay. And what does he do to Kyriell?

24 A He doesn't do anything to Kyriell. Kyriell swings on my Uncle
25 Tommy.

1 Q Okay. And then what does your uncle do?

2 A He swings back.

3 Q What is Brittney doing?

4 A Brittney's trying to pull my uncle away.

5 Q All right. At some point -- well, let me ask you this, so Kyriell

6 swings on Tommy, Tommy swings on Kyriell, what happens then?

7 A Well, it was, like, getting into, like, a fighting, like, a fight.

8 Q Okay. What do you mean by, getting into like a fight?

9 A Yeah. Once you swing, he swung, and they was, like, like,

10 getting ready to start fighting, they both put their hands up to fight.

11 Q Okay. So are they just looking at each other with their hands

12 up?

13 A No, they're not looking at each other. Kyriell kept coming up

14 approaching my uncle trying to swing and my uncle kept backing back.

15 Q Where is your uncle backing back?

16 A There in the middle. Like, basically in the street.

17 Q In the street?

18 A Yes.

19 Q Okay. So are they moving farther away from the house where

20 you came out of?

21 A Yes.

22 Q So your uncle's backing up and Kyriell's stilling going --

23 A Yes.

24 Q -- towards him?

25 A Yes.

1 Q At any point, did you see them in, you know, ahold or grabbing
2 each other?

3 A Well, I seen him grab Kyriell.

4 Q You saw, who, your uncle?

5 A My Uncle Tommy grab Kyriell.

6 Q Okay. When was -- where was that?

7 A That was right there in the street, they was -- when they -- right,
8 I guess, basically he was trying to hold him. I don't know what it was.

9 Q Well, don't tell me what you think, tell me what you saw?

10 A Well, I saw him grab Kyriell, like, holding him in position.

11 Q Okay. When you say, holding him, how was your uncle's arms?

12 A Around his arms, around Kyriell's arms, his biceps, if that's what
13 you called them.

14 Q All right. Were they facing each other?

15 A No.

16 Q So Kyriell and your uncle weren't facing each other?

17 A No.

18 Q So was Kyriell facing away --

19 A Yes.

20 Q -- from your uncle?

21 A Yes.

22 Q How long did your uncle hold Kyriell for?

23 A A couple of seconds.

24 Q At this time -- at this point, is this when Brittney is screaming,
25 no, Tommy --

1 A Yes.

2 Q -- no?

3 A Yes.

4 Q And so -- and this is when Brittney's trying to stop Tommy from
5 getting into it with Kyriell; right?

6 A Yes.

7 Q Okay. So how long is your uncle got his arms, I guess, around
8 Kyriell's body holding his arms?

9 A It was just a couple of seconds.

10 Q How does it break apart?

11 A He eventually, like, start moving around, like, squiggling, 'cause
12 he was still -- he was trying to turn his weight to hit him again.

13 Q So he's trying to turn his weight to hit him again?

14 A Yes.

15 Q How is he trying to hit him when his arms are pinned by his
16 side?

17 A Well, I mean, he wasn't, like, no person that was, like, he was in
18 that hold, like, it was hurting him or it was too tight. He was able to
19 getaway, 'cause he was able to get around and still was trying to fight him.

20 Q Okay. But you just said --

21 A How can I describe being squiggle out of a person arm? How
22 could I describe that?

23 Q There's no question pending now. Let me ask my question,
24 please.

25 You just said that your uncle had his arms around Kyriell's

1 body --

2 A Yes.

3 Q -- and Kyriell's arms are down by his side; correct?

4 A Their -- I didn't say they was down by his side. I just --

5 Q At least the top part of his arms to his elbows are down by his
6 side --

7 A Yes.

8 Q -- correct?

9 A Yes.

10 Q Okay. And Kyriell's got his back to your uncle?

11 A Yes.

12 Q And so what I'm saying is, how is Kyriell trying to punch your
13 uncle when he can't move his arms and your uncle is behind him?

14 A I said, after -- I said, he was squiggling out of the hold. He got
15 out of the hold to turn and hit my uncle, that's what I was trying to say.

16 Q Okay. So as he's trying to get loose, what's Brittney doing, is
17 she still yelling?

18 A She's just still yelling.

19 Q Okay. And at what point is it that you see the person, you now
20 know is Ezekiel, get out of the car?

21 A That was after Kyriell got away from my uncle and he start
22 backing up, saying, come on, MF. And that's when he looked up and
23 seen his friend Ezekiel getting out the car and he told him to bring his
24 stuff.

25 Q Okay. So how far away, from the front of the house and where

1 the car is, are your uncle and Kyriell? And I'm going to show you
2 State's Exhibit 3. Let me zoom in.

3 Okay. Do you see what's been marked as 3999 Pistachio Nut?

4 A Yes.

5 Q And that would be -- appear to be your uncle's house?

6 A Yes.

7 Q Okay. And you said before there was a car parked right in front
8 of the driveway?

9 A Yes.

10 Q Okay. And that they were behind the car initially, which would
11 have been between 3999 and the house on this map to the left of it;
12 correct?

13 A Yes, it's right there.

14 Q All right. So as they're in this hold, do they stay in that area or
15 do they move?

16 A No, they move.

17 Q Where do they move, which way?

18 A Like, closer to, like, the end of the next door neighbor. Like, go,
19 yeah, like, right up in there, in the street though.

20 Q Okay. So where my pen is is all the way past the driveway of
21 the house to the left but in the street?

22 A Yes.

23 Q Where this wall is?

24 A Yes.

25 Q Okay. So your uncle and Kyriell are there alone at first;

1 correct?

2 A Yes.

3 Q All right. They break apart?

4 A U'm-h'm, yes.

5 Q And then that is when you see Ezekiel get out of the car?

6 A Yes.

7 Q And you said you saw him get out of the passenger?

8 A No, I said the driver seat.

9 Q So he gets out of the driver's --

10 A The driver's door.

11 Q -- door?

12 A The front car, front seat car, the front.

13 Q Okay. And what does he do?

14 A He start running over there to his friend.

15 Q Okay. And so when he runs to them, that's when your uncle's

16 now backing up?

17 A Yes.

18 Q When the friend gets over there, you're saying that's when

19 Kyriell is saying something about, go get my shit?

20 A No. When the guy, when he looked up and seen him get out of

21 the car, that's when he said that.

22 Q Okay. But the -- the -- Ezekiel never went back to the car?

23 A No, he never went back to the car.

24 Q You never saw a weapon in his hand; correct?

25 A I seen his hand in his pocket. I don't know what he had.

1 Q In his pocket?

2 A Yes.

3 Q Okay. So he gets out of the car with one hand or both hands in

4 his pocket?

5 A It was just one hand in his pocket.

6 Q And the other hand was doing what?

7 A It was out.

8 Q Okay. He runs over to where your uncle and Kyriell are?

9 A Yes.

10 Q And then what happens?

11 A They start attacking Uncle Tommy.

12 Q Okay. How did they start attacking Uncle Tommy?

13 A They start charging at him, like, they was, like, wanted to fight.

14 Q Okay. Both at the same time?

15 A Both at the same time.

16 Q All right. What's your uncle doing?

17 A My uncle is backing back.

18 Q All right. So your uncle's backing up?

19 A Yes.

20 Q And then he charges at them; correct?

21 A No, I never see him charging at them, they kept charging at

22 him.

23 Q You never saw your uncle charge at Kyriell and Ezekiel?

24 A They was charging at him, they kept coming towards him

25 swinging on him.

1 Q Okay. And --

2 A And then him and Kyriell, it broke off, and they was on one side
3 of the street fighting.

4 Q Kyriell was on --

5 A And my --

6 Q Okay.

7 A -- on the --

8 Q When you say, the other side of the street, do you mean other --

9 A Across the street, yes. Across the street where your finger
10 went.

11 Q Okay. So across the street from the Pistachio Nut address?

12 A Yes.

13 Q Okay. And who's on that side of the street?

14 A Kyriell and my Uncle Tommy.

15 Q Okay. And where was Ezekiel?

16 A He was still on the other side.

17 Q So he was on the side closer to the --

18 A Yes.

19 Q -- to the house?

20 A Yes.

21 Q Okay. And you said you never saw your uncle charge towards
22 them; correct?

23 A No.

24 MS. DIGIACOMO: All right. Page eight, Counsel.

25

1 BY MS. DIGIACOMO:

2 Q And I going to show you your statement you gave to the police,
3 again, okay.

4 I'm going to ask you to read this answer right there and let me
5 know when you're done.

6 A [Witness complies.]

7 Okay. Well, there you go.

8 Q Okay. So you did tell the police that your uncle was trying to
9 push one off and then Kyriell kept charging at him, so your uncle started
10 charging at Kyriell; correct?

11 A Yes, that's what the statement says.

12 Q All right. And you gave this statement to the police that night at
13 about -- a little after 11 o'clock; correct, 11 o'clock p.m.?

14 A Yes.

15 Q So is it fair to say it was fresher in your mind then than it is
16 now?

17 A Yeah.

18 Q And you didn't see how Kyriell and your uncle broke apart;
19 correct?

20 A On what part?

21 Q When your uncle has Kyriell by both of his arms?

22 A Yeah, I said, he was struggling out of his arms.

23 Q Okay. But Brittney didn't break them up?

24 A No.

25 Q Ezekiel didn't break them up?

1 A No.

2 Q So as -- if I have this correct, Kyriell -- Kyriell and your uncle are
3 in this lock and they break apart as Ezekiel comes over; correct?

4 A Yeah, somewhere like that.

5 Q Okay. And then Ezekiel and Kyriell are both trying to charge to
6 your uncle and he -- at this time; correct?

7 A Yes.

8 Q But your uncle charges at Kyriell and they end up on the other
9 side of the street?

10 A Yes.

11 Q And Ezekiel is just standing on the other side of the street
12 watching?

13 A Yes.

14 Q So, now, it's at this point that Kyriell says, get the shit, or is that
15 earlier?

16 A That was earlier.

17 Q And then is it at this point Brittney jumps in front of your uncle
18 and starts holding him back?

19 A At which point?

20 Q After they break apart, Ezekiel's on one side of the street
21 watching, Kyriell and your uncle are on the other side of the street
22 fighting?

23 A No, they was still -- that -- Brittney that wasn't -- that's way
24 before then. You never asked me about that part. But, no, Brittney was
25 not on the other side of the street with them when they was fighting.

1 Q Okay. So what part was it that Brittney physically tried to grab
2 your uncle to stop him?

3 A When he was on -- when they was standing behind the car and
4 her and Kyriell was going through what they was going through and my
5 uncle tried to grab him. She jumped in front of him.

6 Q She jumped in front of him when your uncle grabbed him?

7 A Yes. She jumped in -- before my uncle was to grab him.

8 Q I'm sorry, I'm confused.

9 A Yeah, because --

10 Q She's on the -- she's pinned on the trunk of the car, I thought?

11 A No, not that time. I'm saying -- see you trying.

12 Q Okay. No, no, no.

13 Just tell me, which part is it?

14 A Okay. This is how it went. When my uncle was able to break
15 him off of her, when she was laying on the back of the car, which he was
16 holding her down, they standing, they both -- all three of them are
17 standing up now. My uncle --

18 Q So nothing's going on?

19 A At that time Brittney is screaming, saying, no Tommy. Because
20 Ezekiel's swinging on my uncle, my uncle's swinging back on him, that's
21 when she got in between, and I was, like, you do not need to be out there
22 like that.

23 Q Okay.

24 A And that's when that happened. That's -- that was way before
25 all that other fighting really came down.

1 Q Okay. So Brittney, that's the only time Brittney got in the
2 middle?

3 A That's the only time.

4 Q Okay. You said you saw Kyriell and your uncle throwing
5 punches at each other; correct?

6 A Yes, I, did.

7 Q All right. But you don't know if those landed anywhere?

8 A A few of them landed.

9 Q Okay. Did you see where?

10 A A few of them landed. They was hitting towards the face. He
11 was hitting him in the face.

12 Q Okay. Do you recall testifying previously that you're not sure if
13 the punches landed because it was dark outside?

14 A I can't remember that testimony -- the -- I can't even --

15 Q Okay. But as you sit here today, you saw them each land
16 punches on each other's face?

17 A Well, yeah -- no, I didn't say my uncle hit first -- I mean, hit him.
18 I know Kyriell hit my uncle once.

19 Q Okay. So, now, you know your -- your -- Kyriell hit your uncle
20 and it landed once; is that what you meant?

21 A He hit him, yes. He -- his landed.

22 Q And it landed -- and it hit his face?

23 A Yes.

24 Q Okay. The other punches you saw being thrown, you don't
25 know if they landed?

1 A They -- I don't -- I doubt -- I don't think they landed because
2 they was so far apart. It was like they was swinging at the air.

3 Q All right. Now, when Kyriell and your uncle now are back on
4 this side of the street and you said, I think you said before, the victim is on
5 the side of the street closest to the house and he's still kind of by the car;
6 correct?

7 A No. He's down. They, like, directly across the way from each
8 other. But he's not on their side. He's still in the street.

9 Q Okay. But -- so he's not standing by the car?

10 A Not by the car that came in.

11 MS. DIGIACOMO: Page 141, Counsel.

12 BY MS. DIGIACOMO:

13 Q All right. I'm going to show you now -- you testified at a
14 preliminary hearing --

15 A Yeah.

16 Q -- when you came to court?

17 Okay. I'm going to show you a transcript from that testimony.
18 I'm going to ask you to read -- hold on one second, I'm sorry.

19 MR. LONG: You said 141?

20 MS. DIGIACOMO: 141.

21 All right. I was on the wrong page. Thank you.

22 BY MS. DIGIACOMO:

23 Q Okay. I'm going to ask you to read lines 14 through 23 to
24 yourself and then I'll ask you questions.

25 A [Witness complies.]

1 And I know. But that's not the car he was standing by.

2 Q All right. So after reviewing this testimony, isn't it true that you
3 testified that the guy was on one side and my Uncle Tommy, the guy
4 Brittney was arguing with, was tussling on one side of the street, the other
5 guy was standing by the car?

6 A Yeah.

7 Q You did testify to that?

8 A I said, the car, but it wasn't the car they came in.

9 Q What car was it?

10 A It was a car parked. You see where it say Pistachio Nut on your
11 picture, right here, it was a car, like, right here.

12 Q Where my finger is?

13 A Oh, wait.

14 Q Or where --

15 A No.

16 Q Oh, I see.

17 A Like right up in here, there was a car parked right here.

18 Q But he's on one side --

19 A And they was on the side, 'cause it was -- it's -- it was a truck.
20 Whoever the neighbor is, they got a truck right here. My uncle and Kyriell
21 was over there fighting. The guy -- Ezekiel was over here. And it was a
22 car parked right here. And that's a little ways from the house. That's
23 why -- when I said, a car, that was -- it was a car parked there.

24 Q Well, you said standing by the car?

25 A Yeah, but, I mean --

1 Q You didn't --

2 A -- we was just talking. I -- he was making me comfortable and I
3 said just said the car.

4 Q Okay. But clearly Ezekiel is on one side of the street and Kyriell
5 and your uncle are fighting on the other side of the street?

6 A Yes.

7 Q And it's at this point you see your uncle fall to his knees?

8 A Yes.

9 Q And then he jumped up and that's when he ran to the house?

10 A Yes.

11 Q Okay. So Kyriell's on the other side of the street, not anywhere
12 near Kyriell and your uncle -- I'm sorry, Ezekiel's on one side of the
13 street?

14 A Yes.

15 Q And at the point that you see your uncle -- well, let me -- let me
16 ask you, what's happening between Kyriell and your uncle when you see
17 your uncle fall to his knees?

18 A I see Kyriell hit him and that's when he fell to his knees.

19 Q Okay. Did you see -- is that -- did you see where that punch
20 landed on your uncle?

21 A Yes, I saw that punch, it landed in his face.

22 Q Okay. That's the one that you saw?

23 A Yes.

24 Q And your uncle goes down onto his knees?

25 A Yes.

1 Q And how does he go onto his knees?

2 A He dropped down. Like, after Kyriell hit him, he dropped down
3 to his knee.

4 Q Okay. So but did he drop down just to his knees, where were
5 his hands?

6 A One of his hand, it was -- like I said, it was a truck on that side
7 of the street where they was fighting, they was right behind it. He put his
8 hand on the truck and pushed himself up and he ran across the street to
9 his house.

10 Q Okay. So after Kyriell punched him --

11 A Yes.

12 Q -- your uncle just ran back into the house?

13 A Yes.

14 Q And at no point, at this time, were your uncle and Ezekiel ever
15 within close range from each other?

16 A No.

17 Q When your uncle goes into the house -- or excuse me, runs
18 towards the house, did you see where he went?

19 A I just seen him go in. I wasn't moving fast enough because I
20 was too far away from the house.

21 Q Okay. So as you turn to go back in the house, are you still on
22 the driveway in the rock --

23 A Yeah, I'm still like right there, 'cause he ran past me.

24 Q Are you going to let me finish?

25 A I'm sorry.

1 Q Are you in the rock area, where you showed us earlier on the
2 picture, were you on the left side of the house?

3 A No, I'm like right there. But I'm not in the rocks. I'm on the
4 sidewalk, the sidewalk right there.

5 Q The sidewalk that would walk into the front of the house?

6 A No. Like, where the rock gravel is, it's -- I mean, it's a sidewalk.
7 Once you get off the gravel 'cause it's considered the grass part. So I was
8 on the sidewalk by this time.

9 Q All right. So you -- and your uncle is almost directly across the
10 street from where you're standing?

11 A Yes.

12 Q You see him fall and then run --

13 A U'm-h'm.

14 Q -- to his house?

15 A Yeah, 'cause he passed me.

16 Q Okay. And he would have had to pass your -- you on the right
17 side?

18 A Yes.

19 Q And at what point is it that you look over and see Ezekiel on the
20 ground?

21 A Well, when I -- I heard Kyriell -- Kyriell had said something and
22 it took my eye to Ezekiel. And when I seen him standing there -- and, oh,
23 God, I don't want to relive this. I seen that baby fall. I seen him fall to the
24 ground. And I seen Kyriell run over there saying, get up get up, get up.
25 And I was like, wow, is this really happening.

1 Q Okay. So but you don't know what's happened --
2 A No, I just seen him fall.
3 Q -- you just see him fall to the ground?
4 And do you at that point run over to see if he's okay?
5 A No, 'cause I didn't know him. I didn't want to go over there,
6 'cause I don't know what kind of reaction by that being my uncle --
7 Q Okay. So your answer is no?
8 A No.
9 Q So you go in the house and you follow your uncle?
10 A Yeah.
11 Q And you see that he has -- he's bleeding?
12 A Yes.
13 Q You see drops of blood on the family room floor?
14 A Yes.
15 Q You see him coming out with a towel in his hand?
16 A Yes.
17 Q What kind of a towel?
18 A It was a face towel.
19 Q All right. Oh, do you know what color?
20 A No.
21 Q All right. And at that point he leaves; correct?
22 A I don't remember him leaving.
23 Q Do you remember him staying, he's got to get out of here;
24 correct?
25 A I don't even think I ever --

1 Q All right. Well, let me show you your prior testimony.

2 A He said --

3 MS. DIGIACOMO: Page 151 and 152, Counsel.

4 BY MS. DIGIACOMO:

5 Q The last two lines on 151 and the first two lines on 152.

6 A [Witness complies.]

7 Yeah.

8 Q Does that refresh your recollection?

9 A Uh-uh.

10 Q It doesn't?

11 A No.

12 Q All right. But -- so you don't recall saying that your uncle told
13 you he had to get out of here and he left?

14 A No, I can't remember that part.

15 Q You don't remember that?

16 A No.

17 Q Okay. Well, let me ask you this, when you go back in the house
18 do you stay in the house until the police call you out?

19 A No, I go to the store.

20 Q You go to the store?

21 A Yeah. I took the car to go to the store, 'cause I needed some
22 cigarettes 'cause my nerves was bad.

23 Q You took what car?

24 A It was a white car that they have at they house that everybody
25 uses.

1 Q So there's -- well, let me ask you, before you leave to go get
2 cigarettes, do you know that the person out in front of your house was
3 laying there not move -- getting backup?

4 A No.

5 Q You didn't?

6 A No.

7 Q Okay. So do you remember talking to the police that night?

8 A U'm-h'm, yes.

9 Q Okay. Do you remember talking to them about that after the
10 Defendant left you needed to go find a cigarette --

11 A Yes.

12 Q -- do you remember that?

13 Okay. And do you tell them that you go in the garage because
14 that's where you smoke?

15 A Yes, that's where I smoke.

16 Q Okay. So you told the police that night you went into the garage
17 to get a cigarette; correct?

18 A No, I told them that I went to go smoke my cigarette in the
19 garage.

20 Q So it's your testimony that you leave the residence and come
21 back in that white car?

22 A Yeah, well -- yes, I did. I left with that car and came back.

23 Q Okay. Let's talk about that.

24 A Okay.

25 Q So when you go in the house --

1 A U'm-h'm.

2 Q -- you said you saw your uncle with a towel?

3 A U'm-h'm.

4 Q Yes?

5 A Yes.

6 Q Okay. What's the next thing you see?

7 A What's the next thing I see?

8 Q Yeah. Well, what's the next thing that you see? Does he
9 leave? Do you leave? What's the next thing that happens?

10 A No, he didn't do -- well, he went and was talking to his daughter.
11 He was trying to calm her down.

12 Q Okay. Was that upstairs?

13 A Yeah, she was upstairs 'cause they was upstairs together.

14 Q Okay. So you -- when you came back in the house, you went
15 upstairs?

16 A I went upstairs, yes, 'cause that's where his room is.

17 Q And that's when he was cleaning himself up?

18 A Yes.

19 Q Okay. And then you saw him with the bloody towel?

20 A Yes.

21 Q Okay. And at that point he says, I got to get out of here;
22 correct?

23 A Okay, yes.

24 Q And you tell the -- you state to the police that, at that point you
25 need a cigarette and a lot of people went upstairs to look out the bedroom

1 window; correct?

2 A I said a lot of people went upstairs? It's not a lot of people
3 there. So how could I say a lot of people?

4 Q All right. Well, when you got back in the house, who's there?

5 A When I got back in the house from after this stuff that went --

6 Q Yes.

7 A Okay. 'Cause I'm getting confused on where you're --

8 Q No problem.

9 So the incident happened, you go back inside the house?

10 A Yes, u'm-h'm.

11 Q Who's inside the house?

12 A My auntie's downstairs.

13 Q Is that Cheryl or Sharon?

14 A Yes.

15 Q Okay. Who else?

16 A And it was nobody else downstairs.

17 Q All right. And who was upstairs?

18 A I walked upstairs and Angel was upstairs in her room and my
19 uncle was coming out of his room.

20 Q Okay. And then what happened?

21 A He was saying something and -- I was, like, wow, look at your
22 face, it's bleeding. And he was, like, I know, it's all right. And he was,
23 like -- that's when he -- yeah, he did, he said, I've got to get out of here.

24 And I was, like, I need a cigarette and I walked away from him
25 going back down the stairs 'cause my auntie was asking me something.

1 Q Okay. So you need a cigarette, you go back downstairs?

2 A Yes.

3 Q And is that when you went in the garage?

4 A No.

5 Q All right. Did see the Defendant leave?

6 A No, I did not see him leave.

7 MS. DIGIACOMO: All right. Page 10 to 11, Counsel.

8 BY MS. DIGIACOMO:

9 Q So I'm going to show you your statement you gave to the police
10 again, if you can read the last answer on page 10 to the top of page 11.

11 A Yes.

12 Q Thank you.

13 A [Witness complies.]

14 Okay, yeah, well.

15 Q Okay. So does that refresh your recollection --

16 A Yes.

17 Q -- as to what you told the police that night?

18 And you told them that -- that you went in the garage to look for
19 a cigarette and that must be when your uncle left the house.

20 A Yeah.

21 Q Okay. You remember that?

22 A Yeah.

23 Q You didn't see which way he left the house?

24 A No.

25 Q So you never told the police you left the residence to go buy

1 cigarettes; correct?

2 A They never asked me about that, they was just --

3 Q But you never told them that; correct?

4 A No.

5 Q Okay. When you -- so you go -- so you see him in the house
6 bleeding, you go out in the garage to look for a cigarette, you don't find
7 one; correct?

8 A Yes.

9 Q And then you decide to leave?

10 A To go to the store around the corner.

11 Q Okay. Where do you get the keys from?

12 A The keys always on the counter in the kitchen.

13 Q All right. And when you go outside to get the keys, how long --
14 how much time -- or excuse me. Sorry, long day.

15 When you get the keys and go outside to leave, how much time
16 would you say has elapsed from when you came in the house, went
17 upstairs, saw your uncle, went out to get the -- the -- look for the cigarette
18 in the garage?

19 A I can't -- it wasn't that long.

20 Q A few minutes?

21 A Yeah, I could say a few minutes. 'Cause the garage, as soon
22 as you come down the stairs you turn and it's the door right there.

23 Q Okay. So maybe two to three minutes you were --

24 A Yeah.

25 Q Let me finish. Two to three minutes you were in -- in the

1 residence?

2 A Yes.

3 Q Okay. So when you leave to go outside to leave the store,
4 what -- what, I guess, what's going on outside?

5 A Well, I -- Kyriell and Brittney was over there by Ezekiel telling
6 him to get up.

7 Q Okay. What else?

8 A That was all.

9 Q No the police out there?

10 A No, there was nobody out there.

11 Q All right. And so do you get into the car and --

12 A Yeah, and I go right around to the corner and come back. And
13 they still out there. At this time it's like neighbors outside.

14 Q When you got in that car, did you have to back out of the
15 driveway or did you --

16 A No, because it was backed in. It was backed in.

17 Q And you pulled forward?

18 A Yes.

19 Q So the car that was there blocking the driveway is not blocking it
20 anymore?

21 A It was not blocking the whole driveway. It's a little space you
22 can go out, even though I was on a curve a little bit. But I was able to get
23 out the -- I mean, get out.

24 Q So when you leave, that white car is still in front of the house?

25 A Yes.

1 Q Okay. So you leave, you go to the store, do you come back?

2 A Yes.

3 Q All right. Where do you park when you come back?

4 A Well, by this time I couldn't come back to it. So I had to park it
5 around the corner.

6 Q Okay. Did you --

7 A So I walked to the house.

8 Q You walked to the house?

9 A Yes.

10 Q Did you pass lots of police officers on the way to the house?

11 A Well, no, it was just gang of people out there, and they had like
12 cars. It was like a lot of people came. It was still no police out there. I
13 went in the house, I went in the garage, smoked my cigarette. By this
14 time I finished my cigarette, came in, check on my auntie, made sure she
15 was okay, and then that's when I started seeing the lights and then --

16 Q Okay, I'm sorry. When you come back from the store, how long
17 are you gone?

18 A It wasn't, like, ten -- it ain't the corner, it's just, like, I can't
19 even --

20 Q So if you --

21 A -- it's not that far.

22 Q -- five minutes?

23 A Yeah, it ain't that far.

24 Q Ten minutes?

25 And your -- why couldn't you come back and park in the

1 driveway?

2 A Because whoever -- well, I guess, Kyriell got somebody
3 attention they had their cars, like, parked in the streets, like, blocking the
4 street to come back around.

5 Q Okay. So you're saying that driveway was blocked?

6 A Not the driveway, the street, ma'am.

7 Q The whole entire street?

8 A Not the whole street. It's only one way out to get back -- to their
9 house and it's coming from around that Pistachio Way.

10 Q Okay. So over here --

11 A Yes --

12 Q -- by Spruce Fern?

13 A Yes.

14 Q So you walked back to the house?

15 A Yes.

16 Q You walked by, what, to get to the house?

17 A I walked by everything --

18 Q No police --

19 A -- the baby.

20 There was no polices out there still.

21 Q Okay. And then you go back in the house?

22 A Yes.

23 Q And then you wait for the police to call you out?

24 A Yeah. That's when I heard all them out -- I heard them start
25 saying, people in that house to come out.

1 Q All right. And while you're in the house you're talking with Angel
2 about what you saw; correct?

3 A Yeah, we both was talking, yes.

4 Q Okay. And did you talk to anybody else?

5 A No. Well, my auntie was right there so she heard us.

6 Q All right. And then while you're in the house, before the police
7 called you out, did you get a call from the Defendant, from Tommy?

8 A Yes, I did.

9 Q All right. And during that phone call, aren't you the one that told
10 him that there was a boy laying out there on the ground and that he was
11 stabbed?

12 A Yes.

13 Q And your uncle's response was, I didn't do it?

14 A Yes.

15 Q And then you said, well, he's out there on the ground, they got a
16 cover sheet over him, he's like dead or something; correct?

17 A Yes.

18 Q And your uncle said, he can't be dead, if he dead, I didn't do it.

19 A Yes.

20 Q All right. And then, again, a third time you told him, the boy's
21 out there dead on the ground. And he told you, he can't be dead, I did not
22 touch him; correct?

23 A The third time? I don't remember no third time. I don't.

24 Q Okay. Well, would it -- would it refresh your recollection to see
25 your statement?

1 A It's a lot --

2 Q So you remember the first two?

3 A Yeah.

4 Q Do you remember him saying, he can't be dead, I did not touch
5 him?

6 A Yes, I remember that. I remember that. But I don't remember
7 saying it three times.

8 Q Okay. The Defendant told you, he can't be dead, I didn't touch
9 him; correct?

10 A Uh-huh.

11 Q He also told you, if he's dead, I didn't do you it; correct?

12 A Yes.

13 Q And he also told you another time, I didn't do it; correct?

14 A Yes.

15 Q All right. And just going back to the fight, you never saw Ezekiel
16 and your uncle tussling or close --

17 A No.

18 Q -- in proximity?

19 How long -- okay. When you went outside and you saw it start
20 with Kyriell and Tommy, until you went back in the house, how long did
21 the whole thing last?

22 A I can't tell you. I didn't have no way to find out what time it was.
23 I know it was late. We sat outside. So I can't say exactly.

24 Q No, no, I'm sorry. I meant, from the time you went outside until
25 you went back in the house, how long was it? Like two minutes? Three

1 minutes? Longer?

2 A When -- after the stuff -- after --

3 Q When you went out to watch the stuff and then you went back
4 inside, when it was over?

5 A Yeah, I can't exactly tell you how long it was.

6 Q Okay. And when you said -- when you first went out there and
7 Brittney was laying on the -- did you say the hood of the car or the trunk of
8 the car?

9 A It's the trunk of the car. They was at the back part of the car.

10 Q So her back was completely flat against the trunk?

11 A Yeah.

12 Q All right. Initially you said that Brittney was able to stop Thomas
13 and Kyriell from fighting?

14 A Well, she got in between them.

15 Q In between them at the back of the car; correct?

16 A U'm-h'm.

17 Q Yes?

18 A Yes.

19 Q All right. But at that point your uncle didn't leave and go back in
20 the house; correct?

21 A No.

22 Q And he didn't stop fighting with Kyriell at that point; correct?

23 A No.

24 Q And when you talked to the police the night this happened, isn't
25 it true you tried to tell them that Kyriell was the one that stabbed Ezekiel?

1 A This is a yes or no answer?

2 Q Yeah.

3 That night, didn't you try and tell the police that Kyriell was
4 probably the one that stabbed Ezekiel?

5 A I'm going to go and say, yes, but that's not how it was so but.

6 Q Well, what do you mean, that's not how it was, is your testimony
7 today?

8 A No, I'm saying the way it was said, the night it happened, I was
9 saying, I didn't never see my uncle pull out anything. So the only person
10 who was close to him was Ezekiel, that's why -- I mean, Kyriell, that's why
11 I said that I think he did it.

12 MS. DIGIACOMO: Okay. Nothing else.

13 I'll pass the witness.

14 MR. LONG: I don't have any questions, Your Honor.

15 THE COURT: Jury have any questions of this witness? You're
16 free to go, ma'am.

17 THE WITNESS: Thank you.

18 THE COURT: Call your next witness.

19 MR. LONG: Defense rests, Your Honor.

20 THE COURT: With the admission of any defense exhibits, the
21 defense rests.

22 Do you have any rebuttal?

23 MS. DIGIACOMO: Your Honor, we possibly do but not for -- not
24 until the morning.

25 THE COURT: All right: 6:00 in the morning?

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MS. BLUTH: Yeah, right.

MS. DIGIACOMO: I think everyone wants 9:30 not 9:00.

THE COURT: 9:30 is half the day away.

9 o'clock.

All right. We're going to take our evening recess.

Remember, do not talk or converse among yourselves or with anyone else on any subject connected with this trial. Or read or watch or listen to any report of or commentary on the trial or any person connected with this trial by any medium of information, including, without limitation, newspapers, television, radio, or the Internet. Or form or express an opinion on any subject connected with the trial until the case is finally submitted to you.

Remember, please don't get on any social media. Don't get on the computer and do any research.

See you in the morning at 9:00. I do have a law and motion calendar but I should be done at 9:00.

[Outside the presence of the jury]

THE COURT: The juries out; the door is closing.

Here's the jury instructions for the attorneys.

MS. BLUTH: Okay.

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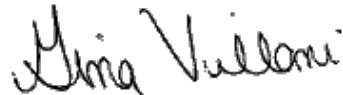
THE COURT: See you in the morning at 9:00.

MS. BLUTH: Sounds good.

[Jury Trial, Day 6, concluded at 3:56 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Gina Villani
Court Recorder/Transcriber

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THE STATE OF NEVADA,
Plaintiff,
vs.
THOMAS CASH,
Defendant.

CASE#: C-18-329699-1

DEPT. VIII

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 7**

For the State:

For the Defendant:

KENNETH W. LONG, ESQ.

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Las Vegas, Nevada, Wednesday, June 27, 2018

[Jury Trial began at 9:49 a.m.]

THE COURT: Bring the jury in Thomas, please.

[In the presence of the jury panel]

THE MARSHAL: All rise, please.

And be seated.

THE COURT: Stipulate to the presence of the jury.

MS. DIGIACOMO: Yes, Your Honor.

MR. LONG: Yes, Your Honor.

THE COURT: All right. Ladies and gentlemen, thank you for being prompt. If you're upset, don't be upset at the State or the Defense or the Defendant, it's all been my fault. I didn't estimate what's going on this morning in law and motion. So I appreciate you being here and prompt.

We do have a rebuttal witness to call.

MS. DIGIACOMO: Thank you.

May I?

THE COURT: Go ahead.

MS. DIGIACOMO: The State will recall Matthew Gillis.

THE COURT: I just remind you, Detective, you're still under oath to tell the truth; okay?

THE WITNESS: Yes, Your Honor.

THE COURT: Just state your name for the record.

THE WITNESS: Matthew Gillis.

1 MS. DIGIACOMO: Court's indulgence.

2 **MATTHEW GILLIS**

3 **DIRECT EXAMINATION**

4 BY MS. DIGIACOMO:

5 Q All right. Sir, I want to go back to the early morning hours of
6 December 12th, 2017, and you previously testified about that the
7 Defendant came down to headquarters?

8 A That's correct.

9 Q All right. Did you and your -- and your partner,
10 Detective McCarthy, actually talk to the Defendant about what had
11 happened the night before?

12 A During the interview, yes.

13 Q Okay. Before interviewing him did he -- or was he read his,
14 what we call, Miranda rights?

15 A During the interview, yes. Prior to the asking the questions,
16 yes.

17 Q All right. Was that done from a card or by memory?

18 A Yes. What we do is we have a rights of advisement card that
19 we use. It has the rights of advisement warnings written on them.
20 Detective McCarthy read them out loud to Mr. Cash and then handed him
21 the card and asked him to sign acknowledging that he understood his
22 rights.

23 MS. DIGIACOMO: Your Honor, may I approach?

24 THE COURT: Yes.

25 MS. DIGIACOMO: All right. I have here what's been marked

1 as State's Proposed Exhibit 269 and it is the Las Vegas Metropolitan
2 Police Department advisement for custodial interrogations.

3 I'd move for admission at this time.

4 THE COURT: Any objection?

5 MR. LONG: I don't have any objection. I showed it to the
6 Defendant, he admitted that was his signature.

7 THE COURT: All right. It'll be admitted.

8 **[STATE'S EXHIBIT 269 ADMITTED]**

9 THE COURT: We also have another exhibit are --

10 MS. DIGIACOMO: Yes.

11 THE COURT: -- we moving to go admit that right now?

12 MS. DIGIACOMO: I can.

13 THE COURT: Yeah, you probably should.

14 MS. DIGIACOMO: Okay.

15 I also have here what's been marked as State's Proposed
16 Exhibit 268. I'm showing it to defense counsel. It is the Defendant's
17 booking photo.

18 MR. LONG: No objection. I saw it before court.

19 THE COURT: All right. It'll be admitted.

20 MS. DIGIACOMO: Thank you.

21 **[STATE'S EXHIBIT 268 ADMITTED]**

22 BY MS. DIGIACOMO:

23 Q All right. Sir, I'm going to show you what's now been marked
24 and admitted as State's Exhibit 269 on the screen. So can you explain to
25 the jury what we're looking at here?

1 A This is going to be the advisement for custodial interrogation.
2 It's his Miranda warnings.

3 Q Okay. Now, it says, there's one side that says adults and
4 there's one side that says juveniles?

5 A That's correct.

6 Q Are there different rights for adults versus juveniles?

7 A If it's a juvenile, then they also have the right to have -- if they
8 wish to have, their parent or guardian to be present.

9 Q Okay. So which rights were read by Detective McCarthy to the
10 Defendant?

11 A The adult.

12 Q All right. And can you, just for the record, read in what was
13 read to the Defendant that morning?

14 A You have the right to remain silent. Anything you say can be
15 used against you in a court of law. You have the right to consult with an
16 attorney before questioning. You have the right to the presence of an
17 attorney during questioning. If you cannot afford an attorney, one will be
18 appointed during -- or I'm sorry, before questioning. Do you understand
19 these rights.

20 And he acknowledged he did understand his rights and signed
21 the card.

22 Q Okay. And then it also has Jason McCarthy's name on here?

23 A That's correct.

24 Q All right. And the time was -- or the date was December 12th,
25 2017, at 345 hours?

1 A That's correct.

2 Q So 3:45 in the morning?

3 A That's correct.

4 Q Okay. All right. So when you -- after he signed this card, did
5 you speak to him --

6 A Yes, we did.

7 Q -- about what happened the night before?

8 A Yes, we did.

9 Q All right. And what did he tell you about what happened?

10 A After he was read his Miranda rights, Detective McCarthy stated
11 that he just wanted to get his side of the story and just asked him, can you
12 just tell us what happened.

13 Mr. Cash took us through that he was at his residence, he was
14 upstairs in a bedroom with a three year old when Angel came up to the
15 room and told him that Brittney was in a tussle with Kyriell.

16 First he stated that he was having a hard time understanding
17 because he wears hearing aids, and Brittney -- or I'm sorry, Angel told him
18 again what was going on, that Brittney was in a tussle with Kyriell.

19 And so he goes outside -- downstairs, outside the residence,
20 and when he gets outside the residence he sees Brittney, he describes
21 her as breaking away from Kyriell. He stated that Kyriell again tried to
22 grab Brittney and he made a motion showing that he's trying to grab the
23 arms in this -- in this manner.

24 Q And just for the record, you are holding both of your arms out in
25 front of you --

1 A Correct.

2 Q -- slight bend in the elbows and your hands are at -- each
3 hands, as if cupping something in front of you?

4 A That's correct.

5 Q Okay.

6 A So he's making this motion describing how Kyriell's trying to
7 grab Brittney. He says he goes over and he punches Kyriell and then he
8 grabs Kyriell. They're in -- they're struggling and he winds up getting
9 Kyriell down. And he's describing how he's getting him down and he has
10 his head down towards Mr. Cash's abdomen.

11 Q I'm sorry, so who's, "he", Kyriell?

12 A Thomas Cash has Kyriell down to his waist and he's showing us
13 how he has him down.

14 Q And just for the record, you're making a motion with both of your
15 arms as if you're holding something --

16 A That's correct.

17 Q -- by your stomach and so your arms at bent at the elbow and
18 around in front of you and you have like fists for -- your hands are in fists
19 and your holding something by your stomach?

20 A That's correct.

21 Q Okay. Go ahead.

22 A These are the motions he's explaining to us.

23 And he hears Kyriell yell out, get 'em, get 'em.

24 Mr. Cash says that another gentleman gets out of the car,

25 someone he had never seen before, come over, and this individual winds