

IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDALL LEE DAHL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal from a Judgment of Conviction in Case Number CR15-0747
The Second Judicial District Court of the State of Nevada
The Honorable Scott N. Freeman, District Judge

JOINT APPENDIX VOLUME TWO

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THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
BEFORE THE HONORABLE SCOTT N. FREEMAN, DISTRICT JUDGE

-oOo-

STATE OF NEVADA,	:	
	:	
Plaintiff,	:	
	:	
vs	:	Case No. CR15-0747
	:	
RANDALL LEE DAHL,	:	Dept. No. 9
	:	
Defendant.	:	
	:	

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TRANSCRIPT OF PROCEEDINGS

JURY TRIAL - DAY 2

MONDAY, JUNE 7TH, 2021

Reno, Nevada

Reported By:

ERIN T. FERRETTO, CCR #281

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2 RENO, NEVADA, MONDAY, JUNE 7TH, 2021, 9:30 A.M.

3 -o0o-

4
5
6 THE COURT: Thank you all. Please be seated.

7 Welcome to Department 9 this morning for this jury
8 trial. I wish I could tell you all that I could act like
9 I've done it before because I've been a lawyer and a
10 judge in our town for over 35 years, but welcome to our
11 COVID jury trial in Washoe County.

12 I've been fully vaccinated, and I'll share with
13 you that we're transitioning to trying to open the
14 courthouse. Part of my duties as not only the presiding
15 judge in Department 9 is I'm the Chief Judge of the
16 district, so I've been working for the last year with our
17 community partners, with the citizens of our county
18 trying to figure out the best way to continue to have
19 justice working.

20 I'm proud to tell you that the courthouse never
21 closed for purposes of the cases, but the physical
22 courthouse was closed for purposes of jury trials. So as
23 a consequence, we've put together some courtrooms that
24 are COVID-safe, that we have plexiglass, as you can see,

1 we've got social distancing.

2 You'll see that for the trial, I'll enter with my
3 mask. The law in our courthouse is currently everybody
4 is masked up, except when the lawyers are asking
5 questions. I will share with you all court staff that
6 are permitted to put their masks down for questioning
7 have been fully vaccinated.

8 The first thing I would ask if I was a jury
9 member, if I have been fully vaccinated, why can't I take
10 my mask off? The truth of it is, we're not there yet in
11 the Washoe County Courthouse. We have so many staff
12 members, we have so many people that come in, and we are
13 one of the few, unique businesses that we can order
14 people to come here. Think about it. You've been
15 summoned to serve as jurors. So I want you all to feel
16 safe, so we're going to have all of our employees and
17 participants have theirs masks on unless they're asking
18 questions. The court reporter needs to be able to hear
19 people speak when they're being spoken to. So for
20 purposes of answering your questions, if we ask you some
21 questions, you may pull your mask down to answer your
22 question and put it back up so we all can hear you.

23 It's a moving target, ladies and gentlemen. We're
24 doing the best we can to move forward to have jury trials

1 more open in Washoe County.

2 In addition, I'll share with you that I have a
3 kind of script book here, in the spirit of transparency.
4 I do a lot of reading to make sure I say the right things
5 so that the defendant gets a fair trial, and I say what
6 has been tried and true in trials as we move forward. So
7 I have a lot of experience doing it. I don't have a lot
8 of experience doing it this way. So please be patient
9 with me as we move forward and select a jury for this
10 important case and handle it in that manner.

11 All right. Let's begin the process.

12 Thank you all for being here. I need to begin by
13 telling you you all have been summonsed to Department 9
14 of the Second Judicial District Court for the purpose of
15 a criminal jury trial. Under the circumstances, I'm
16 going to share with you what our trial timing looks like
17 which might help some of your comfort level.

18 Sometimes when you win the proverbial lottery to
19 be summonsed for jury duty you don't know what you're
20 going to get. You might get stuck in a four-week,
21 three-month construction defect case about a neighborhood
22 that has a bunch of houses that have been constructed in
23 a challenging way and they have to make decisions related
24 to that, you're sitting here for a month. This is not

1 that kind of case.

2 I'm pleased to tell you, for purposes of being
3 summoned, this case is only going to take five days,
4 including this day. As I said, it's a criminal case. It
5 will be interesting. There's great lawyers that are
6 going to try this case. It's going to be a very
7 interesting case. So if you're going to tell me a little
8 while how inconvenient it is for you to be here and how
9 you've got other things to do, I certainly respect that.
10 I'm going to talk about that in just a moment. But you'd
11 much rather be in a five-day trial than you would be
12 having to come back here and get stuck and get that
13 three-week trial. So that being said, let me begin the
14 process.

15 This is CV15-0747, State versus Randall Lee Dahl.
16 Let the record reflect the presence of the defendant, the
17 defense attorneys, the District Attorney assigned to this
18 case.

19 At this time, I believe under the circumstances,
20 Mr. Clerk, are we going to call the jury roll?

21 THE CLERK: Yes, we are, your Honor.

22 THE COURT: Thank you very much.

23 THE CLERK: When I call your name, please state
24 *Here.*

1 Cassondra Schoppe.
2 PROSPECTIVE JUROR SCHOPPE: Here.
3 THE CLERK: Tyler Pearson.
4 PROSPECTIVE JUROR PEARSON: Here.
5 THE CLERK: Aaron Faigin.
6 PROSPECTIVE JUROR FAIGIN: Here.
7 THE CLERK: Elisa Moreno.
8 PROSPECTIVE JUROR MORENO: Here.
9 THE CLERK: Charles Skaar.
10 PROSPECTIVE JUROR SKAAR: Here.
11 THE CLERK: Kevin Clark.
12 PROSPECTIVE JUROR CLARK: Yes, here.
13 THE CLERK: Amir Sobol.
14 PROSPECTIVE JUROR SOBOL: Here.
15 THE CLERK: Heather Rodriguez.
16 PROSPECTIVE JUROR RODRIGUEZ: Here.
17 THE CLERK: Pamela Dickson.
18 PROSPECTIVE JUROR DICKSON: Here.
19 THE CLERK: Michael Clark.
20 PROSPECTIVE JUROR MICHAEL CLARK: Here.
21 THE CLERK: Regina Florey.
22 PROSPECTIVE JUROR FLOREY: Here.
23 THE CLERK: Lauren Hejny.
24 PROSPECTIVE JUROR HEJNY: Here.

1 THE CLERK: Susanne Cann.
2 PROSPECTIVE JUROR CANN: Susanne Cann. Here.
3 THE CLERK: Thank you.
4 David Rice.
5 PROSPECTIVE JUROR RICE: Here.
6 THE CLERK: Francisco Alfaro-Valle.
7 PROSPECTIVE JUROR ALFARO-VALLE: Here.
8 THE CLERK: Michelle Barulich.
9 PROSPECTIVE JUROR BARULICH: Here.
10 THE CLERK: Cari Cunningham.
11 PROSPECTIVE JUROR CUNNINGHAM: Here.
12 THE CLERK: Nam Du.
13 PROSPECTIVE JUROR DU: Here.
14 THE CLERK: Cynthia Escalanti.
15 PROSPECTIVE JUROR ESCALANTI: Here.
16 THE CLERK: Jennifer Manzini.
17 PROSPECTIVE JUROR MANZINI: Here.
18 THE CLERK: Patricia Payson.
19 PROSPECTIVE JUROR PAYSON: Here.
20 THE CLERK: Richard Lierman.
21 PROSPECTIVE JUROR LIERMAN: Here.
22 THE CLERK: Stephen Olsen.
23 PROSPECTIVE JUROR OLSEN: Here.
24 THE CLERK: Laurel Weber.

1 PROSPECTIVE JUROR WEBER: Here.

2 THE CLERK: Mariela Pena.

3 PROSPECTIVE JUROR PENA: Here.

4 THE CLERK: William Kuechler.

5 PROSPECTIVE JUROR KUECHLER: Here.

6 THE CLERK: Elizabeth Melchionno.

7 PROSPECTIVE JUROR MELCHIONNO: Here.

8 THE CLERK: Eric Ochoa.

9 PROSPECTIVE JUROR OCHOA: Here.

10 THE CLERK: Wendy Goddard-Gregory.

11 PROSPECTIVE JUROR GODDARD-GREGORY: Here.

12 THE CLERK: Sharon Rodarte.

13 PROSPECTIVE JUROR RODARTE: Here.

14 THE CLERK: Richard Miller.

15 PROSPECTIVE JUROR MILLER: Here.

16 THE CLERK: Kenneth Gillingham.

17 PROSPECTIVE JUROR Gillingham: Here.

18 THE CLERK: Your Honor, I will take roll to the
19 people down in the CLC.

20 THE COURT: All right.

21 THE CLERK: Ambere Angel.

22 PROSPECTIVE JUROR ANGEL: Here.

23 THE CLERK: Alicia Angliano.

24 PROSPECTIVE JUROR ANGLIANO: Yes.

1 THE CLERK: Louise Barnes.
2 PROSPECTIVE JUROR BARNES: Here.
3 THE CLERK: Michelle Barulich.
4 PROSPECTIVE JUROR BARULICH: Here.
5 THE CLERK: Kenneth Birdsong.
6 PROSPECTIVE JUROR BIRDSONG: Here.
7 THE CLERK: Gayla Camino.
8 PROSPECTIVE JUROR CAMINO: Here.
9 THE CLERK: Diane Castro.
10 PROSPECTIVE JUROR CASTRO: Here.
11 THE CLERK: Nicolette Darlington.
12 PROSPECTIVE JUROR DARLINGTON: Here.
13 THE CLERK: Georgette Ferrera.
14 PROSPECTIVE JUROR FERRERA: Here.
15 THE CLERK: Patricia Figueroa-Gallegos.
16 PROSPECTIVE JUROR FIGUEROA-GALLEGOS: Here.
17 THE CLERK: Michelle Forman.
18 PROSPECTIVE JUROR FORMAN: Here.
19 THE CLERK: John Gasswint.
20 PROSPECTIVE JUROR GASSWINT: Here.
21 THE CLERK: Sabrina Gentner.
22 PROSPECTIVE JUROR GENTNER: Here.
23 THE CLERK: Trey Gomez.
24 PROSPECTIVE JUROR GOMEZ: Here.

1 THE CLERK: Heather Guarino.
2 PROSPECTIVE JUROR GUARINO: Here.
3 THE CLERK: Nicholas Holms.
4 PROSPECTIVE JUROR HOLMS: Here.
5 THE CLERK: Lisa Howard.
6 PROSPECTIVE JUROR HOWARD: Here.
7 THE CLERK: Aaron Jacobson.
8 PROSPECTIVE JUROR JACOBSON: Here.
9 THE CLERK: Laurie Jenik-Smith.
10 PROSPECTIVE JUROR JENIK-SMITH: Here.
11 THE CLERK: Jillian Johnson.
12 PROSPECTIVE JUROR JOHNSON: Here.
13 THE CLERK: Mitchell Jones.
14 PROSPECTIVE JUROR JONES: Here.
15 THE CLERK: Brandy Lee.
16 PROSPECTIVE JUROR LEE: Here.
17 THE CLERK: Richard Lierman.
18 PROSPECTIVE JUROR LIERMAN: Here.
19 THE CLERK: Lindsay Matuszak.
20 PROSPECTIVE JUROR MATUSZAK: Here.
21 THE CLERK: Scott McCullah.
22 PROSPECTIVE JUROR McCULLAH: Here.
23 THE CLERK: Gerald Minor.
24 PROSPECTIVE JUROR MINOR: Here.

1 THE CLERK: Elisa Moreno -- I'm sorry.
2 Eric Ochoa.
3 PROSPECTIVE JUROR OCHOA: Here.
4 THE CLERK: Gabriel Pacaldo.
5 PROSPECTIVE JUROR PACALDO: Here.
6 THE CLERK: Stacy Parobek.
7 PROSPECTIVE JUROR PAROBEEK: Here.
8 THE CLERK: Maria Pelaez-Rojas.
9 PROSPECTIVE JUROR PELAEZ-ROJAS: Here.
10 THE CLERK: Sharon Rodarte.
11 PROSPECTIVE JUROR RODARTE: Here.
12 THE CLERK: Heather Rodriguez.
13 PROSPECTIVE JUROR RODRIGUEZ: Here.
14 THE CLERK: Christopher Rogers.
15 PROSPECTIVE JUROR ROGERS: Present.
16 THE CLERK: Marcus Sambrano.
17 PROSPECTIVE JUROR SAMBRANO: Here.
18 THE CLERK: Faye Shea.
19 PROSPECTIVE JUROR SHEA: Here.
20 THE CLERK: Sarah Skog.
21 PROSPECTIVE JUROR SKOG: Here.
22 THE CLERK: Peter Stribling.
23 PROSPECTIVE JUROR STRIBLING: Here.
24 THE CLERK: Brenda Tan.

1 PROSPECTIVE JUROR TAN: Here.

2 THE CLERK: Zahnity Tei.

3 PROSPECTIVE JUROR TEI: Here.

4 THE CLERK: Laura Trimberger.

5 PROSPECTIVE JUROR TRIMBERGER: Here.

6 THE CLERK: Timothy Zahniser.

7 PROSPECTIVE JUROR ZAHNISER: Here.

8 THE CLERK: Michael Staph.

9 PROSPECTIVE JUROR STAPH: Here.

10 THE CLERK: I believe that's it, your Honor.

11 THE COURT: All right. At this point, I'm going
12 to ask you to all rise, in that you're going to be sworn
13 in everywhere as a member of our venire panel, including
14 downstairs. Stand up downstairs as well.

15 Mr. Clerk?

16 Please raise your right hand. You're going to
17 swear in to do your best to be a juror.

18 Go ahead, Mr. Clerk.

19 THE CLERK: Go ahead and raise your right hand.

20 Thank you.

21 (Prospective jurors sworn.)

22 THE COURT: Thank you very much. You may sit
23 down.

24 All right. So far so good. Let me introduce to

1 you, if you're selected as a juror in this case, kind of
2 the inside scoop, people that will be working with us.
3 First of all, to my left, maybe your right, would be
4 Deputy Terelak. Deputy Terelak is with the Washoe County
5 Sheriff's Office. She's been my deputy sheriff for a
6 number of years. She handles matters of security related
7 to the court. And don't be confused by her short
8 stature. She's a very powerful young lady and within
9 three minutes with that microphone she will have every
10 law enforcement agency in the state sitting right there
11 at that door. That's number one.

12 Number two, she will be charged in charge of the
13 jury. So if you have any questions, go to Deputy
14 Terelak. And she will also be letting you know where to
15 be and what time to be there, and answer those types of
16 questions.

17 My court reporter is Erin Ferretto. She's sitting
18 right in front of us. So it's helpful, as I said, if you
19 pull your mask down when you answer the questions, if you
20 have to, so she can see your face. And she takes down
21 literally verbatim everything that happens in the
22 courtroom. That's the transcript that's created by Ms.
23 Ferretto.

24 To my right, maybe your left, is my right-hand

1 person, Mr. Greg Bartlett, the court clerk. You've heard
2 from Mr. Bartlett so far. He handles the logistics of
3 court exhibits, again, making sure that the jurors are in
4 the right place, and assists me with tasks during trial.

5 To his right, could be your left, is my law clerk,
6 Jacee Broadway. Jacee is a licensed attorney, just
7 passed the bar. Congratulations to her. She assists me
8 with legal matters. She's been with me for two years now
9 and does an excellent job with legal matters. That's
10 Jacee Broadway.

11 Let me go around the room and, first of all, ask
12 the State, are you ready to proceed?

13 MR. STRALLA: -We are, your Honor.

14 THE COURT: Thank you very much.

15 Is the defense ready to proceed?

16 MR. LESLIE: We are, your Honor.

17 THE COURT: Very good. As I've indicated to you,
18 you've been summoned to Department 9 for a criminal case.

19 We've had a few jury trials in Washoe County since
20 the local and national emergency caused by COVID-19
21 caused the courthouse to be closed in March of last year.
22 This means we appreciate your understanding and patience.

23 In addition, all the participants have been
24 involved in many jury trials in the past. The conditions

1 Mariela Pena.

2 Gabriel Pacaldo; P-A-C-A-L-D-O.

3 Eric Ochoa.

4 THE COURT: Is that our group, Mr. Clerk?

5 THE CLERK: Yes, your Honor.

6 THE COURT: Thank you so much.

7 Ladies and gentlemen that are still remaining in
8 the Department 3 area, thank you for answering all of the
9 questions today. Thank you for participating in the jury
10 selection process. You are now excused and I thank you
11 for your service, as well as the attorneys.

12 The jurors that are in the Department 3 area, I'd
13 like to welcome the jurors that have been selected to be
14 jurors in this case.

15 Thank you very much.

16 I'll now ask you to stand again and you're going
17 to get another oath now that you've been selected.

18 THE CLERK: Please raise your right hands.

19 (Jury venire sworn.)

20 THE COURT: Thank you so much. Please be seated.

21 Mr. Clerk, I'm going to have you read the

22 Indictment to which the defendant has pled not guilty.

23 You'll now get the Indictment read to you, which

24 is the charging document.

1 THE CLERK:

2 In the Second Judicial District Court
3 of the State of Nevada, In and For the
4 County of Washoe, the State of Nevada,
5 Plaintiff, versus Randall Lee Dahl,
6 Defendant. Case No. CR15-0747,
7 Department No. 9, filed May 13, 2019,
8 Jacquelyn Bryant, Clerk. Indictment.

9 The defendant, Randall Lee Dahl, is
10 accused by the Grand Jury of Washoe
11 County, State of Nevada, of the
12 following: Open murder, a violation of
13 NRS 200.010, a felony in the manner
14 following.

15 That said defendant, Randall Lee Dahl,
16 on or about the 9th day of December,
17 2014, at Reno Township, within the County
18 of Washoe, State of Nevada, did
19 willfully, unlawfully and with malice
20 aforethought, deliberation and
21 premeditation kill and murder John
22 Gardner, a human being, by means of the
23 defendant striking the victim several
24 times about the head and body with his

1 fists and/or choking the victim, or a
2 combination thereof, thereby inflicting
3 mortal injuries upon the said John
4 Gardner as a result of said beating from
5 which he died on December 9, 2014.

6 Christopher J. Hicks, District
7 Attorney. Roy L. Stralla, Deputy
8 District Attorney.

9 To which Indictment the defendant pled
10 not guilty as charged.

11 THE COURT: Thank you, Mr. Clerk.

12 Ladies and gentlemen, I'm now going to read you
13 some general instructions which will guide you in the
14 administration of this case. Please listen carefully.
15 They're all very important. Please excuse the fact that
16 I'll be reading these to you because they all have
17 special import and meaning.

18 My comments are intended to serve as an
19 introduction to the trial. At the end of the trial, I
20 will give more detailed instructions in writing, and
21 those instructions will control your deliberations.

22 This is a criminal case brought by the State of
23 Nevada against the defendant. The case is based on an
24 Indictment. You should distinctly understand that the

1 Indictment just read to you is simply a description of
2 the charge made by the State against the defendant. It
3 is not evidence of anything. It doesn't prove anything.
4 Therefore, the defendant starts out with a clean slate.
5 The defendant has pled not guilty and is presumed
6 innocent.

7 This is a criminal case, and there are two basic
8 rules you must keep in mind. First, the defendant is
9 presumed innocent unless and until proved guilty beyond a
10 reasonable doubt. The defendant is not required to
11 present any evidence or prove his innocence. The law
12 never imposes upon a defendant in a criminal case the
13 burden of calling any witnesses or introducing any
14 evidence. Second, to convict, the State must prove
15 beyond a reasonable doubt the crime was committed and the
16 defendant is the person who committed the crime.

17 It will be your duty to decide from the evidence
18 to be presented whether the defendant is guilty or not
19 guilty. You are the sole judges of the facts. You will
20 decide what the facts are from the evidence which will be
21 presented. The evidence will consist of testimony of
22 witnesses and documents and other things received into
23 evidence as exhibits.

24 You must apply the facts to the law which I shall

1 give you and in that way reach your verdict. It is
2 important that you perform your duty of determining the
3 facts diligently and conscientiously, as ordinarily there
4 is no correcting an erroneous determination of the facts
5 by the jury.

6 You should not take anything I may say or do
7 during the trial as indicating my opinion as to how you
8 should decide the case or to influence you in any way in
9 your determination of the facts. At times, I may even
10 ask questions of witnesses. If I do so, it is for the
11 purpose of bringing out matters which should be brought
12 out and not in any way to indicate my opinion about the
13 facts or to indicate the weight or value you should give
14 to the testimony of any witness.

15 In deciding the facts of this case, you may have
16 to decide which witnesses to believe and which witnesses
17 not to believe. You may believe everything a witness
18 says or only part of it, or none of it. In considering
19 the weight or value of the testimony of any witness, you
20 may consider the appearance, attitude and behavior of the
21 witness when testifying, and a number of other things,
22 including the witness' ability to see or hear or know of
23 the things the witness testifies to, the quality of the
24 witness' memory, the inclination of the witness to speak

1 truthfully, and whether or not the witness has any
2 interest in the outcome of the case or any motive, bias
3 or prejudice, whether the witness is contradicted by
4 anything the witness said or wrote before the trial, and
5 how reasonable is the witness' testimony when considering
6 the other evidence which you believe.

7 In deciding whether or not to believe a witness,
8 keep in mind people sometimes forget things. You need to
9 consider whether a contradiction is an innocent lapse of
10 memory or an intentional falsehood, and it may depend on
11 whether it has to do with an important fact or only a
12 small detail.

13 The weight or value of evidence does not
14 necessarily depend on the number of witnesses testifying
15 for one side. You must consider all the evidence and you
16 may decide the testimony of a smaller number of witnesses
17 on one side has more weight or value than presented by
18 the larger number of witnesses on the other side.

19 There are two kinds of evidence, direct and
20 circumstantial. Direct evidence is testimony about what
21 the witness personally saw, heard or did. Circumstantial
22 evidence is indirect evidence. It is proof of one or
23 more facts from which one can find another fact. By way
24 of example, if you wake up in the morning and see the

1 ground, sidewalks and streets are all wet and water is
2 running down the gutters, you may find from those facts
3 that it rained during the night. It is proof of one or
4 more facts from which you can find another fact. If you
5 were awake during the night and saw the rain fall, that
6 would be direct evidence, which is something you
7 personally saw.

8 You may consider both direct and circumstantial
9 evidence in deciding this case. The law permits you to
10 give equal weight or value to both, but it is for you to
11 decide how much consideration you give to any evidence.

12 Certain things are not evidence and you must not
13 consider them as evidence in deciding the facts of this
14 case. Statements and arguments by the attorneys,
15 questions and objections of the attorneys, testimony I
16 instruct you to disregard, and anything you may see or
17 hear if the court is not in session, even if what you see
18 or hear is done or said by one of the parties or by one
19 of the witnesses. Remember, evidence is sworn testimony
20 by a witness while court is in session and documents and
21 other things received into evidence as exhibits.

22 There are rules of law which control what can be
23 received into evidence. When the lawyer asks a question
24 or offers an exhibit into evidence and the lawyer on the

1 other side thinks that is not permitted by the rules,
2 that lawyer may object. If I overrule the objection, the
3 question may be answered or the exhibit received. If I
4 sustain the objection, the question cannot be answered
5 and the exhibit cannot be received.

6 Whenever I sustain an objection to a question,
7 ignore the question and do not guess what the answer
8 might have been. Sometimes I may order evidence stricken
9 from the record and tell you to disregard or ignore such
10 evidence. This means when you are deciding the case you
11 must not consider the evidence which I told you to
12 disregard.

13 It is a duty of a lawyer to object to evidence
14 which the lawyer believes may not be permitted under the
15 rules. You should not be prejudiced in any way against
16 the lawyer who makes objections on behalf of the party
17 the lawyer represents.

18 Also, I find it necessary to admonish a lawyer.
19 If I do, you should not be prejudiced to the lawyer or
20 client because I found it necessary to admonish the
21 lawyer.

22 You are not to concern yourself in any way with
23 the sentence which the defendant might receive if you
24 should find the defendant guilty. Your function is to

1 decide whether the defendant is guilty or not guilty of
2 the charge. If, and only if, you find the defendant
3 guilty, then it becomes the duty of the court to
4 pronounce sentence.

5 Until this case is submitted to you, do not talk
6 to each other about it or with anyone else that has
7 anything to do with it until the end of the case when you
8 go to the jury room to decide your verdict.

9 Do not talk with anyone else about this case or
10 anything that has anything to do with it until the trial
11 has ended and you have been discharged as jurors. *Anyone*
12 else means members of your family or your friends. You
13 may tell them you are a juror in a criminal case, but
14 don't tell them anything else about it until after you
15 are discharged by me.

16 Do not let anyone talk to you about the case or
17 about anything to do with it. If someone should try to
18 talk to you, please report it to me immediately by
19 contacting my deputy sheriff. They will contact me.

20 Do not read any news stories, listen to any radio
21 broadcasts, or watch any television reports about the
22 case or about anyone who has anything to do with it. Do
23 not do any research or make any investigation about the
24 case on your own. You may be tempted to visit the crime

1 scene. Please do not do so. In view of the time that
2 has elapsed since this case has come to trial,
3 substantial changes may have occurred at the location in
4 question. Also, making an unauthorized visit without the
5 benefit of explanation you may get erroneous impressions.
6 Therefore, please avoid going near or past the location
7 until after this case has been completed.

8 If the end of the trial, you will have to make
9 your decision upon what you recall of the evidence. You
10 will not have a written transcript to consult, and it is
11 difficult and time-consuming for the reporter to read
12 back lengthy testimony. I urge you to pay close
13 attention to the testimony as it is given.

14 If you wish, you may take notes to help you
15 remember what a witness said. If you do take notes,
16 please keep them to yourself until you and your fellow
17 jurors go back to the jury room to finally decide the
18 case. Do not let note-taking distract you so you not
19 hear other answers by the witness. You should rely upon
20 your own memory of what was said and not be overly
21 influenced by notes of other jurors.

22 Do not make up your mind about what the verdict
23 should be until after you have gone to the jury room to
24 finally decide this case, and you and your fellow jurors

1 have discussed the evidence. It is important that you
2 keep an open mind throughout.

3 A juror may not declare to fellow juror any fact
4 related to this case for which the juror has any personal
5 knowledge. If any juror discovers during the trial or
6 after the jury has retired that the juror or any other
7 juror has personal knowledge of any fact in controversy
8 in the case, the juror shall disclose such a situation
9 to me in the absence of the other jurors.

10 This means if you learn during the course of the
11 trial you have personal knowledge of any fact which is
12 not presented by the evidence in the case, you must
13 declare that fact to me. You communicate to the court
14 through my deputy sheriff.

15 During the course of this trial, the attorneys
16 from both sides and all court personnel, other than the
17 deputy sheriff, are not permitted to converse with
18 members of the jury. These individuals are not
19 antisocial. They are bound by ethics and the law not to
20 talk to you. To do so might contaminate your verdict.

21 The trial will proceed in the following manner.
22 The Deputy District Attorney will make an opening
23 statement, which is an outline to help you understand
24 what the State expects to prove. Next, the defense

1 attorney may but does not have to make an opening
2 statement. Opening statements serve as an introduction
3 to the evidence which the party making the statement
4 intends to prove.

5 The State will then present its evidence and the
6 counsel for the defendant may cross-examine the
7 witnesses. Following the State's case, the defense may
8 present evidence and the Deputy District Attorney may
9 cross-examine. However, with that said, the defendant is
10 not obligated to present any evidence.

11 After all the evidence has been presented, I will
12 instruct you on the law. After the instruction on the
13 law is read to you, each side has the opportunity to
14 present oral arguments. What is said in closing argument
15 is not evidence. The arguments at the end are designed
16 to summarize and interpret the evidence.

17 Since the State as the burden of proving the
18 defendant guilty beyond a reasonable doubt, the State has
19 the right to open and close the arguments. After the
20 arguments have been completed, you will retire to
21 deliberate your verdict.

22 The next facet of the trial will be opening
23 statements. The opening statements, as I indicated to
24 you, are not arguments. They're designed to bring to the

1 attention of the ladies and gentlemen of the jury the
2 evidence which the attorney making the opening statement
3 believes he will be able to produce and may serve as a
4 road map to guide the jurors through the trial and assist
5 the jurors in knowing what to look for when the witnesses
6 testify.

7 Thank you for your attention regarding these
8 preliminary instructions that will help guide you through
9 the trial.

10 Ladies and gentlemen, the State is entitled to
11 present the first opening statement.

12 Mr. Stralla, are you ready to proceed?

13 MR. STRALLA: I am, your Honor.

14 I want to make sure that the audio/video equipment
15 is working correctly.

16 THE COURT: Very good. Please do.

17 MR. STRALLA: Thank you, ladies and gentlemen.

18 Like I indicated to you earlier, this is an
19 important case for the defendant, no doubt. But it is
20 also an important case for the people of this community
21 and it is an important case for an individual by the name
22 of John Gardner.

23 John Gardner is the man, the evidence will show in
24 this case, that the defendant beat and choked to death.

1 You will hear evidence about the sad lifestyle the
2 defendant and John Gardner had, both homeless, alcoholic
3 individuals, struggling on the streets of Reno.

4 John Gardner was a 51-year-old man who had been
5 struck by a car in October of 2014, about two months
6 before he was murdered by the defendant. He had serious
7 injuries as he was struck by the car. He was a
8 pedestrian and a car hit him. He was probably
9 intoxicated. He ended up with a plate in his head, a rod
10 in his leg. It forced him to use a wheelchair to get
11 around, and it was very painful for him to walk with that
12 rod in his leg. In fact, when you hear from the
13 pathologist who did the autopsy in the case, he'll say
14 that his injuries really hadn't healed.

15 On the day he was murdered by the defendant, John
16 Gardner weighed 113 pounds and was in very poor health.
17 Despite that, he was still living on the streets of Reno,
18 and he met up with the defendant on or about December 8,
19 2014. They met at either the bus station or places where
20 homeless people congregate around downtown. They struck
21 up a conversation and the defendant told John Gardner
22 that he had some money and he had rented a room at the
23 Flamingo, which is on Center Street. It's a kind of a
24 beat-up, run-down old motel, but the defendant had enough

1 money to rent a room.

2 So they decided they were going to drink. This is
3 December, so the defendant offered, *Hey, let's go back to*
4 *my room, get out of the cold, and have our drinks.*

5 The defendant, you'll learn in this case, is also
6 a man with his own problems with alcohol, homelessness,
7 and physical and mental health issues. At one point in
8 his life, you'll hear that he once was in the Army and
9 had a good government job in San Francisco but, by his
10 own admission, the defendant lost it and a steady life
11 due to alcohol and he ended up wandering the streets of
12 Reno.

13 These two men, when they met up on that December
14 afternoon and went back to the room to drink, little did
15 John Gardner know that a few days before this happened
16 the defendant also had another homeless man in his room
17 at the Flamingo. They'd been drinking, getting drunk in
18 his room, and the defendant wanted this guy to leave but
19 he wouldn't leave. And, in fact, I think he said the guy
20 is named Greg, he's known by everybody, he said. This
21 guy Greg was in his room and wouldn't leave, causing the
22 defendant to get angry.

23 At one point this Greg, this homeless guy, fell
24 asleep on the defendant's bed -- this is a tiny motel

1 room, you'll see pictures of it -- this guy falls asleep
2 on his bed and defecates himself, gets up, pulls off his
3 underwear and throws it against the wall. This angered
4 the defendant, and eventually he somehow was able to get
5 him out. And, again, this happened just a couple of days
6 before he murdered John Gardner.

7 While they're in the room drinking, John and the
8 defendant, and the evidence will show that the defendant
9 told John Gardner about the incident that happened the
10 couple of days before, about the guy that threw his
11 underwear against the wall, and he was tired of being
12 disrespected. For some reason, John Gardner told the
13 defendant he thought he was a "faggot," quote, and
14 that -- and he approached him in his small bathroom. He
15 disrespected -- the evidence will show that John Gardner
16 disrespected the defendant, but he was at his breaking
17 point. And because he disrespected the defendant, it
18 cost him his life.

19 This is what the result was of disrespecting
20 Randall Dahl that day. Showing you State's Exhibit -- or
21 Exhibit 1B, that's 1C.

22 What happened in that bathroom is where the murder
23 occurred in this case. According to the defendant, he
24 was annoyed by John Gardner. The defendant, in his own

1 words, said that he snapped and struck John Gardner
2 several times in the face, as you can see in that
3 photograph. And he struck him with both hands. Not only
4 did he strike him in the face several times, this man,
5 with a plate in his head from the injury that occurred a
6 couple of months earlier, and a rod in his leg and in a
7 wheelchair but could still walk around a little bit, he
8 broke his ribs, too. And according to our pathologist,
9 Dr. Kubiczek, he choked him to death.

10 There's trauma in the neck, and you will hear how
11 long it takes to actually choke someone out to kill them.
12 It takes a long time. I believe Dr. Kubiczek will say it
13 takes four minutes. He choked him for up to four minutes
14 until he felt the life leave his body. This small,
15 crippled, disabled man.

16 After the defendant killed John Gardner -- this
17 isn't a whodunit case, it's a whydunit. After he killed
18 John Gardner, the defendant said he didn't sleep that
19 night and left Gardner in the bathroom draped over the
20 bathtub. The next morning, before 6:00 a.m., the
21 defendant took bloody clothing, the stiffened corpse of
22 John Gardner, and placed his shirt and jacket on him with
23 no pants or underwear, and put him in his wheelchair and
24 wheeled his dead body south on Lake Street or on Center,

1 and left John Gardner at the Reno Event Center downtown
2 Reno. You will see a video of this.

3 After that, according to the defendant, he went
4 back to his room, rinsed blood out of the bloody clothing
5 that John was wearing when he killed him, and put them in
6 a plastic bag and then went back out on the street and
7 threw them in a nearby garbage can.

8 You will hear from Detective Dan Maher, who is now
9 retired, but in 2014 how they located the defendant and
10 how the defendant initially was dishonest with them about
11 having contact with John Gardner, but how the defendant
12 said, "I don't know what you're talking about," when they
13 asked him questions. Because the Detective had the video
14 of the direction he was going and what he was wearing,
15 and when the defendant answered the door at the Flamingo,
16 you'll hear about this, he was wearing the same clothes
17 as seen in the video.

18 You will hear from a forensic investigator with
19 the Washoe County Crime Lab, Renee Armstrong, who will
20 describe the room and the bathroom where the defendant
21 killed John Gardner and the blood dripping from the side
22 of the tub, and the castoff blood on the walls from the
23 savage strikes to his head, blood drops being cast off
24 those hands.

1 You will see photos of the defendant with no
2 injuries on his body except for his swollen and injured
3 hands that displayed the murderous work that he had
4 wreaked the previous night.

5 3L. You finally will hear from Dr. Kubiczek, who
6 did the autopsy in this case. He will testify to his
7 findings, the severe contusions, fractured ribs, brain
8 bleeding, and evidence of asphyxiation and, again, how
9 long it takes to choke someone to death.

10 You will see the evidence in this case of a man
11 tired of being disrespected and put an end to John
12 Gardner's insults that night by making sure he could
13 never insult him again by deciding to take John Gardner's
14 life with his own hands.

15 After you hear all the evidence in this case and
16 the sad circumstances surrounding it, I will come back
17 and ask you to hold the defendant responsible for the
18 deadly decisions he made after being disrespected. I
19 will ask you to hold him responsible for snapping,
20 losing, and deciding to kill John Gardner, a human being,
21 by signing a guilty verdict.

22 I thank you ahead of time for your attention in
23 this case, and you'll hear from me again at the end.

24 THE COURT: Thank you, Mr. Stralla.

1 Would the defense like to making an opening
2 statement?

3 MS. BRADLEY: Yes, your Honor.

4 THE COURT: Thank you. Ms. Bradley.

5 MS. BRADLEY: Randall Dahl did not mean to kill
6 anyone. In this case, you will hear about what happened
7 between John Gardner and our client, Randall Dahl.

8 You will learn that on December 8, 2014, these two
9 men, both transient and homeless individuals, met on the
10 streets of downtown Reno. Their fellowship began over
11 beer when he agreed to go back to Randall's room at the
12 Flamingo Motel to drink. These two men drank for about a
-13 day-and-a-half before a petty argument ensued and a fight
14 occurred.

15 You will hear that on the morning of December 10,
16 2014, Mr. Dahl wheeled Mr. Gardner to the steps of the
17 Reno Event Center. Mr. Gardner was not hidden, was in
18 plain view. Ultimately, when detectives began their
19 investigation in this case, it led them to Randall's door
20 at the Flamingo Motel.

21 They knocked on Randall's door and Randall
22 answered. Detectives introduced themselves and asked if
23 they could speak to Randall. Randall agreed and invited
24 them in. You'll hear that initially Randall denied

1 wheeling Mr. Gardner or having an involvement in what
2 occurred, but with some prodding and within a few
3 minutes, Randall began to explain what happened.

4 He explained that the two met on December 8. They
5 had been drinking, went back to his place at the Flamingo
6 Motel, and Randall shared that story about Glenn, his
7 prior visitor -- his prior male visitor, and he shared
8 that unfortunate incident about Glenn, and Randall told
9 Mr. Gardner that it bothered him.

10 Mr. Gardner, the evidence will show, teased
11 Randall over this and called him a faggot. The evidence
12 will show that Randall was in the bathroom, a confined
13 space, and the evidence will show that Randall told
14 detectives that Mr. Gardner followed him into the
15 bathroom, confronted him, called him a faggot, and
16 Randall reacted.

17 The evidence will show that Randall Dahl explained
18 this story to detectives. Ultimately, detectives
19 arrested Randall and advised Randall of his Miranda
20 warnings. Those warnings, which were explained to
21 Randall, mean that Randall had the right to remain
22 silent, he didn't have to speak to detectives, he had a
23 right to have an attorney be present before any
24 questioning, but Randall agreed to keep talking.

1 Ultimately, Randall was transported to the Reno
2 Police Department and, again, his story at the Flamingo
3 Motel and what he told detectives at the Reno police
4 station, but for a few differences, were the same.

5 I've talked a bit about what you're going to hear
6 today and what the evidence will show, but I want to
7 spend some time on what you're not going to hear in this
8 case and what you're not going to see.

9 You will not hear or see any evidence that a
10 deadly weapon was involved in this case. There is no
11 knife, no gun. You will not hear any evidence or any
12 testimony that Mr. Gardner was concealed, that his face
13 was hidden, or he was not in plain view. And you will
14 not hear any evidence or testimony that Mr. Dahl had a
15 plan to kill Mr. Gardner.

16 Instead, the evidence will show that he had been
17 drinking for about two days. He was in a small confined
18 space. He was approached and followed by a man who
19 called him a faggot, and he reacted. It was a rash
20 impulse that resulted in an unintended consequence. And
21 at the end of this trial, we're going to ask that you
22 find Mr. Dahl not guilty of first degree murder. Thank
23 you.

24 THE COURT: Thank you, Ms. Bradley.

1 Now the State begins their case.

2 Call your first witness, please, Mr. Stralla.

3 MR. STRALLA: Your Honor, I hate to ask. I need a
4 few minutes to talk the my witness real quick.

5 THE COURT: How much time do you think you'll
6 need?

7 MR. STRALLA: Couple of minutes.

8 THE COURT: Ladies and gentlemen of the jury,
9 we're going to experience our first recess where I'm
10 going to ask you to step out for just a moment. You're
11 going to follow Deputy Terelak's direction, and then
12 we'll see you back here in ten minutes, keeping in mind
13 that I can promise you we'll leave at 3:00 today. That's
14 a promise it's going to be that way every day.

15 Mr. Stralla has indicated to us he has two quick
16 witnesses to begin the testimony for the State, so I'll
17 see you back in ten minutes.

18 All rise for the jury.

19 Remember my admonitions. Just so you remember it,
20 I'll be reading it a lot for this case, as I do in every
21 case. Please do not read, watch or listen to any
22 newspaper, internet, smart phones, radio. Do not form or
23 express an opinion on any subject connected with this
24 case until it is finally submitted to you and the

1 presentation of the evidence and arguments are concluded.

2 See you back in ten minutes.

3 (At 2:25 p.m., jury exited courtroom.)

4 THE COURT: Thank you. We're outside the
5 presence. I don't think I need to step out.

6 (Recess.)

7 THE COURT: Let's all rise for the jury.

8 Please be seated. Thank you for picking up on
9 that, ladies and gentlemen of the jury, that typically in
10 court process, the first juror, everybody remains
11 standing until the last juror comes in, and then I say,
12 "Please be seated." That's how we do it, everybody
13 remains standing until you sit because you're the most -
14 important people in the courtroom. Thank you very much.

15 Mr. Stralla, please call your first witness.

16 MR. STRALLA: Thank you, your Honor. That would
17 be Officer Hoyt.

18 THE COURT: Officer Hoyt, please step forward and
19 be sworn.

20 (Witness sworn.)

21 THE COURT: Officer Hoyt, welcome to my courtroom.
22 Please take the witness stand. You are permitted to take
23 your mask off once you get situated, or pull it down so
24 we can see you. That's what I allow. Very good.

1 Thank you.

2 Mr. Stralla?

3 MR. STRALLA: Thank you, your Honor.

4

5 JEFFREY ROGER HOYT

6

7 called as a witness on behalf of the State,
8 having been duly sworn, testified as follows:

9

10

+++ DIRECT EXAMINATION +++

11

BY MR. STRALLA:

12

Q Could you please state your name, spell your last
13 name?

14

A Jeffrey Roger Hoyt; H-O-Y-T.

15

Q Where are you employed sir?

16

A Reno Police Department.

17

Q What is your position there?

18

A Patrol officer.

19

Q How long have you been with the Reno Police
20 Department?

21

A Twenty-three years.

22

Q Have you been a patrolman all that time?

23

A No. I spent time in Detectives, also.

24

Q What unit?

1 A Two years in the Family Crimes, Domestic Violence
2 Unit and four in Fraud.

3 Q As a patrolman, what are -- what are -- generally
4 what are your duties?

5 A Patrol and answering calls for service.

6 Q I want to direct your attention to December 10,
7 2014. Were you working at that time?

8 A I was.

9 Q What shift were you working?

10 A Day shift.

11 Q What are those hours?

12 A I was on the early day shift team. It was from
13 7:00 to -- 6:00 to 4:00.

14 Q Okay. Is there a certain part of town you're
15 assigned to work when you're a patrol officer?

16 A Because I was on early South Team, we're actually
17 citywide because there's not much overlap for patrol
18 officers. While I was assigned to South, we went
19 everywhere in the city until the rest of day shift came
20 on.

21 Q That would include the Downtown Region?

22 A Yes.

23 Q And where the Reno Event Center is, is that part
24 of the Downtown Region?

1 A Yes.

2 Q Did you receive a call at approximately 6:54 a.m.
3 hours that day?

4 A Yes.

5 Q What was that in reference to?

6 A I received a call of a possible deceased person in
7 a wheelchair.

8 Q And what was the location?

9 A It was the intersection of Fourth and Lake.

10 Q How far were you away when you received that phone
11 call or that dispatch?

12 A About a block away.

13 Q What did you do?

14 A I responded to the area and arrived first.

15 Q Were you the first officer on scene?

16 A I was.

17 Q What did you observe?

18 A A male sitting in a wheelchair at the top of the
19 steps leading into the event center. I saw that his face
20 and eye was swollen shut, and that there was no -- like
21 no movement or reaction from the other eye.

22 Q What did you do next?

23 A So I was only on scene a couple of minutes, I took
24 some photos initially before fire and REMSA arrived on

1 scene.

2 Q Did the person in the wheelchair appear to be
3 alive?

4 A No.

5 Q And during your career as a police officer in
6 Reno, have you had the occasion to come across deceased
7 individuals?

8 A Yes.

9 Q In the Downtown Region?

10 A Yes.

11 Q And based upon your experience, this person seemed
12 to be deceased?

13 A Yes.

14 Q So you said you took photographs?

15 A I did.

16 MR. STRALLA: May I approach the witness?

17 THE COURT: You may.

18 BY MR. STRALLA:

19 Q I'm going to hand you, Officer, photographs or
20 exhibits that were marked, 1A, B and C.

21 Do you recognize those?

22 A I do.

23 Q What are they?

24 A Photographs I took on scene.

1 Q All right.

2 MR. STRALLA: Your Honor, for the record, they've
3 been stipulated into evidence.

4 THE COURT: That's correct.

5 MS. BRADLEY: That's correct, your Honor.

6 THE COURT: All those exhibits were admitted,
7 Mr. Stralla.

8 MR. STRALLA: Okay. Thank you.

9 BY MR. STRALLA:

10 Q Let's start with 1A. What does this photograph
11 depict, Officer?

12 A The subject that we were initially called to in
13 the wheelchair who appeared to be deceased.

14 Q Okay. Now, I see, I guess it would be over his
15 right shoulder where it says "Portal A"?

16 A Yes.

17 Q And what is that?

18 A So this is on the -- at the Reno Event Center on
19 the southeast corner of the building.

20 Q Okay. And there's a ramp going up there to that
21 area?

22 A Yes.

23 Q Now, the individual in the photograph, that's how
24 he was clothed when you found him?

1 A Yes.

2 Q So he had no pants on or underwear and shoes?

3 A No. This is exactly how we found him.

4 Q A towel or something over his lap?

5 A Yes.

6 Q And then looks like a jacket over his right
7 shoulder?

8 A Yes, sir.

9 Q Okay. I'm going to show you 1B. What does that
10 depict, Officer?

11 A A close-up getting his body and face.

12 Q This is the condition he appeared when you first
13 came upon him?

14 A Yes.

15 Q And finally 1C, what is that, Officer?

16 A Close-up of his face.

17 Q You indicated earlier that his right eye was
18 swollen shut?

19 A Yes.

20 Q Then the other eye, the left eye you saw no
21 movement or discernible movement?

22 A Yes.

23 Q After you took the photographs, Officer, what did
24 you do next?

1 A REMSA arrived on scene and there was -- just a
2 couple of minutes later they pronounced the subject
3 deceased.

4 Q Did you call REMSA?

5 A I think they were initially called.

6 Q Okay. What did you do, if anything, next?

7 A I did call the ME's office.

8 Q What is the ME? What does that stand for?

9 A Medical Examiner's office.

10 Q Is that protocol in a case where a deceased
11 individual is found?

12 A Yes.

13 Q Did they respond to that location?

14 A They did.

15 Q Were you present when that occurred?

16 A When the ME arrived, yes.

17 Q Do you remember what his name was?

18 A Michael Bergmann.

19 Q Okay. How long did it take the ME to get there?

20 A I'm not entirely sure.

21 Q Okay. Less than a half hour?

22 A About a half hour.

23 Q Okay. During this period of time, what, if
24 anything, did you do while you were waiting for the ME?

1 A I also went across the street to see about any
2 surveillance video at a convenience store.

3 Q Okay. Now, based on your training and experience,
4 did this appear to be a possible homicide case to you?

5 A It was suspicious in nature for sure.

6 Q So when you come across a body of a deceased
7 individual as a patrol officer that seems suspicious,
8 what is the protocol?

9 A My sergeant also arrived on scene and made
10 notification about the possible suspicious death. We had
11 Robbery Homicide detectives respond.

12 Q So there's a unit that investigates these type of
13 cases?

14 A Yes.

15 Q That's the Robbery Homicide Unit?

16 A Yes.

17 Q Were you present when detectives or officers from
18 that unit arrived on scene?

19 A Yes.

20 Q And do you remember Detective Dan Maher?

21 A Yes.

22 Q And you saw him there?

23 A Yes.

24 Q And at this point, is the case turned over from

1 Patrol to the Detectives?

2 A Yes.

3 Q Okay. And was that the extent of your
4 investigation or your actions in this case?

5 A I believe so, yes.

6 Q Okay. And this all occurred in Reno, Washoe
7 County, Nevada?

8 A It did.

9 MR. STRALLA: I have no further questions.

10 THE COURT: Any cross-examination?

11 MS. BRADLEY: Yes, your Honor.

12

13 +++ CROSS-EXAMINATION +++

14 BY MS. BRADLEY:

15 Q Good afternoon, Officer Hoyt.

16 You testified a moment ago that you responded to
17 the scene?

18 A I did.

19 Q And you were the first officer that arrived; is
20 that correct?

21 A Yes.

22 Q And you observed Mr. Gardner, the decedent?

23 A Yes.

24 Q He was in plain view; correct?

1 A Yes.

2 Q And he was facing Lake Street?

3 A I believe so, yes. It was out towards the
4 intersection.

5 Q The corner of Lake and Fourth; correct?

6 A Yes.

7 Q And there was nothing covering his face; correct?

8 A No.

9 Q And, Officer Hoyt, you never met with Mr. Dahl;
10 correct?

11 A No.

12 Q And you only responded to the scene where Mr. --
13 I'm sorry -- where the decedent was found?--

14 A Yes.

15 Q So you don't know whether or not Mr. Dahl was
16 intoxicated?

17 A I have no knowledge of that.

18 Q Officer Hoyt, you had testified on direct that the
19 scene appeared suspicious in nature, but you weren't
20 certain whether or not a crime had been committed;
21 correct?

22 A Correct.

23 MS. BRADLEY: I have no further questions.

24 THE COURT: Anything further, Mr. Stralla?

1 MR. STRALLA: Just a couple of questions.

2

3 +++ REDIRECT EXAMINATION +++

4 BY MR. STRALLA:

5 Q So as an officer, I think you said you've been an
6 officer for 23 years?

7 A Yes.

8 Q Have you seen -- and you were in the Family Crimes
9 detectives for a while?

10 A Yes.

11 Q Have you seen cases where victims or people have
12 suffered contusions or bruises to their face?

13 A I have.

14 Q How would you describe the face of the individual
15 in the wheelchair?

16 A It was --

17 MS. BRADLEY: Objection.

18 THE COURT: What's the nature of the objection?

19 MS. BRADLEY: It appears that Officer Hoyt would
20 be testifying as an expert with respect to contusions.

21 THE COURT: Overruled; he laid a foundation.

22 You may answer.

23 THE WITNESS: It was more serious in nature than
24 what you'd typically see on somebody.

1 BY MR. STRALLA:

2 Q Was anybody waiting with the decedent or the dead
3 guy in the wheelchair, was there anybody there?

4 A No.

5 Q Do you even know the defendant, Mr. Dahl? Have
6 you ever seen him before?

7 A Never seen him.

8 Q He wasn't hanging around that area?

9 A Not to my knowledge.

10 Q All right. And so the initial call to this was
11 through dispatch; is that correct?

12 A Yes.

13 Q And was there any reporting witness there or
14 anything like that?

15 A It was a security officer.

16 MS. BRADLEY: Objection; hearsay.

17 MR. STRALLA: I'm not asking what he said. Was
18 there a witness there.

19 THE COURT: Overruled. It's not hearsay.

20 Go ahead.

21 THE WITNESS: The initial reporting person was a
22 security officer at the event center.

23 BY MR. STRALLA:

24 Q Was that person there when you rolled up on this

1 location?

2 A I don't know -- I know initially -- he -- there
3 was a statement obtained from him --

4 Q Okay.

5 A -- on the scene. I can't recall meeting with him.

6 Q Okay. But it's your understanding that was the
7 reporting party?

8 A Yes.

9 MR. STRALLA: No further questions.

10 THE COURT: Any recross?

11 MS. BRADLEY: No, your Honor.

12 THE COURT: Thank you.

13 - Thank you for your testimony. You may step down.
14 Call your next witness.

15 MR. STRALLA: Michael Bergman.

16 THE COURT: Please step forward and be sworn.

17 THE CLERK: Please raise your right hand.

18 (Witness sworn.)

19 THE COURT: Thank you. Please take the witness
20 stand. For purposes of your testimony, you may take your
21 mask down while testifying.

22 Mr. Stralla?

23 MR. STRALLA: Thank you, your Honor.

24 / / / /

1 MICHAEL BERGMAN

2

3 called as a witness on behalf of the State,
4 having been duly sworn, testified as follows:

5

6

+++ DIRECT EXAMINATION +++

7 BY MR. STRALLA:

8 Q Could you please state your name and spell your
9 last name?

10 A My name is Michael Bergman, and the last name is
11 B-E-R-G-M-A-N.

12 Q Where are you employed, sir?

13 A I'm employed at the Washoe County Regional Medical
14 Examiner's Office.

15 Q What is your position there?

16 A I'm a Medical/Legal Death Investigator and
17 Forensic Autopsy Technician.

18 Q How long have you been doing that job?

19 A I've been doing this approximately nine years.

20 Q All right. So in 2014, had you just started with
21 this job?

22 A Yes, sir.

23 Q All right. Would you briefly describe to the jury
24 what you do in your position?

1 A Yes, sir. So in responding to death scene
2 investigations, we go out with law enforcement assistance
3 and look for criminal activity, anything that's outside
4 of the natural element, homicide, suicide, anything
5 unexplained. So what we'll do is we'll perform a
6 separate investigation from law enforcement for our own
7 office as well.

8 Q All right. And what does that investigation
9 entail?

10 A The investigation entails detailed photography,
11 any evidence collection, anything on scene or in the
12 decedent's possession that we'll take custody of and
13 retain for evidentiary purposes. It also establishes
14 chain of custody, timelines. And then we'll also conduct
15 next-of-kin notifications. It is a pretty detailed
16 forensic investigation on scene with photos and evidence.

17 Q All right. So you roll up on a scene or you come
18 up on a scene, you photograph the scene and take evidence
19 into custody?

20 A Yes, sir.

21 Q And then what happens with a deceased individual
22 after that?

23 A So after that, once the mortuary has arrived and
24 everything is kind of completed, anything that is of

1 evidentiary value we photograph it and take. Then the
2 decedent will get placed in a secured body bag,
3 transported back to the Medical Examiner's Office, and
4 then the forensic examination will proceed from that
5 point.

6 Q So when you're at the Medical Examiner's Office or
7 Coroner's Office, do you take photographs there, too?

8 A We do, yes, sir.

9 Q So are you assigned the case from the beginning
10 until the full autopsy is done?

11 A It depends on staffing during the day, but
12 sometimes we do and sometimes -- sometimes an
13 investigator will be assigned a scene response, and then
14 it will be a forensic doctor and two technicians
15 downstairs or in the autopsy suite assisting them. So it
16 is a possibility, yes.

17 Q Now, going back to December of 2014, do you recall
18 being called by the Reno Police Department to the Reno
19 Event Center regarding a deceased individual?

20 A Yes, sir, I do.

21 Q Okay. And do you remember -- do you remember
22 approximately what time you arrived there?

23 A It was pretty early in the morning, I want to say
24 approximately maybe 6:30 or 7:00, if my memory serves me

1 correctly.

2 Q Okay. What did you observe when you arrived
3 there?

4 A I observed an individual, unresponsive, seated in
5 a wheelchair, covered with I believe a sheet, and with
6 some fairly extensive injuries.

7 Q And what did you do next?

8 A I photographed everything as it was. We tried not
9 to touch anything. I was waiting for the Forensic
10 Investigation Section, FIS, to arrive. So at that point,
11 it's just kind of waiting for them and then we kind of
12 come together as a team. I don't want to step on any
13 sort of evidence or miss anything.

14 Q Do you make a determination at that point whether
15 the -- an individual is deceased or alive?

16 A Yes. The time of death is already -- usually been
17 called before we arrive.

18 Q But when you arrived on the scene here, was the
19 individual deceased?

20 A Yes.

21 Q I'm going to show you three photographs that have
22 already been admitted into evidence, and ask if you
23 recognize them.

24 MR. STRALLA: May I approach, your Honor?

1 THE COURT: You may.

2 BY MR. STRALLA:

3 Q Do you recognize those photographs, Mr. Bergman?

4 A Yes, sir.

5 Q And what are they?

6 A They are photographs that I had taken upon
7 initially responding to the scene that day.

8 Q Okay. But that's what you observed that day, this
9 individual?

10 A Yes, sir.

11 Q Now, you said that -- I think you called it the
12 mortuary, you called the mortuary out. How does that
13 work?

14 A After my independent investigation is complete,
15 then I will telephone the mortuary, because legally, in
16 the Nevada, they're the only ones that can transport back
17 to the mortuary, so they're mainly -- their main purpose
18 was just to transport the decedent back to the mortuary.

19 Q Going back a little bit. You said you did an
20 independent investigation?

21 A I did.

22 Q What did you find?

23 A I found there was -- there was severe trauma.
24 From my perspective, it didn't look natural by any means.

1 And without -- without speculating, again, protocol was
2 followed at that point once I observed some traumatic
3 injuries along those lines.

4 Q I'm going to show you Exhibit 1A. You'll be able
5 to see it on the monitor. Now, the individual in that
6 photograph has no pants on; is that correct?

7 A That is correct, yes.

8 Q No underwear?

9 A That is correct.

10 Q And that's the condition you saw him in when you
11 first arrived there?

12 A Yes, sir.

13 Q And there appears to be blood staining on that
14 white shirt?

15 A There did, yes, sir.

16 Q All right. And you said that you noticed trauma
17 on this individual?

18 A Discoloration and some -- some obvious
19 discoloration to the face and head were my first concern.

20 Q All right. So the mortuary comes and transports
21 this individual at some point?

22 A They do, yes, sir.

23 Q And where is he transported?

24 A He is sealed on scene by myself. Then he's

1 transported to the Medical Examiner's Office. At that
2 time it was Kirman Avenue.

3 Q Who was the doctor there, the forensic pathologist
4 that was going to perform the autopsy?

5 A Dr. Piotr Kubiczek.

6 Q So when this individual was taken to that
7 location, what happens next?

8 A So at that time the decedent is put into the
9 computer system and placed into refrigeration. And then
10 that day, we could proceed with the autopsy, but I
11 believe it was the next day that the autopsy was
12 conducted. So the forensic pathologist will be in the
13 autopsy suite at the time anything is opened or done at
14 that point.

15 Q And are attempts made to identify the individual?

16 A They are, yes. After the forensic doctor has made
17 a -- or has been down and opened the bag there.

18 Q Okay. Were you involved in that portion of the
19 case?

20 A I don't believe I was, no, sir.

21 Q Okay. Now, when the bag is opened up, do you take
22 photographs of that?

23 A We do, yes, sir.

24 Q I'm going to hand --

1 MR. STRALLA: May I approach again, your Honor?

2 THE COURT: You may.

3 BY MR. STRALLA:

4 Q I'm going to hand you a series of photographs --

5 MR. LESLIE: May I know what series?

6 MR. STRALLA: I was just going to go through it.

7 5A through 5R.

8 BY MR. STRALLA:

9 Q Just kind of keep them to yourself and thumb
10 through them, and I'll ask you if you recognize these.

11 Do you recognize those photographs, Mr. Bergman?

12 A Yes, sir.

13 Q And what are they?

14 A They are pictures of the decedent after the bag
15 has been opened in the autopsy exam room.

16 Q Those are photographs that you took?

17 A Yes, sir.

18 MR. STRALLA: Move for admission of 5A through R.

19 MR. LESLIE: No objection.

20 THE COURT: They're admitted.

21 (Exhibit 5A through 5R were admitted.)

22 BY MR. STRALLA:

23 Q Now, when you're taking photographs of a deceased
24 individual, is there a protocol or a system you go

1 through?

2 A There is, yes, sir.

3 Q Could you please describe that to the jury?

4 A Absolutely. So the main purpose of photographs is
5 to kind of capture everything before anything is changed
6 or moved. So initially we'll show up on scene and the
7 first thing we'll do is take a certain number -- not a
8 certain number of photos but a certain amount of photos
9 so that we have everything before anything is disturbed.

10 As we proceed, any trauma or anything that is
11 additionally seen is photographed carefully. And at that
12 point, anything else seen around the surrounding areas we
13 will take photographs of as well.

14 Q Do you also take photographs at the direction of
15 the pathologist?

16 A Yes, sir.

17 Q Okay. And did you do that in this case?

18 A Yes, sir.

19 Q All right. I'm going -- I'll kind of go through
20 them fairly quickly but --

21 THE COURT: Let me interrupt.

22 Ladies and gentlemen of the jury, I did say
23 3 o'clock, but I'm going to allow this witness to be
24 completed so he does not have to come back tomorrow. So

1 we will go a few minutes after 3:00.

2 Excuse me. Continue, Mr. Stralla.

3 MR. STRALLA: Thanks, Judge.

4 BY MR. STRALLA:

5 Q 5A, is that a photograph you took?

6 A Yes, sir.

7 Q I see that the individual has bags on his hands?

8 A He does. Yes, sir.

9 Q Why is that done?

10 A So those are evidentiary bags that if -- you know,
11 if myself, as an investigator, I was on scene and I see
12 something that is not entirely right or trauma or
13 something that just doesn't feel right, what we'll do is
14 we'll place their hands in bags for evidentiary purposes
15 so anything on the decedent's hands doesn't get lost in
16 transport, doesn't get shuffled around, or we lose any
17 sort of evidence there.

18 Q Such as blood or skin, human tissue?

19 A Yes, sir.

20 Q Maybe even gunshot residue --

21 A Yes, sir.

22 Q -- in some cases.

23 I'm going to show you 5B, and what does that
24 photograph depict?

1 A It is a photograph of the decedent, some trauma to
2 his right orbital region.

3 Q Okay. 5C?

4 A Again, another photograph, shirt that was wrapped
5 around, I believe, the decedent's waist.

6 Q Okay. So you photographed not just the body but
7 the clothing, too?

8 A The clothing, yes, sir. Anything that comes off,
9 we'll photograph and take detailed pictures of, clothing,
10 any evidence that we obtained or retained.

11 Q 5D --

12 A Yes, sir.

13 Q -- what's that?

14 A It is a white T-shirt that appears to be stained
15 with red discoloration.

16 Q That's the T-shirt that the decedent had on?

17 A Yes, sir.

18 Q Okay. So the clothing items are obviously removed
19 from the body and photographed?

20 A They are, yes, sir.

21 Q 5E?

22 A 5E are shoes the deceased was wearing.

23 Q I'm going to make a -- it looks like on the left
24 leg there there's a long scar?

1 A Correct. Yes, sir.

2 Q And that's what you observed that day?

3 A Yes, sir.

4 Q And also going back to that, looks like on the
5 knees there's some scraping, or how would you describe
6 that?

7 A Yes, sir, definitely maybe some scraping or some
8 contusions, or you can see the discoloration of it.

9 Q Like carpet burns, for example?

10 A Yes, sir. On the knees.

11 Q And 5F, that's a close-up of that left leg?

12 A Yes, sir.

13 Q Okay. 5G, what was the purpose of this-
14 photograph?

15 A So anything that is medical or scar-related we'll
16 photograph as well. So we'll take pictures of scars or
17 any other surgeries or any other injuries so...

18 Q So there was a scar, I guess -- I believe that's
19 his right shoulder?

20 A Yes, sir.

21 Q And did -- were you directed by Dr. Kubiczek to
22 also take photographs of close-ups of the face?

23 A During the examination, yes, sir. That's standard
24 protocol.

1 Q Okay. I'm going to show you 5J, would that be one
2 of those photographs?

3 A Yes, sir.

4 Q Now, are you familiar with the term *petechiae*?

5 A Yes, sir.

6 Q Can you tell the jury what that is?

7 A Petechial hemorrhaging is the rupture of the
8 mucous membranes in the eyes that can also come in
9 different locations. So what normally causes it is a
10 lack of oxygen, so the blood vessels are breaking and
11 you'll get these tiny, little pinpoint petechial
12 hemorrhages that almost look like tattoos or little dots.

13 Q Based on your experience, those can happen --- you
14 can see petechiae in the eye?

15 A Yes, sir.

16 Q Also can you see it other areas of the face?

17 A You can, depending on the position.

18 Q I'm going to show you 5L. Do you recognize that
19 photograph?

20 A Yes, sir.

21 Q And what was the purpose of that photograph?

22 A We wanted to capture kind of -- again, some of the
23 petechial hemorrhaging you see there or some of the
24 pinpoint marks that you get from the ruptured blood

1 vessels.

2 Q I think on your screen you can circle it, if you
3 could do that. I'm pretty sure. I'll point to it with
4 my finger here. Is this the area you're referring to?

5 A Yes, sir. A little bit higher up.

6 Q In here?

7 A Yes, sir.

8 Q Okay. I'm going to show you 5N. What's that a
9 photograph of?

10 A That appears to be a cheek with, again, more
11 discoloration and some petechial hemorrhaging.

12 Q It's a closer-up of the one I just showed you?

13 A Yes, sir.

14 Q All right. How about No. 50 -- let me turn it
15 like that -- what does that depict?

16 A This is a picture of the decedent's eye. We
17 wanted to capture anything that was going on with
18 petechial hemorrhaging or anything we see that can relate
19 back to trauma.

20 Q Now, I point to the little red spot above his --
21 well, it's -- what is it called, this part of the eye?
22 Not the pupil. The sclera?

23 A Sclera, yes, sir.

24 Q Okay. That red dot, what does that depict, based

1 on your training and experience?

2 A Based on my training, it does depict a pretty good
3 indication of some strangulation or lack of oxygen.
4 Again, some of those ruptured membranes will rupture like
5 that leaving those areas of discoloration behind.

6 Q The petechiae?

7 A Yes, sir.

8 Q That's the left eye we were just looking at.

9 Now, I'm going to show you 5P. Let me orient
10 that. Do you recognize that photograph?

11 A Yes, sir.

12 Q That's the right eye?

13 A It is.

14 Q And you use a tool or an implement to open up the
15 swollen shut eye?

16 A We do, yes, sir.

17 Q What do you notice with regard to that photograph?

18 A There was a lot of trauma surrounding it,
19 discoloration. It's hard to even depict the petechiae on
20 this picture due the amount of trauma that engulfs the
21 whole eye.

22 Q Okay. I'll show you the last couple. 5Q, do you
23 recognize that?

24 A Yes, sir.

1 Q What does that depict?

2 A Those appear to be injuries sustained from either
3 blunt force trauma or some sort of trauma to the mouth,
4 usually indicative of being hit with something.

5 Q That's the dark color -- the dark discoloration --

6 A Yes.

7 Q -- under the lip?

8 A That was something we'll usually take a picture
9 of, is what that is.

10 Q All right. So after you take photographs of the
11 outer portion of the body, do you also take photographs
12 of the actual autopsy, too?

13 A Yes, sir.

14 Q All right. And you took photographs of that?

15 A Yes, sir.

16 Q At the direction of Dr. Kubiczek?

17 A Yes, sir.

18 Q After you did the photographic -- took those
19 photographs in this case, what did you do next?

20 A In the autopsy suite?

21 Q Yes.

22 A So then, at that point, Dr. Kubicek and who we
23 call the dirty technicians, will then proceed with the
24 anatomical dissection. So after we've detailed the

1 decedent externally, we go ahead and wash, kind of clean
2 the decedent, we take dirty photos when we receive them
3 and clean photos once he's clean before the autopsy
4 starts.

5 Q So they call some of them dirty technicians?

6 A An assistant, so -- yes. Forgive the name.

7 Q Were you the dirty technician that day?

8 A I was not, sir.

9 Q Okay. So after that, Dr. Kubiczek did the autopsy
10 and you would refer to him for his findings; is that
11 correct?

12 A Yes, sir.

13 Q After the autopsy was finalized, what did you do
14 next?

15 A After the autopsy was finalized?

16 Q Finished.

17 A So what we do is we hold on to any evidence that
18 we obtained from the autopsy, secure it, and we probably
19 send it off to toxicology. And at that point, that's
20 when I think the death certificate gets completed, once
21 everything is kind of finalized there and brought back.

22 Q And *toxicology*, that means sending blood samples
23 out?

24 A Yes, sir.

1 Q All right. The death certificate was completed in
2 this case?

3 A Yes, sir.

4 Q And did you do that?

5 A No, sir, I did not.

6 Q Was that Dr. Kubiczek that was involved in that?

7 A Yes, sir.

8 Q All right. And was that the extent of your work
9 in this case?

10 A Yes.

11 MR. STRALLA: I have no further questions.

12 THE COURT: Any cross-examination?

13 MR. LESLIE: Yes, your Honor. Thank you.

14

15 +++ CROSS-EXAMINATION +++

16 BY MR. LESLIE:

17 Q Good afternoon.

18 A Good afternoon, sir.

19 Q Did you complete a written report in this case?

20 A I did, yes, sir.

21 Q Two pages long?

22 A Yes, sir.

23 Q Did you get a chance to review that before your
24 testimony today?

1 A I did, yes, sir.

2 Q That's standard to review your written report
3 before you testify in order to give accurate testimony;
4 correct?

5 A Yes, sir.

6 Q Looking at your two-page report, would you need to
7 review it or would you take my word for it from the
8 written report that we have in discovery that you arrived
9 on scene at about 7:25 that morning?

10 A I would take your word for it.

11 Q Pardon me?

12 A I would take your word for it.

13 Q And when you arrived on scene, there were one or
14 more paramedics on scene; is that correct?

15 A At the time of my arrival, there were no
16 paramedics on scene, sir.

17 Q They arrived on scene after you had arrived
18 initially?

19 A I believe they would have arrived prior to my
20 arrival.

21 Q Do you have an understanding of the date and time
22 of death in this case?

23 A I'm not understanding the question.

24 Q Do you know what the date and time of death of the

1 decedent is in this case?

2 A I cannot recall. I know it was December of 2014.

3 Q Okay. And did you have any decision making on
4 arriving at that conclusion, or was that Dr. Kubiczek?

5 A So normally when we respond to something like
6 this, the paramedics have already arrived and declared
7 death. So upon my arrival, the time of death was
8 probably already established and given to me.

9 Q I can barely hear you.

10 A I'm sorry. So upon my arrival, I believe time of
11 death would have been established by either the
12 paramedics or law enforcement, or whoever can pronounce
13 at that point.

14 Q Okay.

15 A That's kind of what initiates us to get a
16 telephone call.

17 Q In fact, in your written report it was indicated
18 that paramedics had declared death at 658 hours; is that
19 correct?

20 A Yes, sir.

21 Q Okay. And 658 hours would be 6:58 a.m.?

22 A Yes, sir.

23 Q Okay. And your report indicates that the date of
24 death was December 10th of 2014; correct?

1 **A** Yes, sir.

2 **Q** Okay. And the autopsy, where the body is back at
3 the Medical Examiner's Office, that took place the same
4 day that you had originally responded that day?

5 **A** I believe so, yes.

6 **Q** Okay. So you arrive at about 7:30, 7:25 a.m., and
7 it's later that day that you're taking the photographs
8 that we saw?

9 **A** Correct.

10 **Q** Okay. And the physical autopsy that day was
11 completed at some hour and you were concluded for the
12 day; correct?

13 **A** Yes, sir.

14 **Q** The actual autopsy report was completed and
15 executed by Dr. Kubiczek, not you; is that correct?

16 **A** Yes, sir.

17 **Q** And on the 10th of December, that day, the same
18 day that you had responded earlier that morning, were you
19 present obviously -- you were present at the autopsy;
20 correct?

21 **A** Yes, sir.

22 **Q** And you're aware that Medical Examiner Kubiczek
23 ordered that the brain material and that samples for
24 toxicologist be referred out; is that right?

1 **A** Yes, sir.

2 **Q** Okay. And so it's not uncommon that the actual
3 autopsy report that the Medical Examiner signs comes some
4 weeks or months later after all the initial or after all
5 the deferred out materials are analyzed and reports come
6 back?

7 **A** Yes, sir.

8 **Q** Okay. And Dr. Kubiczek, not you, just for
9 clarity, was the one that conducted that analysis with
10 those additional reports and arrived at the conclusion of
11 death?

12 **A** Yes, sir.

13 **Q** All right. Do you recall any -- do you recall
14 learning during the course of the autopsy that the
15 injuries that we saw in the shoulder area, the scarring
16 on the legs of Mr. Gardner were the result of a prior
17 accident or car crash?

18 **A** I do not recall.

19 **Q** Do you recall any discussion by Medical Examiner
20 Kubiczek about the scarring and looking into what the
21 cause of those scars were?

22 **A** Yes, sir.

23 **Q** All right. And he arrived at an opinion and has a
24 report in this case?

1 A Yes, sir.

2 Q All right.

3 MR. LESLIE: No further questions.

4 THE COURT: Any redirect?

5 MR. STRALLA: Just a couple of questions.

6

7 +++ REDIRECT EXAMINATION +++

8 BY MR. STRALLA:

9 Q I'm looking at your report, Mr. Bergman, and do
10 you remember writing an addendum to the report?

11 A I do not.

12 Q If I were to show you a copy of your report, would
13 that help to refresh your recollection?

14 A Yes, sir.

15 MR. STRALLA: May I approach, your Honor?

16 THE COURT: You may.

17 BY MR. STRALLA:

18 Q Does that refresh your recollection?

19 A It does, yes, sir.

20 Q And with regard to that addendum, did you provide
21 findings with regard to a prior accident or collision
22 that the deceased individual had been involved in?

23 A Yes, sir.

24 Q And what was that?

1 A There were medical records requested and received
2 from, I believe, Renown.

3 Q All right. What did those indicate to you?

4 A Those had listed, I think, that the deceased had
5 been involved or struck by a car.

6 Q All right. And you also -- Mr. Leslie asked you
7 questions when death was declared?

8 A Yes, sir.

9 Q That doesn't necessarily mean when someone died;
10 is that correct?

11 A That is correct, yes, sir.

12 Q That's when they're declared dead by whoever has
13 the authority to do so?

14 A Yes, sir.

15 Q All right. And in this case, in your report, you
16 identified the deceased individual as John Leonard
17 Gardner; is that correct?

18 A Yes, sir.

19 Q All right. Fifty-one years old?

20 A Yes, sir.

21 Q You also put his height and weight in there; is
22 that correct?

23 A I believe that might have been autopopulated from
24 a height and weight after the decedent arrives to the

1 Medical Examiner's Office, height and weight.

2 Q If I were to show you a copy of your report, would
3 that help to refresh your recollection?

4 A Yes, sir. Yes, sir.

5 Q What was the height and weight?

6 A The height was 65 inches, and the weight was
7 approximately 113 pounds.

8 Q All right. And then I noticed in your report you
9 talk about rigor mortis and so forth?

10 A Yes, sir.

11 Q Can you describe that?

12 MR. LESLIE: I'm going to object, your Honor.

13 MR. STRALLA: That's fine. I'll withdraw, Judge.
14 That's fine.

15 MR. LESLIE: Thank you.

16 BY MR. STRALLA:

17 Q Was the defendant -- was the decedent,
18 Mr. Gardner, was he cold to the touch when you arrived
19 there?

20 A Yes, sir.

21 MR. STRALLA: No further questions.

22 THE COURT: Thank you so much. You may step down.
23 You're excused. Thank you for your testimony.

24 THE WITNESS: Thank you.

1 THE COURT: Thank you for your patience, ladies
2 and gentlemen. We're going to take our evening recess.
3 During this recess, it is your duty not to converse
4 amongst yourselves or with anyone else on any subject
5 connected with the trial. You are not to read, watch or
6 listen to any report or commentary on the trial by any
7 person connected with the trial by any means of
8 information, including without limitation newspaper,
9 television, internet, smart phones, radio.

10 You are not to form or express any opinion on any
11 subject connected with this case until it is finally
12 submitted to you and the presentation of the evidence and
13 arguments are concluded.

14 We will see you tomorrow at 8 o'clock which, as
15 you know, means you probably get here about ten minutes
16 of so we can start right at 8 o'clock. You are the most
17 important people in the courtroom. I'm very cognizant of
18 your time. Thank you very much for your patience to
19 allow this witness to be completed. Most of the time
20 we'll be stopping right on time, with the breaks that I
21 shared with you.

22 With that, I'll see you tomorrow. I'll share with
23 you 8:00 to 10:00; break 10:00 to 10:30; 10:30 to 12:30;
24 break at 12:30, back at 1:00; 1:00 to 3:00, that should

1 be our schedule if everything goes according to time.

2 So that's your first day of trial.

3 Congratulations. We'll see you tomorrow.

4 All rise for the jury.

5 (At 3:16 p.m., jury exited courtroom.)

6 THE COURT: We're outside the presence. Anything
7 outside the presence?

8 I normally do start outside the presence every day
9 in case there's something that's come up, let me know.
10 Then we'll bring the jury in.

11 See everyone tomorrow at 8 o'clock. Thank you
12 very much. We'll be in recess until then.

13 - (At 3:17 p.m., court adjourned.) -

14 * * * * *

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24

1 STATE OF NEVADA)
) ss.
 2 COUNTY OF WASHOE)
 3

4 I, ERIN T. FERRETTO, an Official Reporter
 5 of the Second Judicial District Court of the State of
 6 Nevada, in and for the County of Washoe, DO HEREBY
 7 CERTIFY:

8 That I was present in Department No. 9 of
 9 the above-entitled Court on MONDAY, JUNE 7TH, 2021, and
 10 took verbatim stenotype notes of the proceedings had upon
 11 the matter captioned within, and thereafter transcribed
 12 them into typewriting as herein appears;

13 That the foregoing transcript is a full,
 14 true and correct transcription of my stenotype notes of
 15 said proceedings.

16 That I am not related to or employed by any
 17 parties or attorneys herein, nor financially interested
 18 in the outcome of these proceedings.
 19

20 DATED: This 17th day of October, 2021.
 21

22 */s/ Erin T. Ferretto*

23 The document to which this certificate is ERIN T. FERRETTO, CCR #281
 24 attached is a full, true and correct copy of the
 original on file and of record in my office.

By: ALICIA L. LERUD, Clerk of the Second
 Judicial District Court, in and for the County of
 Washoe.

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8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9
10 IN AND FOR THE COUNTY OF WASHOE
11
12 THE HONORABLE SCOTT FREEMAN, DISTRICT JUDGE
13 --oOo--
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15 THE STATE OF NEVADA,
16
17 Plaintiff,

Case No. CR15-0747
Dept. No. 9

18 vs.

19 RANDALL LEE DAHL,
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21 Defendant.

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TRIAL

DAY 3

TUESDAY, JUNE 8, 2021

Reported By: PEGGY B. HOOGS, CCR 160, RDR, CRR

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APPEARANCES:

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For the Defendant:

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2 RENO, NEVADA; TUESDAY, JUNE 8, 2021; 8:06 A.M.

3 -oOo-

4
5 (The following proceedings were held outside
6 the presence of the jury.)

7 THE COURT: This is CR15-0747.

8 I'd like to get started at 8:00 o'clock in the
9 morning so the jurors know we're serious about an 8:00
10 to 3:00 o'clock situation.

11 Is there a reason why we're delayed this
12 morning?

13 MR. STRALLA: The audio/video equipment isn't
14 working correctly, Your Honor.

15 THE COURT: What seems to be the problem?

16 Please identify yourself for the record so we
17 know what's going on.

18 IT TECHNICIAN: This is Steven Hatch from Court
19 IT, for the record.

20 I just spoke with the D.A.'s tech, Brent Evans.
21 He walked me through the menu, and I think we'll have
22 these problems resolved within a couple minutes, Judge.

23 THE COURT: Thank you very much.

24 While we're outside the presence of the jury,

1 are your witnesses present, Mr. Stralla?

2 MR. STRALLA: I have two witnesses present this
3 morning.

4 THE COURT: Very good.

5 And you need the audio/visual to work with?

6 MR. STRALLA: Yes. One for each.

7 THE COURT: All right. Do we need to deal with
8 anything outside the presence?

9 MR. STRALLA: I don't think so, Judge.

10 THE COURT: Bring the jury in.

11 (The following proceedings were held in the
12 presence of the jury.)

13 THE COURT: I apologize for starting a few
14 minutes late. You'll find that if we are a little bit
15 late, it is all about making things run smoothly for you.
16 We had a couple technical glitches this morning, and we
17 needed to work through those, but now we're ready to go.

18 It's always the plan to make sure -- again, it
19 seems like we've done this before during COVID time. So
20 you don't think that we're going through it for the first
21 time, we're really not, but sometimes we have some
22 technical glitches to work through. So thank you for
23 your patience.

24 That being said, Mr. Stralla, please call your

1 next witness.

2 MR. STRALLA: That would be Ed Flagg, Your
3 Honor.

4 THE COURT: Thank you.

5 I need to say thank you, ladies and gentlemen,
6 for being on time and ready to go at 8 o'clock. That's
7 appreciated by the Court very much. Thank you.

8 Please step forward and be sworn.

9
10 ED FLAGG,
11 having been first duly sworn,
12 was examined and testified as follows:

13
14 THE COURT: Thank you. Please take the stand.
15 Mr. Stralla.

16 MR. STRALLA: Yes, Your Honor. Thank you.

17

18 DIRECT EXAMINATION

19 BY MR. STRALLA:

20 Q Good morning, sir.

21 Could you please state your name and spell your
22 last name.

23 A Ed Flagg, F-l-a-g-g.

24 Q Where are you employed, sir?

1 A I'm employed with ESI Security Services.

2 Q How long have you been employed with them?

3 A Since 2013.

4 Q What are your duties there?

5 A Right now I'm assigned at the airport, guard
6 duties, security duties.

7 Q Okay. Was there ever a point in time where you
8 worked in the downtown region?

9 A Yes. I was the site supervisor for the
10 National Bowling Stadium and Reno Events Center through
11 the RSCVA through a contract with ESI Security.

12 Q When was that?

13 A 2014, 2015.

14 Q All right. And as the supervisor at Reno --
15 what's it called? The Convention Center?

16 A Reno Events Center, yes.

17 Q As a supervisor at the Reno Events Center for
18 security, what were your job duties?

19 A I had a staff of four or five sometimes. I do
20 the scheduling, set up patrols around the building, do
21 reports, check in with the general managers, just overall
22 duties.

23 Q Is the facility equipped with video monitoring?

24 A Yes, it is.

1 Q And how would you describe that?

2 A At the Reno Events Center, just going back a
3 little bit, there was probably -- we had probably 14
4 cameras set up, perimeter cameras and inside cameras.

5 Q Were those video monitors reviewed?

6 A They ran 24 hours a day, recorded 24 hours a
7 day.

8 Q Would you review those if there was an
9 incident?

10 A Oh, yes. Yes.

11 Q When you said that there was patrols made of
12 that property, how does that occur?

13 A We had a -- we call it TrackTik, and it's on
14 our phones, and we would go by, and we had little points
15 of origin, and it would scan the phone and show that we
16 were doing patrols. We do those three times a day,
17 depending on how busy it was.

18 Q As the supervisor, would you do patrols also?

19 A Yes. Yes.

20 Q I want to direct your attention to December 10,
21 2014.

22 Were you working on that day?

23 A Yes.

24 Q And what was your shift?

1 A 6:00 a.m. to 2:00 p.m.

2 Q Did you make a patrol early that morning?

3 A Yeah. The first thing we do -- what I like
4 them to do was first come on shift, do your log-ins,
5 check the building, then do your perimeter checks.

6 Q Did you, yourself, do a perimeter check?

7 A Yes.

8 Q Did you notice anything unusual?

9 A At the Reno Events Center, Portal A, I was
10 doing my outside check, came up to a gentleman sitting in
11 a wheelchair. It was cold that morning, extremely cold.
12 I hit the wheelchair, and he didn't move. I said, "Sir,
13 are you okay?" The gentleman didn't move, and I
14 called -- dialed 911 and told them we had a possible
15 problem.

16 Q Did the individual in the wheelchair appear to
17 be deceased?

18 A He wasn't moving. His eyes were gray, and he
19 was frozen.

20 Q All right. After you called 911, what did you
21 do next?

22 A I stayed there until Reno PD arrived, and then
23 I backed out of the way.

24 Q Okay. Did there come a point in time when you

1 went and checked video surveillance of that morning?

2 A Yes. That was probably 7:30, 8:00 o'clock.
3 Started running videos, checking all the perimeters and
4 then saw a guy pushing a guy in the wheelchair, and it
5 matched the guy I found in Portal A. So I downloaded
6 everything and turned it over to Reno PD.

7 MR. STRALLA: Your Honor, I have Exhibit 7 in
8 my hand. It's been stipulated into evidence. Rather
9 than approach the witness -- he hasn't looked at it, but
10 I'm going to go ahead and play it.

11 THE COURT: It's already in evidence as a
12 result of the stipulation. Use it as you see fit,
13 Mr. Stralla.

14 MR. STRALLA: Thank you, Your Honor.

15 THE COURT: It's admitted.

16 MR. STRALLA: Actually, it should be Exhibit 8.

17 THE COURT: Same stipulations. It will be
18 admitted.

19 (Exhibit 8 was admitted.)

20 BY MR. STRALLA:

21 Q Can you see that okay, Mr. Flagg?

22 A Yes.

23 Q We'll go through this section before I ask you
24 a question about it.

1 (Video recording played.)

2 BY MR. STRALLA:

3 Q This video is time-stamped, too.

4 Do you recall what the time was? There it is
5 there. 6:18 a.m.?

6 A Yeah. Yes. To clarify, that time might
7 have -- time might have been off, like, an hour, because
8 if I can recall correctly, I don't think it did the time
9 change automatically on that, so it could have been 5:18
10 in the morning.

11 Q And it could have been 6:18 also?

12 A Could have been 6:18.

13 Q It was dark?

14 A It was dark.

15 Q And what corner is that?

16 A That would be on -- it would be Center
17 Street and -- that would be Center Street.

18 Q Okay. 4th and Center?

19 A 4th and Center, yeah.

20 (Video recording played.)

21 BY MR. STRALLA:

22 Q The next one says 4th and Center Southwest.

23 A Yes.

24 Q Is this also a perimeter of the --

1 A Yes. That's the Reno Events Center on your
2 left and the bowling stadium parking garage on your
3 right.

4 Q The man pushing the person in the wheelchair,
5 is he going southbound or --

6 A That would be going east.

7 Q Eastbound. Okay.

8 Then if he were to turn left, then he would be
9 going southbound?

10 A No. He would be going northbound.

11 Q Okay. I see.

12 This is the same video that you obtained after
13 looking it over that morning?

14 A Yes. Yes.

15 (Video recording played.)

16 BY MR. STRALLA:

17 Q The next video that was recorded is Lake Street
18 North?

19 A Yes. We call it Lake Street North because it's
20 on the north side of the building, but it's actually
21 looking south.

22 Q This video, does it depict the same individual
23 without the wheelchair?

24 A With this, I can't make a positive ID, but once

1 it gets closer, I'll be able to tell you with the jacket
2 and stuff.

3 Q He had a red jacket on?

4 A Yes. It looked red from the video.

5 (Video recording played.)

6 BY MR. STRALLA:

7 Q Can you see a little better now?

8 A Yes.

9 Q Looks like he's holding a white sack?

10 A A white sack of some sort, yeah?

11 Q Bald on top of his head?

12 A Yeah.

13 Q Here's another video.

14 (Video recording played.)

15 BY MR. STRALLA:

16 Q This is Lake Street South?

17 A Right.

18 Q Looks like this one is having a hard time
19 playing.

20 Let's look at this one.

21 (Video recording played.)

22 BY MR. STRALLA:

23 Q Do you recognize this area?

24 A Yes. That's inside the Reno Events Center.

1 That's looking out onto Fourth Street at Portal A.

2 Q Okay. I'm going to skip forward on this to
3 the -- I believe it's, like, the 5-minute mark.

4 Q You see the same individual pushing something
5 up Portal A?

6 A Yes.

7 Q Is this the location where you found the
8 individual in the wheelchair?

9 A Yes, sir.

10 Q It shows the same individual coming back?

11 A Yes.

12 Q Based on this video, he's wheeling the person
13 up, going back and forth?

14 A That's what it appears, yes, sir.

15 Q Here he comes again and then walks away without
16 the wheelchair?

17 MS. BRADLEY: Objection. Leading.

18 MR. STRALLA: I'll withdraw, Judge. That's
19 fine.

20 THE COURT: You can ask it a different way if
21 you want.

22 BY MR. STRALLA:

23 Q Does that appear to you that the person was
24 leaving without pushing a wheelchair?

1 A Yes, sir.

2 Q I'm going to show you, Mr. Flagg, what's been
3 marked 1A and ask if you recognize that. I'll zoom it
4 out.

5 Do you recognize that photograph?

6 A Yes, sir.

7 Q Is that the individual you found in the
8 wheelchair at Portal A?

9 A Yes, sir.

10 Q And that's the condition he was in when you
11 found him?

12 A Yes, sir.

13 Q Did you take a look at his face? You said you
14 came right up on him.

15 A Came over the top of him, you know, looking
16 down on him, and his face was swollen, had some dried
17 blood on his face, on his lips and stuff.

18 Q Here's a close-up. I'm showing you 1C.

19 A Yeah.

20 Q That's what you observed?

21 A Yes, sir.

22 Q And that's when you called 911?

23 A Yes, sir.

24 Q Have you ever seen this individual before this

1 day?

2 A No, sir.

3 Q How about the guy in the red pants and --

4 A No, sir.

5 Q Okay. And that was the extent of your
6 involvement in this case?

7 A That was it.

8 MR. STRALLA: I have no further questions.

9 THE COURT: Thank you.

10 Ms. Bradley.

11

12 CROSS-EXAMINATION

13 BY MS. BRADLEY:

14 Q Good morning, Mr. Flagg.

15 A Good morning.

16 Q On December 10th, you were working for ESI
17 Security?

18 A Yes, ma'am.

19 Q And you were a supervisor at that time?

20 A Site supervisor, yes.

21 Q And on that date, you were assigned to patrol?

22 A Assigned to the buildings, those two buildings.
23 Those were -- the National Bowling Stadium and the Reno
24 Events Center were under my purview.

1 Q So on December 10th you were assigned to both
2 the Reno Events Center and the National Bowling Stadium?

3 A Yes. Yes.

4 Q And at approximately 6:50 a.m., you began your
5 patrol outside to check the Reno Events Center?

6 A Yes. Well, the whole complex.

7 Q The whole area?

8 A Yeah.

9 Q And you approached Portal A of the Reno Events
10 Center?

11 A Yes.

12 Q And that's at Lake and Fourth Street?

13 A Lake and Fourth.

14 Q As you testified on direct, you saw a person
15 sitting in a wheelchair; correct?

16 A Yes.

17 Q And you tried to make contact with that person?

18 A Yes.

19 Q To find out if they were all right?

20 A Yes. It was extremely cold out that morning.
21 It was cold.

22 Q December in Reno. It is cold.

23 A Yes.

24 Q And you tried to make contact to find out if

1 they were all right?

2 A Yes.

3 Q You nudged the wheelchair?

4 A I nudged the wheelchair, rocked it back and
5 forth and no movement, no nothing.

6 Q No response?

7 A No response.

8 Q And once you walked around the individual, or I
9 believe you testified you were coming over the top,
10 coming up --

11 A Yes.

12 Q -- you saw that the person had injuries to
13 their face; correct?

14 A Yes.

15 Q And at that point you contacted 911?

16 A Contacted 911.

17 Q And, Mr. Flagg, this individual, they were
18 located in plain view?

19 A Yes. It was --

20 Q Readily observable?

21 A Readily observable.

22 Q A passerby could have seen this person;
23 correct?

24 A Sure.

1 Q If they were on Lake and Fourth that day?

2 A Yeah.

3 Q Just as you did?

4 A Yeah.

5 Q They were not hidden; correct?

6 A No. He was right out in the portal, right on
7 the portal.

8 Q And there was nothing covering this
9 individual's face?

10 A No.

11 Q And you did not take any photographs of this
12 individual; correct?

13 A Oh, no, no.

14 MS. BRADLEY: Thank you, Mr. Flagg.

15 THE COURT: Anything further, Mr. Stralla?

16 MR. STRALLA: Just one quick question.

17

18 REDIRECT EXAMINATION

19 BY MR. STRALLA:

20 Q So according to the video, when the person
21 wheeled the guy up in the wheelchair, it was dark out?

22 A Yes.

23 MR. STRALLA: No further questions.

24 THE COURT: Anything based on that?

1 MS. BRADLEY: No, Your Honor.

2 THE COURT: Thank you. Thank you for your
3 testimony. You may be excused.

4 Please call your next witness.

5 MR. STRALLA: Detective Maher, retired
6 Detective Maher.

7 THE COURT: Please step forward and be sworn.

8
9 DANIEL MAHER,
10 having been first duly sworn,
11 was examined and testified as follows:

12
13 THE COURT: Thank you. Please take the witness
14 stand right here next to me.

15
16 DIRECT EXAMINATION

17 BY MR. STRALLA:

18 Q Good morning.

19 A Good morning.

20 Q Could you state your name and spell your last
21 name, sir.

22 A Daniel Paul Maher, M-a-h-e-r.

23 Q Where are you employed, Mr. Maher?

24 A I'm retired.

1 Q From where?

2 A Reno Police Department.

3 Q How long did you work there?

4 A Fifteen years.

5 Q When did you retire?

6 A Going on six years ago.

7 Q So 2015, I guess?

8 A Yes.

9 Q Could you describe to the jury how you became a

10 police officer?

11 A Well, I took the test and passed the physical

12 and passed all the interviews and became a police

13 officer.

14 Q Went to the academy?

15 A I did.

16 Q And passed that?

17 A Yes.

18 Q Graduated, I guess?

19 A Yes.

20 Q You started out as a patrol officer?

21 A I did.

22 Q How long were you a patrol officer?

23 A Approximately three years.

24 Q And then what did you do after that?

1 A I became a detective in sex crimes.

2 Q Sex crimes.

3 And how long were you a detective in sex
4 crimes?

5 A Maybe about seven years.

6 Q All right. And then where did you go from
7 there?

8 A From there, I went to Robbery/Homicide.

9 Q When did you start Robbery/Homicide?

10 A Maybe around 2010, 2011.

11 Q I guess it's self-explanatory, but what type of
12 cases do you investigate in Robbery/Homicide?

13 A They are responsible for all kinds of
14 robberies -- armed robberies, bank robberies, any kind of
15 robberies -- and then, of course, homicides.

16 Q How would you describe the structure of the
17 Reno Homicide -- Robbery/Homicide Unit?

18 A When I was there, there were approximately ten
19 detectives and two detective sergeants, and cases were
20 distributed to those ten detectives by the two sergeants
21 and investigated.

22 Q And, generally, how were cases assigned?

23 A There's different ways. Every week a different
24 three guys were on call. One guy was -- would be the

1 primary, and if anything came in during the week,
2 especially a homicide, he would be assigned that case.
3 Otherwise, cases just came in and were assigned by the
4 sergeants based on caseload and, you know, how long
5 you've been in the unit, things like that.

6 Q Is there a title or a duty as the lead
7 detective in a case?

8 A You can call a person the lead detective, sure.

9 Q What are the duties of a lead detective on a
10 homicide case?

11 A Pretty much everything. You oversee the entire
12 case. The responsibility falls on you for just about
13 everything, so if anything needs to be delegated, you do
14 that, you do a lot of things yourself, and you're
15 responsible for the entire case.

16 Q So you coordinate the case?

17 A Yes.

18 Q And you said you assign different jobs in the
19 case?

20 A Yes.

21 Q Would that include scene investigation?

22 A Yes.

23 Q Attending an autopsy?

24 A Yes.

1 Q Interviews?

2 A Yes.

3 Q And witness statements?

4 A Yes.

5 Q Okay. And with regard to the case of Randall
6 Dahl, were you assigned some duties on that case?

7 A I was assigned to be the investigator on that
8 case.

9 Q Just to get this over with right now, is
10 Randall Dahl in the courtroom today?

11 A Yes, I believe so.

12 Q And could you describe what he's wearing, where
13 he's seated.

14 MR. LESLIE: We'll stipulate to identification.

15 THE COURT: Identification is stipulated.

16 Randall Dahl is in the courtroom sitting next to defense
17 counsel to my far right, to everybody's else's left.
18 It's been stipulated.

19 MR. STRALLA: Thank you, Your Honor.

20 BY MR. STRALLA:

21 Q How did it come about that you were assigned
22 lead detective in that case?

23 A I was on call during that week, and when that
24 call came out that morning, as the on-call detective and

1 the two other people that were assigned to be on-call
2 with me, we responded to the Events Center, and at that
3 time I was told by my sergeant that I would be lead on
4 that case.

5 Q So what was your first action on the case?

6 A To arrive at the Reno Events Center.

7 Q And what did you observe when you arrived
8 there?

9 A We observed a deceased male in a wheelchair
10 parked right by the entrance doors there at Fourth and
11 Lake, partially covered up. He had been deceased for
12 some time.

13 Q What did you do next?

14 A We waited for the coroner to arrive, and then
15 we kind of branched out from the Events Center to see if
16 there was any video available, see if there were any
17 witnesses available, see if anybody saw anything. It's
18 pretty strange that something like that would just show
19 up at that busy intersection and nobody saw anything, but
20 that is the nature of the beast down in that part of
21 town.

22 Q Were you able to obtain video in the case?

23 A We were.

24 Q From where?

1 A From the Events Center.

2 Q How was that helpful to your investigation?

3 A That video showed a few different views of a
4 male wheeling the male in the wheelchair around the
5 Events Center and then finally parking him where we found
6 him at the corner of Fourth and Lake.

7 Q How was that individual wheeling the person
8 dressed?

9 A He was wearing reddish-orange ski pants, it
10 looked like, and a red and gray ski jacket.

11 Q And so after you observed this video, what did
12 you do next?

13 A We watched all the video. We decided that we
14 would -- it looked -- after watching the video, it looked
15 like the subject had come from north of the Events
16 Center, and then when he left, after he parked the
17 individual in the wheelchair, he again traveled north.
18 So we assumed that maybe he came from north of the Events
19 Center.

20 I just picked the Flamingo as the first hotel
21 because it was the closest to the Events Center and then
22 the direction he had come and he had gone, so that's why
23 I ended up at the Flamingo.

24 Q Where's the Flamingo located?

1 A It's on Center Street, just north of Fifth,
2 just -- it is literally the closest hotel to the Events
3 Center, or was. I don't know if it's still there.

4 Q Okay. Is it within a block or two of the
5 Events Center?

6 A Yes.

7 Q Is it in Reno, Washoe County, Nevada?

8 A Yes.

9 Q So you went over to the Flamingo?

10 A Yes.

11 Q What did you do when you arrived there?

12 A I spoke with the manager.

13 Q All right. Did you have another detective with
14 you?

15 A Not initially. He showed up afterwards.

16 Q And you received some information from the
17 manager there?

18 A Yes.

19 Q And as a result of that information, what did
20 you do next?

21 A After he gave us information regarding -- he
22 described the subject in the wheelchair. He said he
23 thought he knew him as John and that he had been staying
24 with an individual in Room 105, Mr. Randall Dahl, and

1 gave us information about that.

2 He knew a little bit about it. They had been
3 hanging out together the last couple of days. They had
4 had a couple of problems. They were drinking alcohol
5 together. He responded to their room once.

6 So he told me where Randall's room was, and
7 then Detective Brouker and I responded to Room 105 to try
8 to make contact with the occupant.

9 Q Do you remember the name of the manager by
10 chance?

11 A Stoney, Stoney something.

12 Q Something Stoney.

13 How would you describe this location?

14 A The Flamingo?

15 Q Yes.

16 A It's one of our typical downtown motels. You
17 know, it's an overnight to weekly motel. People who stay
18 there -- I guess some of them could live there, but most
19 of the time it's short-term, and it's not a very nice
20 place.

21 Q Is it an older place?

22 A Yes.

23 Q And it's one or two stories?

24 A It's at least two.

1 Q And with parking out front?

2 A Yes.

3 Q Okay. So you went to this Room 105?

4 A Yes.

5 Q What happened next?

6 A We knocked on the door. The occupant of the
7 room, Mr. Randall Dahl, opened the door and allowed us to
8 come in so we could speak with him.

9 Q When the defendant opened the door, how was he
10 dressed?

11 A He was wearing red-orange ski pants and a
12 shirt. Yes, that's what he was wearing.

13 Q And how was that significant to you?

14 A Well, it looked like the same individual that I
15 had seen on the video just minutes before. I had also
16 noticed on the video that the person wheeling the male in
17 the wheelchair was pretty much bald on top with longer
18 kind of straggly hair, and that matched the description
19 of Randall as well.

20 Q Okay. What did you do next?

21 A We entered the motel room and began to speak
22 with Randall.

23 Q Let me ask you this: As a patrol officer and a
24 police officer of 15 years, have you had the occasion to

1 encounter intoxicated individuals?

2 A Yes.

3 Q How often?

4 A Almost every day.

5 Q Okay. When you first started speaking with
6 Mr. Dahl, did he appear to be intoxicated to you?

7 A No.

8 Q When I say intoxicated, are there signs and
9 symptoms of intoxication?

10 A Sure.

11 Q Such as?

12 A Such as slurred speech, red, glassy eyes. Most
13 common is the smell of alcohol. Sometimes they can't
14 stand too well; they can't walk too well. It just
15 depends on their level of intoxication.

16 Q Did you notice any of these signs or symptoms?

17 A No.

18 Q What did you notice about the room at this
19 point?

20 A The room was small. There was things strewn
21 about everywhere. He seemed to be the only occupant of
22 the room. Other than that --

23 Q Is it one room?

24 A Yes. One bathroom, one room, like a studio.

1 Q Okay. One bed?

2 A Yes.

3 Q A small motel room would be fair to say?

4 A Yes. Fairly small.

5 Q What did you say to the defendant?

6 A I asked him if he knew anyone matching the
7 description of the male in the wheelchair and what he
8 could tell me about that.

9 Q What did he say?

10 A He said he did know somebody matching that
11 description, although he didn't know his name. He said
12 they had been drinking. He initially told me he met him
13 the day before, and they had consumed alcohol together.

14 Q Did you ask him -- did you also ask him if he
15 had any idea why you were at his room?

16 A Yes.

17 Q What did he say about that?

18 A He said he didn't know why we were there.

19 Q With regard to the guy in the wheelchair, he
20 said they had been drinking?

21 A Yes.

22 Q The day before?

23 A Yes.

24 Q And what did he say happened?

1 A He said the male in the wheelchair left to go
2 get some more beer or alcohol at around 8:00 p.m. and
3 never returned.

4 Q Okay. Did you ask him to give a description of
5 the person in the wheelchair?

6 A Yes.

7 Q What did he say?

8 A He said his eyesight wasn't very good, and so
9 he couldn't really give us too much of a description. He
10 tried his best, but it was obvious that -- I don't think
11 he was being untruthful about it. I think his eyesight
12 really was not very good, so the description wasn't real
13 accurate.

14 Q Okay. Did you ask him if he had been out of
15 his room that morning?

16 A Yes.

17 Q What did he say about that?

18 A He said no.

19 Q This is the morning of the 10th I'm talking
20 about.

21 A That's correct.

22 Q What did you ask him next?

23 A I believe that's when I brought up the fact
24 that there was quite a bit of video downtown, and we had

1 video of someone wheeling a male in a wheelchair around
2 the Events Center and parking him. And I asked him if he
3 knew anything about that or wanted to tell me anything
4 about that.

5 Q What did he say?

6 A He initially said no.

7 Q Was he confronted by you or the other officer
8 or detective there that you had spoken with the manager?

9 A I believe -- I believe I did tell him that.

10 Q Okay. And what did he say when that was
11 presented to him?

12 A That we spoke with the manager?

13 Q Yeah. That there had been some type of
14 argument or something in there.

15 A Oh, well, he initially told me that the subject
16 in the wheelchair left to get beer at 8:00 o'clock, and
17 then he changed his story to, yes, they did have an
18 altercation in the bathroom where the subject in the
19 wheelchair took a swing at Randall; Randall kind of
20 pushed him away; things settled down. Then the male in
21 the wheelchair left again, like he said initially, at
22 8:00 o'clock to go get more alcohol.

23 Q Okay. Did he say that the man struck him when
24 he swung at him?

1 A No. He said he missed.

2 Q Okay. What did you ask him next?

3 A At that time Detective Brouker had kind of been
4 on the other side of the bed from where I was, and he
5 came to the bathroom and noticed there was quite a bit of
6 blood staining inside the bathroom. He let me know about
7 that.

8 I went over there and looked for myself. I
9 asked Randall what he could tell us about blood being all
10 over his bathroom. I asked him if anybody had been
11 injured. He told me, no, nobody had been injured.

12 Q Now, through this portion of the conversation
13 with the defendant, he voluntarily let you into his room?

14 A That's right.

15 Q And he didn't ask you to leave at all?

16 A No.

17 Q After you saw the blood, what did you do next?

18 A I confronted Randall about the blood and
19 said -- I told him -- you know, again I mentioned the
20 video, and I told him that the description of the male on
21 the video pretty much matched him and the clothes he was
22 wearing and the clothes we could see on the bed, and now
23 I was seeing blood inside his bathroom, and I told him it
24 was time for him to be honest with me and tell me the

1 truth about what happened.

2 Q What did the defendant say?

3 A He told me he did have an altercation with the
4 male in the wheelchair, that he got into a physical fight
5 inside the bathroom regarding a subject that had stayed
6 with Randall some days prior.

7 The subject stayed with Randall for a couple of
8 days. Again, they consumed alcohol. The way Randall
9 told the story was the subject went to the bathroom in
10 his pants and threw his underwear against the wall. He
11 told the male -- he told the male in the wheelchair the
12 story, and he began to hit him, razz him, give him a hard
13 time about that. It set Randall off. They had a fight
14 inside the bathroom where Randall struck the male in the
15 wheelchair anywhere from three to five times with his
16 fist in and about the head.

17 Q Did the defendant say what words the guy in the
18 wheelchair used or names he called him or razzed him
19 with?

20 A Yes. He said he called him faggot.

21 Q And what did the defendant say how that made
22 him feel?

23 A It made him feel very angry.

24 Q He indicated to you -- the defendant indicated

1 to you that while Mr. Dahl was in the bathroom and the
2 guy in the wheelchair approached him, did he say he could
3 walk?

4 A Yes, he said he could walk. He told me that
5 the male in the wheelchair had told him that he had been
6 in a car accident sometime prior, he had some surgeries,
7 but he could walk when he wanted to. It just wasn't very
8 comfortable for him.

9 Q Now, kind of as an aside, were you able to
10 investigate whether there had been a John Gardner that
11 had been in a traffic accident a couple months prior?

12 A There was. In October of 2014, John Gardner
13 had been in a traffic accident and had sustained some
14 pretty serious injuries.

15 Q And that was in the city of Reno?

16 A Yes.

17 Q Okay. So that was confirmed by the Reno Police
18 Department?

19 A Yes, sir.

20 Q All right. Going back to what he said, so this
21 John Gardner approaches him and is calling him a faggot,
22 and it makes the defendant angry?

23 A Yes.

24 Q And he said that he pushed him, or how did that

1 go?

2 A Randall said he -- well, I mean, initially he
3 said he took a swing at him, and then later it was -- I
4 believe he said he pushed him; he was pushing him inside
5 the bathroom before Randall started hitting him.

6 Q Okay. Did he indicate to you -- the defendant
7 indicate to you that John Gardner was drunk?

8 A Yes. They both were.

9 Q Okay. Did you ask him about the blood in the
10 bathroom?

11 A Yes.

12 Q What did he say about that?

13 A He initially said he didn't know anything about
14 it, but then he came forth with that story.

15 Q Okay. Well, let's talk about this portion.

16 So when you say there was blood in the
17 bathroom, where was it located?

18 A There was some on the outside carpet right by
19 the bathroom door. There was some on the bathtub itself
20 and then dripping down onto the bathroom floor. There
21 was some cast-off on the sides of the bathtub.

22 Q What's that? What's cast-off?

23 A Cast-off is where if blood were to be -- say
24 you had a cut on your hand and you went like that

1 (indicating), it kind of casts off and sprays the wall,
2 blood droplets.

3 Q And you've seen that based on your training and
4 experience as a police officer?

5 A Yes.

6 Q What about a fist that has blood on it? Could
7 that cause cast-off?

8 A That could cause it. Hitting somebody.
9 There's a lot of things that could cause it. Once blood
10 starts to flow, it kind of makes a mess and goes
11 everywhere.

12 Q Okay. So when you confronted him with the
13 blood, he said he didn't know how it got there
14 originally?

15 A Initially.

16 Q And then what did you tell him?

17 A That's when I told him it was time for him to
18 be honest with me, and that's when he came forward with
19 the story that he did strike John Gardner multiple times.

20 Q In the face?

21 A In the face and the head.

22 Q Did he indicate to you what the argument was
23 about?

24 A Yes. It was about the subject, Glenn, who had

1 stayed with Randall for a couple of days. And, like I
2 said, when he told John that story, John began to make
3 fun of him, called him a faggot, came in the bathroom,
4 called him a faggot, and that just set Randall off.

5 Q Did he also indicate to you, the defendant,
6 that John Gardner wanted more alcohol?

7 A Yes. Yes. I believe they both did.

8 Q Okay. Did the defendant tell you about what
9 time this occurred?

10 A Approximately 8:00 p.m. on the evening of the
11 9th.

12 Q Okay. What time were you there over at the
13 defendant's room?

14 A I'm going to say -- I don't really know --
15 10:00, 11:00 a.m.

16 Q Okay. Sometime before noon?

17 A Yes.

18 Q On the 10th?

19 A Yes.

20 Q What did the defendant say happened to John
21 Gardner after he struck him in the face four times?

22 A He said he went out. I took that to mean that
23 he passed out, lost consciousness. Randall said he kind
24 of caught him before he fell, draped him over the

1 bathtub, left him there, and a few minutes later he began
2 to bleed quite a bit from an injury to his head.

3 Q So the defendant said he left him there and
4 then exited the bathroom?

5 A Yes.

6 Q And then came back to check on him?

7 A Yes. It sounded like he maybe periodically
8 checked on him initially, and then he ended up leaving
9 him there overnight.

10 Q What did you ask him next?

11 A I asked him if he called the police or if he
12 tried to help him at all. He said, no, he didn't know
13 what to do. He kind of panicked until the next morning
14 when he decided to take him to the Events Center.

15 Q Okay. At this point in the interview, what
16 happened next?

17 A I believe at that point that was when I
18 Mirandized him and notified him of his rights and asked
19 him if he still wanted to speak with us about it. I told
20 him I still had a lot of questions, and there are still a
21 lot of details I would like to hear from him if he wanted
22 to speak with us any further, and he said that he would.

23 Q So when you Mirandize someone, they're in
24 custody at that point?

1 A Yes.

2 Q And you're going to ask them some questions?

3 A Yes.

4 Q All right. So he wasn't going anywhere?

5 A No. Not at that point.

6 Q All right. What happened next?

7 A He agreed to speak with us, and I told him that
8 I would like to continue the interview down at the
9 station where everybody would be more comfortable.

10 We asked him if we could have permission to
11 search his room, and he gave permission to do that.
12 There was a lot of things there we needed to take control
13 of.

14 Q Now, during this portion of the interview, did
15 you notice any signs of intoxication or impairment with
16 Mr. Dahl?

17 A No.

18 Q At some point during this interview, did you
19 ask him about clothing John Gardner might have had or
20 been wearing?

21 A Yes, we did discuss that. I believe -- I don't
22 know if it was then or if it was later. I think it was
23 later that he told me that he had washed and thrown away
24 those clothes.

1 Q Okay. We'll go over the interview at the
2 station.

3 So you're not sure if he said anything at that
4 point?

5 A I don't remember.

6 Q So you decide you're going to take the
7 defendant down to the police station?

8 A Yes.

9 Q What happened next?

10 A We did do that. We transported him down to the
11 Reno police station, put him in an interview room where I
12 continued the interview. I reminded him that Miranda
13 still applied and that he still had the option to not
14 speak with us or have an attorney present. He said that
15 he would still like to speak with us.

16 Q Now, when you were speaking to the defendant in
17 his room at the Flamingo, did you notice any physical
18 injuries on him?

19 A At that time, no.

20 Q Okay. Notice anything on his face?

21 A No.

22 Q Any trauma?

23 A No.

24 Q You've seen people that have been in fights

1 before?

2 A Yes.

3 Q Did he appear to you to have been in a fight at
4 that point?

5 A No.

6 Q So you get him down to the station, and what
7 happens there?

8 A We continue the interview. We kind of go over
9 the things we've already gone over, try to get a little
10 more detail out of him about things that occurred.

11 He stuck pretty much to that same story, that
12 him and John had a fight and that he struck John, left
13 him there overnight, and he bled, and he took him down to
14 the Events Center where he stopped breathing.

15 Q I'm going to play the portion of that video for
16 you, but during this time did the defendant, at the
17 Flamingo or during your interview at the police station,
18 indicate to you that he had struck John Gardner in the
19 torso or ribs area?

20 A No.

21 Q Did he indicate to you at any time that he
22 choked or grabbed John Gardner by his throat?

23 A No. And I believe I asked him that towards the
24 end of the interview, and he denied that.

1 MR. STRALLA: Court's indulgence.

2 THE COURT: Sure.

3 BY MR. STRALLA:

4 Q I'm going to show you --

5 Actually, I think it's been stipulated to.

6 MR. LESLIE: 9, yes.

7 MR. STRALLA: Exhibit 9.

8 THE COURT: It's admitted.

9 (Exhibit 9 was admitted.)

10 MR. STRALLA: This is the last one for this
11 morning, Your Honor.

12 (Video recording played.)

13 BY MR. STRALLA:

14 Q So for interviews at the Reno Police
15 Department, is there a room that they're done in?

16 A There are several rooms.

17 Q Okay.

18 A And they're audio and video equipped?

19 A Yes.

20 Q Okay.

21 (Video recording played.)

22 BY MR. STRALLA:

23 Q Is that too loud, or should I turn it down?

24 A Fine for me.

1 Q I'm going to skip ahead and pause it.

2 Was Mr. Dahl left alone in that room before you
3 interrogated him or questioned him?

4 A Yes.

5 Q Okay. I'm going to skip to that portion.

6 Was there anything significant during the
7 period of time he was sitting there by himself?

8 A Not that I can remember.

9 (Video recording played.)

10 THE COURT: If you can turn it down just a
11 teeny bit.

12 MR. STRALLA: Is that all right? I've got to
13 get to the portion --

14 I believe on the 10:09:47 mark is when the
15 interview starts.

16 THE COURT: That's fine.

17 MR. STRALLA: This thing is pretty sensitive.

18 THE COURT: That's okay. We can wait
19 30 seconds.

20 MR. STRALLA: Okay.

21 (Video recording played.)

22 BY MR. STRALLA:

23 Q Detective, during the interview, you indicated
24 to Mr. Dahl, or the defendant, that FIS was coming over?

1 A Yes.

2 Q And what was that for?

3 A To take photos, collect his clothes, things
4 like that.

5 Q Photos of his person?

6 A Yes.

7 Q Okay. Did you observe his hands at this point?

8 A Yes.

9 Q What did they look like to you?

10 A He had that one laceration on his right hand
11 between his two fingers, in the webbing there. It was a
12 pretty good laceration.

13 Q Were the hands swollen? Was that right hand
14 swollen?

15 A Yes.

16 Q At any time during this interview, did the
17 defendant indicate to you that he choked or struck
18 Mr. Gardner to the body?

19 A No.

20 Q He indicated to you, I believe, near the end of
21 the interview that when he put clothes on Mr. Gardner,
22 his body had stiffened?

23 A Yes.

24 Q Now, he described to you where he dropped off

1 the clothing?

2 A Kind of.

3 Q With regard to that information, what did you
4 do?

5 A I had a couple of our detectives start looking
6 for it. Unfortunately, they had to go look through some
7 trash cans, but they were able to locate that bag with
8 the clothing inside of it.

9 Q Was the defendant taken to that location?

10 A Yes.

11 Q Go ahead and describe that, if you would.

12 A We had another detective -- once they found the
13 bag with the clothing in it, we were pretty sure that
14 that was the clothing that we were looking for. It was
15 wet and looked like it had some red staining on the
16 clothing just like he described it, inside a white
17 plastic bag, right on top, at the the corner of Fifth and
18 Virginia.

19 And so we had Randall go down there just to
20 say, yes, that is the trash can I put it in, and, yes,
21 those are the clothes.

22 Q And do you remember which detectives found the
23 bag?

24 A Yes. It was Detective LaMere and Sergeant

1 Salter.

2 Q Was Detective Blas also there?

3 A He was the one who drove Randall down to
4 identify everything.

5 Q There came a point in time during the interview
6 where the defendant was going to take his coat off and
7 give it to you?

8 A Yes.

9 Q What did you observe on that coat?

10 A There was some staining, some possible dark
11 staining that looked like it could have been blood.

12 Q In fact, the defendant himself said he didn't
13 realize he had blood on him?

14 A Yes.

15 Q So when photographs were taken of the
16 defendant, did they have him take off his coat at that
17 point?

18 A Yes.

19 Q And did you notice any injuries on his person?

20 A No.

21 Q So you didn't notice any injuries on his person
22 whatsoever?

23 A No. None that I could see.

24 MR. STRALLA: I have no further questions

1 THE COURT: Thank you.

2 You know what I'm thinking? It's quarter to
3 10:00.

4 Who's going to do the cross-examination?

5 MR. LESLIE: I am.

6 THE COURT: I'm thinking let's take our break
7 from quarter of 10:00 to 10:15 now, give you a chance to
8 set up your cross-examination. Good time to take a
9 break.

10 Do you agree with that?

11 MR. LESLIE: I do, Your Honor.

12 THE COURT: Thank you.

13 Ladies and gentlemen, we're going to take our
14 morning recess, which is about 15 minutes early, and come
15 back 15 minutes earlier than I had planned.

16 During this recess, it is your duty not to
17 converse amongst yourselves or with anyone else on any
18 subject connected with the trial or read, watch, or
19 listen to any report of or commentary on the trial by any
20 person connected with the trial, by any medium of
21 information, including, without limitation, newspaper,
22 television, Internet, smartphones, radio. You're not to
23 form or express any opinion on any subject connected with
24 this case until it's finally submitted to you and the

1 presentation of the evidence and arguments are concluded.

2 Come back here at 11:15 [sic]. All rise for
3 the jury.

4 (The following proceedings were held outside
5 the presence of the jury.)

6 THE COURT: We're outside the presence.

7 Very good. We'll see you back here at 11:15
8 [sic].

9 (A recess was taken.)

10 THE COURT: Please be seated.

11 Anything outside the presence?

12 Not hearing any, let's bring the jury in.

13 (The following proceedings were held in the
14 presence of the jury.)

15 THE COURT: Ladies and gentlemen, my apologies.
16 When I got off the bench, everyone in the courtroom said,
17 "You said 11:15 three times." It's 10:15. I misspoke.
18 I apologize. Thank you all for recognizing how dumb I am
19 sometimes, but I appreciate you all being back here on
20 time. I meant 10:15, not 11:15, so thank you very much
21 for that.

22 All right. We're ready for the
23 cross-examination, Mr. Leslie.

24 You're still under oath.

1 THE WITNESS: Yes, sir.

2

3 CROSS-EXAMINATION

4 BY MR. LESLIE:

5 Q Good morning.

6 A Good morning.

7 Q Just to clarify a few points, back at the time
8 that you initially made contact with Mr. Dahl at the
9 Flamingo Hotel, you had already undertaken some of the
10 investigation in this case; right?

11 A I looked at video.

12 Q Okay. And that would be some surveillance
13 video depicting somebody wheeling somebody along the
14 street in a wheelchair?

15 A Yes.

16 Q And your attention was drawn to the Flamingo
17 Hotel and Room 105 as a result of your investigation; is
18 that correct?

19 A Yes.

20 Q So you had reviewed the video; you had talked
21 to the manager.

22 You had some idea that somebody in Room 105
23 might know about what had happened?

24 A It's possible, yes.

1 Q When you made that initial contact with
2 Mr. Dahl, would it be fair to say that he voluntarily
3 invited you into the room?

4 A Yes.

5 Q And that he was cooperative?

6 A Yes.

7 Q We heard about you administering the Miranda
8 warnings at some point during your conversation with him
9 there at the Flamingo Hotel; correct?

10 A Yes.

11 Q And did you do that, or did Co-Detective Jay
12 Brouker do that?

13 A It was me.

14 Q And did you do that from the top of your head
15 or from a card?

16 A From a card.

17 Q Okay. But you did not administer those
18 warnings initially when you first met him? It took some
19 measure of time until you got to that point?

20 A Yes.

21 Q Okay. And would it be fair to say that when
22 you're contacting a person the way you did that morning
23 and you have some reason to believe that they may know
24 something or be involved, initially you ask them

1 questions to see if they know anything about the case,
2 but once it becomes apparent that they are now the focus
3 of that investigation, that's when you administer the
4 warnings?

5 A Not exactly. I believe the way Miranda has
6 been decided by the Supreme Court is that when an
7 individual thinks they are in custody or when you think
8 they're in custody, then Miranda needs to be
9 administered. At least that's the way I understand it.

10 Q And that's how you applied it in this case?

11 A Yes.

12 Q About -- I know you're estimating, but about
13 how long from the time you initially made contact with
14 Mr. Dahl at Room 105 until the point where you were
15 reading him Miranda rights?

16 A Maybe 15 minutes. I'm guessing.

17 Q So within 15 minutes you got to the point where
18 you felt he was going to be arrested and needed to be
19 Mirandized?

20 A Yes.

21 Q I think you indicated that initially he
22 indicated he didn't know about the guy in the wheelchair.

23 A I believe so.

24 Q Okay. And you indicated that you had seen

1 surveillance video footage, and then he indicated that he
2 had been involved to some degree; is that correct?

3 A Yes.

4 Q I think also the co-detective, Brouker -- and
5 you were the lead detective. I don't mean to diminish
6 that, but both of you guys were detectives; correct?

7 A That's correct.

8 Q And that Brouker had indicated that he saw some
9 blood in the bathroom?

10 A Yes.

11 Q And how did he communicate that to you? How
12 did Brouker communicate that to you?

13 A He told me.

14 Q So right there with Mr. Dahl standing there?

15 A Yeah. I don't know if Mr. Dahl could hear.
16 I'm pretty sure that Detective Brouker whispered it in my
17 ear.

18 Q Just so we're clear, you agree that Mr. Dahl
19 has a vision -- has less than perfect vision?

20 A It sure seems that way.

21 Q And I think in the interview that we saw, I
22 mean, he was half guessing about what kind of water
23 bottle it was based on the color of the label?

24 A Yes.

1 Q I just want to clarify some language that
2 Mr. Dahl used when he was describing to you what had
3 happened. We're going to the part where Mr. Gardner is
4 in the bathroom or in that vicinity and calling him a
5 faggot and making some other comments towards Mr. Dahl.

6 I thought I heard on that video that Mr. Dahl
7 said at one point he snapped or lost it. Is that
8 consistent with your recollection?

9 A Yes.

10 Q And you recall that when you were asking
11 Mr. Dahl about what had happened the night before, around
12 8:00 o'clock the night before, that at one point he
13 indicated that he left Mr. Gardner there in the bathroom
14 draped into the bathtub and that Mr. Dahl said he hoped
15 that Gardner would wake up and regain consciousness?

16 A Yes.

17 Q Do you recall the part in the interview where
18 Detective Brouker broke in -- didn't necessarily
19 interrupt, but he interjected and asked Dahl, "So you
20 kind of panicked?" And we're talking about the next
21 morning.

22 A Right.

23 Q And Dahl agreed with that?

24 A Yes.

1 Q How many times did you give the Miranda
2 warnings to Mr. Dahl?

3 A I only read it off the card the one time in the
4 motel room, and then I think everybody heard that I just
5 reminded him that he still has Miranda rights when we got
6 to the station. And I told him he could have an attorney
7 present; he didn't have to talk to us. I didn't read the
8 card again, but I went over it again to let him know that
9 still applies; you still don't have to talk to us. So if
10 you want to count that, two, but I only read it off the
11 card once.

12 Q So read once, reminded once. Call it two?

13 A Yes.

14 Q About what time did you initially make contact
15 at Room 104 [sic] with Mr. Dahl?

16 A You know, I can't remember. I was going to say
17 9:00, 10:00, something like that.

18 Q Fair enough.

19 About how much time took place between the time
20 you initially made contact at Room 105 and when you
21 settled in and conducted the formal interview at the
22 station as we saw in the video?

23 A How much time from when I knocked on the door
24 to when I went in and talked to him at the station?

1 Q Correct.

2 A Hour and a half. I don't know.

3 Q Fair estimate.

4 And initially back at Room 105, after you
5 arrested him and read him his Miranda rights, did you
6 place him in cuffs at that time?

7 A Not immediately.

8 Q Did you place him in cuffs at Room 105?

9 A Yes. When we went to transport him to the
10 station, we placed him in handcuffs.

11 Q And did you transport him or someone else?

12 A I believe Detective Brouker did. I think we
13 each had our own cars. So I had my car I had to bring
14 back, and I know he had his car. I think
15 Detective Brouker transported him.

16 Q All right. And about how long a drive from the
17 time that you guys leave the Flamingo until you get to
18 the station?

19 A It's about a three-minute drive.

20 Q And then Mr. Stralla showed the video of the
21 station house interview, and we saw that he kind of
22 skipped forward to get past all the dead time with
23 Mr. Dahl sitting in the interview room, and basically,
24 during that dead time, what's on the video? Just him

1 sitting in the room?

2 A I believe so.

3 Q And then when you guys come in, that's the
4 beginning of the formal interview?

5 A Right.

6 Q Just to highlight a couple things, did we hear
7 correctly on the video that you had asked him about some
8 background about his work down in California? He had
9 that state job in San Francisco; correct?

10 A Yes.

11 Q And that he had worked there about 16 years?

12 A Yes.

13 Q And then the two of you talked over -- a little
14 over each other just a tad, but at one point he said that
15 he had drank himself out of that job or words to that
16 effect?

17 A I think so, yes.

18 Q In any event, you took that as that alcohol use
19 or abuse had led to him not having that job?

20 A That's what I thought, yes.

21 Q And you understood that he had been living at
22 various downtown hotels here in Reno and at times was
23 homeless; correct?

24 A That's what he told us, yes.

1 Q I think he even indicated that he had been
2 staying at that hotel, at the Flamingo, for about three
3 months, as I recall.

4 A That's correct.

5 Q And we heard reference that he would go to the
6 shelter at Record Street?

7 A Yes.

8 Q And that's a local shelter here in Reno,
9 Nevada?

10 A Yes.

11 Q And that provides housing for some individuals
12 and also provides meals for homeless persons?

13 A Yes.

14 Q Now, kind of segueing from that -- a little bit
15 related -- you were talking to him about being called a
16 faggot, and you had asked him at one point if he had been
17 called that earlier down when he was living in
18 San Francisco.

19 Do you recall that?

20 A Yes.

21 Q And he indicated that that had happened on
22 previous occasions?

23 A Yes.

24 Q And you asked about if there had been violence

1 involved in those previous occasions?

2 A Right.

3 Q And he indicated that this incident with John
4 had irritated him or it really irritated him and that his
5 intoxication level didn't help?

6 A Yes.

7 Q In fact, is it fair to say that he used the
8 phrase "being as intoxicated as I was"?

9 A It could have been.

10 Q Just to unpack a little bit about retrieving
11 the clothing items from the garbage can.

12 So Mr. Dahl indicated that some of the clothes
13 or all of the clothes on Mr. Gardner, he had placed those
14 in a white plastic bag and had put those in a garbage
15 can; is that correct?

16 A Yes.

17 Q And at one point the police found that garbage
18 can and found those items?

19 A Yes.

20 Q And that at one point even -- it was a little
21 unclear -- did you guys have Mr. Dahl go on-site to that
22 garbage can and verify those clothing?

23 A We did. A detective drove him down there.

24 Q Was that before or after the station-house

1 interview that we saw in the video?

2 A It was after.

3 Q Okay. So in terms of his cooperation, would it
4 be fair to say that he cooperated from beginning to end
5 in this investigation?

6 A Yes.

7 Q Now, other than the initial, you know,
8 pretending not to know what was going on about the guy in
9 the wheelchair in that first 10 or 15 minutes back at
10 Room 105, from that point forward he provided what
11 appeared to be accurate information about the case?

12 A Fairly accurate.

13 Q The clothing was a little off. He had
14 described clothing being about a block away from the
15 hotel, and it turns out, instead of on this part of the
16 block, it was over on this part of the block, for
17 example?

18 A Yes. There were other things as well.

19 Q But, generally, the information he provided was
20 reasonably accurate?

21 A Generally.

22 Q Okay. At one point in the interview at the
23 station house depicted on the video we saw, you
24 specifically asked him if he knew the night before,

1 around 8:00 o'clock, if Gardner was dead.

2 Do you recall that?

3 A Yes.

4 Q And he indicated that at that time he did not
5 realize Gardner was dead?

6 A That's correct.

7 Q And that the realization that Gardner had died
8 came later; correct?

9 A Yes.

10 Q As you understand it as the lead detective and
11 after your review of the videotape of the subject being
12 wheeled along the streets of Reno in the wheelchair, that
13 wheeling of Mr. Gardner occurred in the early morning
14 hours of the next day, which would be December 10th; is
15 that fair?

16 A Yes.

17 Q At one point you asked Mr. Dahl if he had a
18 phone, and he indicated he had three?

19 A Yes.

20 Q And I think he called them Obama phones.

21 A Yes.

22 Q And he indicated that because of his sight
23 problems, he couldn't operate them?

24 A Yes.

1 Q And at one point he indicated to you that
2 Mr. Gardner had used one of those phones to call a
3 relative?

4 A Yes.

5 Q And had told the relative that he was staying
6 there at the Flamingo with Dahl?

7 A Yes.

8 Q And Mr. Dahl indicated that because of that, he
9 knew that there would or might be a knock at the door in
10 relation to you guys knocking on the door the morning of
11 the 10th of December?

12 A Yes.

13 Q And he also said, "But I didn't intend any of
14 that to happen."

15 Do you recall that?

16 A I think I remember him saying that, yes.

17 MR. LESLIE: Thank you.

18 No further questions, Your Honor.

19 THE COURT: Thank you.

20 Redirect.

21 MR. STRALLA: Thank you, Judge. I just have a
22 couple.

23 /////

24 /////

REDIRECT EXAMINATION

BY MR. STRALLA:

Q Detective -- is it okay if I still call you "Detective" even though you're retired?

A Yes.

Q Detective, Mr. Leslie just asked you questions with regard to the defendant cooperating during the interview.

A That's right.

Q When you say, "cooperate," what do you mean by that?

A Well, cooperating can mean various things. Obviously everything we asked him to do -- could we search your room, can we get a buccal swab, can we -- he told us about the clothes that he dropped off in the garbage can. He finally came forward with at least a more honest version than the initial version of what happened, so just the fact that he would talk to us I would say is cooperative.

Q So the fact he's answering your questions is cooperative?

A Yes.

Q And can someone be cooperative with you even though they're not telling you the truth?

1 A Yes.

2 Q Does that happen as a police officer?

3 A Very often.

4 Q Now, Mr. Leslie also asked you questions
5 about -- that the defendant gave you fairly accurate -- I
6 think that's the term he used -- fairly accurate
7 information with regard to this case?

8 A Yes.

9 Q You're aware of the autopsy in this case,
10 aren't you?

11 A I am.

12 Q Did the defendant ever indicate to you that he
13 choked out John Gardner?

14 A No. He said he did not.

15 Q And did he say that he struck him to the body
16 and broke his ribs?

17 A No.

18 Q So what he said with regard to the injuries he
19 inflicted upon John Gardner as opposed to what the real
20 injuries were wasn't fairly accurate; is that correct?

21 A I would say that's true.

22 Q And the defendant, during his statement, said
23 that when he went back in to put the clothing on
24 Mr. Gardner, his body was stiff?

1 A Yes.

2 MR. STRALLA: I have no further questions.

3 THE COURT: Thank you.

4 Anything on recross?

5 MR. LESLIE: No questions.

6 THE COURT: Thank you.

7 Thank you for your testimony. You may step
8 down. Enjoy your retirement.

9 THE WITNESS: Thank you.

10 THE COURT: Call your next witness.

11 MR. STRALLA: Renee Armstrong, Your Honor.

12

13 RENEE ARMSTRONG,

14 having been first duly sworn,

15 was examined and testified as follows:

16

17 THE COURT: Tell us your first and last name
18 and spell your last name for the record when you're
19 comfortable.

20 THE WITNESS: Renee Armstrong, R-e-n-e-e
21 A-r-m-s-t-r-o-n-g.

22 THE COURT: Thank you.

23 Mr. Stralla.

24 /////

DIRECT EXAMINATION

BY MR. STRALLA:

Q Good morning, Ms. Armstrong.

Where are you employed?

A I am employed with the Washoe County Forensic Science Division.

Q Okay. What's your position there?

A I am a supervising criminalist.

Q How long have you worked there?

A Approximately 15 years.

Q At the same location?

A Yes.

Q And you're located at 911 Parr Boulevard.

A Yes.

Q And, generally, what does the Washoe County Crime Lab do?

A The crime lab is the local entity we cater to in Northern Nevada for any sort of forensic testing or crime scene response.

Q And is that for all the agencies in Northern Nevada?

A Approximately 80-plus agencies, yes.

Q And you said that you're a criminalist?

A I'm a supervising criminalist, yes.

1 Q What is a criminalist?

2 A A criminalist would be an analyst that is
3 assigned to a portion of the lab, and they would run
4 tests on any potential forensic evidence or process crime
5 scenes. A supervising criminalist would oversee a
6 section, deal with more of the administrative side of
7 things, sometimes maintain proficiency in doing the lab
8 work also as needed.

9 Q How is it that you became a criminalist?

10 A Approximately five years ago, my supervisor at
11 the time in the section that I was assigned to, which was
12 the Crime Scene Response and Latent Print Processing
13 Unit, retired. An opportunity was open, and I
14 interviewed for the position and got it.

15 Q Okay. Going back even further in time, not too
16 much further, but what type of education do you have to
17 become a criminalist?

18 A I have a Bachelor of Science from the
19 University of Nevada, Reno.

20 Q Okay. And after you graduated, when did you
21 become a criminalist?

22 A After graduation I actually worked at a
23 pharmaceutical company that ran assays on pharmaceutical
24 things, after which I was hired by the Washoe County

1 Forensic Science Division in their Crime Scene Response
2 and Processing Unit and cross-trained into comparisons.

3 Q What type of evidence do you process as a
4 criminalist?

5 A We will process a multitude of items that have
6 potential forensic value. That includes potential
7 fingerprints, DNA, firearms, toxicology testing, methyl
8 alcohol, and comparison work.

9 Q Okay. Are part of your duties as a criminalist
10 to diagram scenes of crimes?

11 A Yes. Part of the duty of processing a scene
12 would be to diagram.

13 Q And also to photograph?

14 A Yes.

15 Q What is forensic? What does that mean?

16 A Forensic would be applying science to potential
17 evidence to find out if it has -- some answer that would
18 help maybe law enforcement come to answers about
19 situations that have occurred.

20 Q As a criminalist, a forensic criminalist,
21 you're working in conjunction with law enforcement with
22 regard to investigating a case?

23 A Yes.

24 Q I want to direct your attention to December 10,

1 2014.

2 Were you working at that time as a criminalist?

3 A Yes.

4 Q And were you assigned to work a case involving
5 the defendant in this case, Randall Dahl?

6 A Yes.

7 Q And what was your initial assignment?

8 A My initial assignment was to respond to the
9 Reno Police Department in order to take photographs,
10 collect clothing, and swab the subject, Dahl.

11 Q And how did you respond to that?

12 A Upon my arrival, I was informed that the
13 subject was in the interview room. I was requested to
14 take overall photos with and without clothing, and then I
15 was requested to collect residual swabs of the left and
16 right hands and swabs of red staining on the right hand.

17 Q When you are looking over an individual that
18 might be a suspect or involved in some type of crime,
19 what are you looking for on their body?

20 A When I'm processing a subject, I look for any
21 sort of discoloration or potential injury that may need
22 to be documented or may be discoloration on the clothing,
23 defects to clothing.

24 Q Let's go over that portion.

1 I'm going to show you a series of photographs.

2 For the record, Your Honor, I'm going to be
3 showing the witness Exhibits 3A through 3N, which have
4 all been stipulated and admitted into evidence.

5 THE COURT: They're admitted.

6 (Exhibits 3A through 3N were admitted.)

7 BY MR. STRALLA:

8 Q I'm showing you, Ms. Armstrong, 3A.

9 Do you recognize that?

10 A Yes.

11 Q What is it?

12 A That is a representation of a photo that I
13 took.

14 Q Okay. Is that a photograph of the defendant,
15 Mr. Dahl?

16 A Yes.

17 Q Now, looking at this photograph, it's a full
18 frontal of his face.

19 A Yes.

20 Q Did you notice any injuries on his face?

21 A On the side of his -- left side of his face, I
22 did notice discoloration.

23 Q Okay. How about the front of his face? Did
24 you notice any bruising or contusions?

1 A Not that were very obvious to me.

2 Q Okay. Going down -- I figured out how to work
3 this thing -- I'm going to circle that.

4 Did you notice that on the defendant's jacket?

5 A Yes.

6 Q And what did that appear to you to be?

7 A That is a red-brown stain.

8 Q Is that consistent with blood that you've seen
9 during your career?

10 A The color was consistent, but I did not do any
11 testing to confirm.

12 Q Okay. But if the defendant were to indicate
13 that that was blood, that would be consistent with the
14 color of blood?

15 MR. LESLIE: Objection, Your Honor. Fact not
16 in evidence.

17 THE COURT: Sustained.

18 MR. STRALLA: Okay. That's fine. The
19 interview speaks for itself.

20 BY MR. STRALLA:

21 Q It appears that those colors on his jacket were
22 consistent with blood?

23 A Yes.

24 Q And it's kind of a smearing type of --

1 A Yes.

2 Q I'm going to show you 3B.

3 What is that?

4 A That is a view of the side of Subject Dahl.

5 Q Okay. And anything significant with regard to
6 that?

7 A That is where I noted some potential
8 discoloration or spotting.

9 Q Okay. And is that in this location here
10 (indicating)?

11 A Yes.

12 Q Okay. Was that area swabbed?

13 A No.

14 Q Could you tell whether that was either a mole
15 or some type of injury? What could you tell?

16 A It did not appear to be on the surface of the
17 skin, so I wasn't sure if it was potentially a mole or
18 scabbing.

19 Q Did you notice any cuts or contusions in this
20 area (indicating)?

21 A In that region, there was a lot of
22 discoloration. I couldn't differentiate between cuts and
23 contusions or just the skin.

24 Q 3C, that would be the right side of his face,

1 of the defendant's face.

2 Did you notice anything with regard to that?

3 A I did not note anything on that side.

4 Q Okay. Here's a close-up of the -- go ahead and
5 describe that for me. This is 3D.

6 A This would be the front of the subject's jacket
7 with visible staining.

8 Q Okay. And that's that red-brown-colored stain
9 that you described earlier?

10 A Yes.

11 Q Based on your experience, that coloring is
12 consistent with blood?

13 A Consistent but no confirmation.

14 Q Okay. 3F, what's that?

15 A That would be a close-up of the front of the
16 jacket, similar to two pictures ago, I believe, when you
17 showed a further-away view of the right chest area.

18 Q Okay. Now I'm going to show you this one,
19 which is 3H.

20 What's the significance of that photograph?

21 A That would be the subject with the jacket
22 removed.

23 Q Okay. And what was the purpose of this
24 photograph?

1 A We show photos of what could be under their
2 clothing just to show the layers they were wearing. I
3 was requested to take overall clothes and overall nude
4 photos. It is our practice to somewhat disrobe them in
5 layers and document the layers as we go.

6 Q Okay. Did you notice any injuries on the
7 person of the defendant at this point?

8 A Not that I recall.

9 Q 3I, can you describe that photograph, please?

10 A That would be the subject with those red
11 overall pants removed.

12 Q So he had the red pants over the black pants?

13 A Correct.

14 Q All right. And then I guess they're like
15 suspenders or straps were taken off so you can more fully
16 see his torso?

17 A The pants and straps were removed. They were
18 connected.

19 Q Did you notice any injuries at this point?

20 A Not that I noted.

21 Q Okay. This is 3J.

22 What about that photograph?

23 A That would be the back of Subject Dahl.

24 Q Did you see any injuries on the back of the

1 defendant?

2 A I noted that he had some discoloration to the
3 skin but nothing that was documented.

4 Q It looks like the discoloration -- I'm circling
5 here kind of the neck area there.

6 A Yes.

7 Q And then above the elbow on both arms?

8 A Yes.

9 Q Okay. So is that common to see, kind of a tan
10 line, I guess you could call it, almost?

11 A A tan line, yes, that's not uncommon.

12 Q I'm going to show you 3K.

13 What is that photograph?

14 A That would be the left arm in the upper arm
15 area with some discoloration.

16 Q All right. Do those appear to be scratches to
17 you or just -- how would you describe it?

18 A I noted kind of red spots, but I would not be
19 able to say what they were.

20 Q Did there appear to be any bleeding there from
21 what you saw?

22 A I did not note any active bleeding.

23 Q Okay. I'm going to show you 3L.

24 Do you recognize that photograph?

1 A Yes. That would be a photo I took of Subject
2 Dahl's hands.

3 Q Describe what you see in that photograph.

4 A I see his hands with a little bit of red
5 staining on the right hand.

6 Q Does the right hand appear larger than the left
7 hand, swollen?

8 A It appears larger, but I cannot speak if that's
9 swelling or not.

10 Q Now, there's what looks like a cut in this area
11 here between the pinky finger and ring finger; is that
12 correct?

13 A I am not sure it's a cut, but I did note red
14 staining.

15 Q I'm showing you 3M.

16 What is that a photograph of?

17 A This would be Subject Dahl's hands flipped to
18 show the palm area.

19 Q And on the right hand, on the pinky finger,
20 there appears to be red staining, as you put it?

21 A Yes.

22 Q Finally, 3N, what does that photograph depict?

23 A That is a close-up of the red staining on that
24 pinky and ring crease.

1 Q And does it look like there's a defect on the
2 flesh or the skin in that area?

3 A I honestly cannot say.

4 Q Okay. When the defendant took these
5 photographs, was he cooperative with you?

6 A Yes.

7 Q Was he able to understand your commands?

8 A Yes.

9 Q Did you notice any type of inability to
10 physically do what you were asking him to do?

11 A No.

12 Q Did you notice that he was unable to understand
13 what you were telling him?

14 A No.

15 Q Now, after you took your photographs of the
16 defendant, you also took some fully nude photographs?

17 A Yes.

18 Q Did you notice any injuries with regard to
19 that?

20 A No.

21 Q I didn't show those today.

22 After you finished doing the photographs of the
23 defendant, what did you do next?

24 A I returned to the lab and put the evidence in

1 our secured evidence location, and then a few hours later
2 I was contacted by my supervisor and requested to go to a
3 different location to assist in the execution of a search
4 warrant.

5 Q Where was that?

6 A That was the Flamingo Motel.

7 Q Okay. And is that here in Reno, Nevada?

8 A It is. It's on Center Street, or was.

9 Q Is this all on the same day?

10 A Yes.

11 Q Okay. So what time did you get over to the
12 Flamingo?

13 A I was notified about 3:20. I would have
14 arrived shortly after that.

15 Q So sometime in the afternoon?

16 A Yes. I'd have to refer to my report.

17 Q That's all right.

18 When you arrived to the Flamingo, where did you
19 go?

20 A I walked to Room 105.

21 Q Okay. And were there law enforcement personnel
22 on scene?

23 A Yes.

24 Q What was your job at that location?

1 A I was requested to assist in the execution of a
2 search warrant, which included photography, diagramming,
3 and the collection of potential evidence.

4 Q All right. And so you performed these duties
5 at the scene?

6 A Yes, I did.

7 Q Okay. Ms. Armstrong, I'm going to show you a
8 series of photographs, 2A through 2W, and ask --

9 Also, Your Honor, these were stipulated and
10 admitted into evidence.

11 THE COURT: They're stipulated. I'll admit
12 them now.

13 MR. STRALLA: Sorry. That's your job. I'm
14 sorry.

15 THE COURT: They're admitted.

16 MR. STRALLA: Thank you.

17 (Exhibits 2A through 2W were admitted.)

18 BY MR. STRALLA:

19 Q I'm going to show you 2A.

20 Do you recognize that?

21 A Yes.

22 Q What's that?

23 A That is the sign that was on the motel.

24 Q The Flamingo on Center Street?

1 A Yes.

2 Q 2B?

3 A That is the door.

4 Q Okay. And so going back to that one, was that

5 the last unit at the end of the building, as you recall?

6 It's okay if you don't.

7 A I do not recall.

8 Q Okay. So during the search warrant, you

9 photograph items, and you collect items also?

10 A Yes.

11 Q All right. I'm going to show you 2C.

12 Do you recognize that photograph?

13 A Those appear to be an item of indicia.

14 Q What's indicia?

15 A Indicia is a term we use for looking for a name

16 of a person in a residence or ownership of something.

17 Q And this item of indicia is -- go ahead and

18 describe that, if you would.

19 A That one says, "Flamingo Motel," and it's hard

20 to tell, but the name says, "Dahl."

21 Q Okay. And it shows a date of arrival? Do you

22 see that portion?

23 A Yes. 10/13/14.

24 Q And length of stay?

1 A It says, "Month."

2 Q And that's indicia that this is the person that
3 rented this room?

4 A I'm not sure if that's the person that rented
5 the room. That was indicia within the room.

6 Q It's indicia with the defendant's name on it in
7 that room; correct?

8 A Accurate.

9 Q 2D?

10 A That is a jacket.

11 Q Was that located in that room?

12 A On the ground.

13 Q Okay. 2E?

14 A That is a general view looking towards the
15 entry door.

16 Q All right. And looking in this portion of the
17 photograph, that's looking towards the outside?

18 A Yes.

19 Q And it appears there's a Dumpster on the
20 outside there?

21 A It would appear so, yes.

22 Q Okay. 2F?

23 A This would be looking -- a photo somewhat to --
24 this would be west. If you were at the front door, it

1 would be west.

2 Q Okay. And that's a nightstand and looks like a

3 little fan and a portion of the bed that was in that

4 room?

5 A Yes.

6 Q 2G?

7 A That is the bed that was in the room.

8 Q Did you notice any red staining on the bed at

9 all?

10 A We noted staining.

11 Q Just staining?

12 A Some staining, yes.

13 Q 2H?

14 A And that's also a view kind of going into that

15 west corner but just further into the room.

16 Q Okay. 2I?

17 A Those are items on a counter or end table.

18 Q Okay. And what were those items?

19 A Empty bottles and paper.

20 Q What type of bottles?

21 A They were labeled as alcohol bottles.

22 Q Okay. I think the one on the end there says,

23 "Ke."

24 A Were they vodka bottles?

1 A I cannot recall.

2 Q Now, I'll get to your diagram in a minute, but
3 how large was this room?

4 A It was not a very large room. I could not
5 recall.

6 Q How many rooms were in that unit?

7 A It's one room and one bathroom.

8 Q Now, did you take photographs of the bathroom
9 also?

10 A Yes.

11 Q I'm going to show you 2J.

12 Do you recognize that photograph?

13 A Yes. That's leading from the room into the
14 bathroom.

15 Q All right. And what did you observe with
16 regard to this area here (indicating)?

17 A There was discoloration in a droplet pattern on
18 the carpet.

19 Q When you say, "droplet," how is that
20 significant in your job as a criminalist?

21 A Droplet patterns can usually be significant
22 because it means a liquid may have fallen onto something.

23 Q And blood is liquid; is that correct?

24 A That is accurate.

1 Q And were those colors consistent with blood
2 that you've seen in the past?

3 A It was a dark consistency, and with processing
4 the rest of the scene, it was consistent with potential
5 evidentiary value.

6 Q Okay. How about 2K?

7 A That is a red-brown staining on the tile in the
8 threshold of the bathroom area.

9 Q 2L?

10 A That is a view of the bathroom floor area and
11 side of the bathtub.

12 Q How would you describe this area, the side of
13 the bathtub?

14 A The bathtub had red-brown staining on the side
15 of it.

16 Q In a stream-like pattern, or how would you
17 describe it?

18 A Yes, in a stream-like pattern.

19 Q Not droplet?

20 A Speaking to that kind of droplet or pattern,
21 it's consistent with a liquid and gravity.

22 Q Okay. So flowing down the side of the bathtub?

23 A Yes.

24 Q 2M?

1 A This was an image of the shower curtain with
2 red staining, red-brown staining, and also another view
3 of the side of that bathtub.

4 Q All right. What about right here (indicating)?

5 A That was more red-brown staining.

6 Q And that wasn't in a streaming type of pattern?

7 A That appears not to be in a streaming pattern.

8 Q Okay. 2N?

9 A That is a close-up of the red-brown staining on
10 the side of the bathtub and the floor where they connect.

11 Q And I see the streaming pattern ends up in a
12 larger red-brown staining at the bottom; is that correct?

13 A Yes. There's a pooling of red-brown staining
14 at the bathroom.

15 Q So a pooling?

16 A Yes.

17 Q 2P?

18 A That was noted red-brown staining in the
19 bathtub area and against the wall.

20 Q That's this area here (indicating)?

21 A Yes.

22 Q And those are in a droplet pattern?

23 A They're in a circular pattern, yes.

24 Q Circular.

1 Are those consistent with a cast-off type of
2 pattern of a liquid?

3 MR. LESLIE: Objection. Lack of foundation.

4 THE COURT: Sustained.

5 BY MR. STRALLA:

6 Q Have you had any training in blood cast-off or
7 liquid cast off?

8 MR. LESLIE: Objection. She's not noticed as
9 an expert.

10 THE COURT: You can lay a foundation, and I'll
11 see.

12 MR. STRALLA: She was noticed as an expert.

13 THE COURT: Lay the foundation, and I'll see.

14 BY MR. STRALLA:

15 Q Have you had any training in cast-off?

16 A I am not a blood spatter expert.

17 Q But have you had any training in it?

18 A I've had training in taking photography of
19 potential blood spatter to be used as future analysis.

20 Q Is that what you were doing in this case?

21 A Yes.

22 Q That's good enough.

23 2R?

24 A This is a towel that had red-brown staining on

1 the shower curtain rod.

2 Q Okay. 2F?

3 A These were items of clothing and a bag located
4 in the main room.

5 Q Okay. 2T?

6 A That appears to be some sort of knee brace
7 support in the main room.

8 Q 2W?

9 A That is a bag with contents.

10 Q Okay. And that was located in this room?

11 A Yes.

12 Q And were items taken out of that bag and
13 photographed?

14 A Later, items were documented.

15 Q Okay. 2U?

16 A That was a card removed from the bag.

17 Q And what does that say?

18 A It says, "My accident, cop Sean Donnelly."

19 Q And that came from that bag?

20 A Yes.

21 Q I'm going back to that bag.

22 There was what appears to be a deck of cards in
23 there?

24 A Yes.

1 Q And, finally, 2V, what's that?

2 A That's a deck of cards with a "J" and a "G" on
3 them.

4 Q So the initials "JG"?

5 A Yes.

6 Q Ms. Armstrong, you also did a diagram of this
7 premises?

8 A Yes.

9 Q How do you do that?

10 A We will take distometers, or "disto" for short,
11 and that's basically a laser measuring device, and we
12 will go ahead and take that around the room, and we can
13 create 2D diagrams from that. Sometimes we utilize hand
14 measuring tools. And then upon gathering the
15 measurements of the diagram as needed, we have a software
16 program where we can enter those measurements, and we
17 create a demonstrative representation of where we were
18 at.

19 Q Okay. I'm going to show you now Exhibit 6.

20 Your Honor, that has been stipulated.

21 THE COURT: It's admitted.

22 (Exhibit 6 was admitted.)

23 BY MR. STRALLA:

24 Q Do you recognize that, Ms. Armstrong?

1 A Yes.

2 Q What is that?

3 A That is a demonstrative representation of the
4 room in which I processed.

5 Q Now, I see that there's -- I guess it's not a
6 table of contents but a scale, or what would you call it?

7 A That would be somewhat of a legend.

8 Q A legend. Okay.

9 Can you go through the legend and what was
10 noted on that. You can go ahead on your screen and
11 circle.

12 A Okay. So I always note --

13 Q You've got to really push that down.

14 A -- north, and we say it's approximate. We will
15 note that it's not to scale to let you know it is
16 demonstrative. We will note the address and location,
17 the case number, the date on which it was collected.

18 These are my initials and my commission number.
19 The "T" is my maiden last name. I still utilize that in
20 my initials for consistency through my career.

21 And then items notated would be the A, B, B,
22 and C. Those were notated in this. Other items
23 collected I didn't add to this diagram for reasons
24 sometimes that 2D is hard to see what the item I'm trying

1 to show you is. So those were noted in the report, but
2 in here I just focused on those items.

3 Q Could you go ahead and go through those items
4 if you don't mind.

5 A Item A was a knee brace, and I add the control
6 number which it was assigned and booked under.

7 Item B was the flannel shirt and the backpack
8 that was near it.

9 Q That blue shirt I just showed you?

10 A Yes.

11 Q And then C was a small backpack or -- I
12 apologize -- small bag, not a backpack -- that was
13 located that was shown earlier.

14 Q Which bag is the one where the cards and the
15 card came from?

16 A That was the C.

17 Q You can clear that.

18 Now, going to the threshold of the bathroom, I
19 see it says, "RS."

20 A That is denoting where the red staining is
21 located.

22 Q Okay. So that is on the carpet outside the
23 bathroom?

24 A That's on the carpet outside the bathroom and

1 somewhat into the threshold, yes.

2 Q Go to the next "RS," if you would, and explain
3 that.

4 A The next one was located around the sink area.
5 There was some noted on the south wall, some around the
6 edge of the bathtub, the shower curtain, and that floor
7 area and then some noted on this east wall inside the
8 bathtub area.

9 Q After you photographed this scene and
10 diagrammed -- I guess you probably diagrammed it later,
11 but after you photographed the scene, what did you do
12 next with regard to this case?

13 A After photographing the scene and diagramming,
14 we collected items of interest, and we also swabbed those
15 red-stained areas for any future DNA processing that
16 would be requested.

17 Q All right. And that's submitted to other
18 personnel in the crime lab?

19 A If it is requested by the agency, yes.

20 Q Now, is DNA testing done in all cases?

21 A Not necessarily.

22 Q All right. Only if it's requested?

23 A Yes.

24 Q And is DNA testing used to determine who might

1 have been at a location?

2 A It has many different applications.

3 Q Okay. But that's one of them?

4 A That is one.

5 Q Okay. Do you know if it was requested in this
6 case?

7 A I cannot recall if it was requested.

8 Q Okay. Is it unusual that it might not have
9 been requested if there's no issue of who was in a room
10 or who was in a place?

11 A It is not uncommon to have DNA not tested if
12 someone is known to have been in a room.

13 Q All right. Did you find any weapons in that
14 room?

15 A I don't recall finding obvious weapons.

16 Q Okay. I mean, a lot of things can be a weapon.
17 Your own hands can be a weapon; correct?

18 A That would be correct.

19 Q But did you find any firearms?

20 A Not that I recall.

21 Q Knives?

22 A No.

23 Q Okay. Clubs?

24 A Not that I recall.

1 Q Okay. So what we saw in those photographs are
2 what you documented in that room?

3 A That is the representation of what we found
4 processing that room.

5 MR. STRALLA: All right. Thank you.

6 No further questions, Judge.

7 THE COURT: Thank you.

8 Who is responsible for this witness?

9 Mr. Leslie.

10 MR. LESLIE: Thank you, Your Honor.

11

12 CROSS-EXAMINATION

13 BY MR. LESLIE:

14 Q Good morning.

15 A Good morning.

16 Q A couple of brief questions.

17 When you took the photographs that you
18 testified to here today, who made the decision about
19 which photographs to take? Was that you, or did you get
20 assistance or direction from a detective?

21 A We are taught to take overall photos of scenes,
22 mediums and close-ups. In addition, sometimes if there's
23 something noted by an agency, we'll make sure to include
24 those in the photos, but it is our goal to take overall

1 representation photos of the scene.

2 Q So with regard to this case, were you able to
3 take all those photos based on your own initiative based
4 on your training and experience, or did you have any
5 input from any of the other law enforcement on the scene?

6 A I honestly could not recall if the detective
7 asked me to take any specific photos. The photos I took
8 are photos I would normally take at a scene.

9 Q So just assuming for the sake of discussion for
10 a moment that you do not get input from another
11 detective, you basically make a decision, based on
12 training and experience, of what to photograph with
13 regard to anything that might have what we call
14 evidentiary value?

15 A As I said, I cannot recall in this case if I
16 was given direction to make sure I took an additional
17 photo of something. We do have situations where a
18 detective or someone there will say, please make sure
19 you've got a photo of this; I want to make sure that we
20 didn't miss it. It's usually already in my overalls and
21 medium and close-ups, but we will make sure that it was
22 included.

23 Q Okay. So I guess my question is, assuming a
24 detective does not give you that input, you basically use

1 your own judgment to photograph what appears to be of
2 possible evidence value?

3 A Yes. We try to encompass everything in a scene
4 in order to give a full view for future review.

5 Q Were you doing that in this case?

6 A In this case, I took my overall mediums and
7 close-ups of evidentiary value.

8 Q Okay. And I know it's been a while but -- and
9 I didn't see it in your report -- but you don't recall or
10 you didn't note in your report specifically if you got
11 input from one of the detectives in this case.

12 A That is accurate.

13 MR. LESLIE: Thank you.

14 THE COURT: Anything further?

15 MR. LESLIE: No, Your Honor.

16 THE COURT: Mr. Stralla, anything further?

17 MR. STRALLA: No. Thank you, Judge.

18 THE COURT: Thank you for your testimony.

19 You're excused. You may step down.

20 Call your next witness.

21 MR. STRALLA: Detective Blas, Your Honor.

22 MR. LESLIE: Your Honor, while we're waiting
23 for him to come up, can we approach?

24 (A discussion was held off the record at the

1 bench.)

2 THE COURT: Please step forward and be sworn.

3

4 PATRICK BLAS,

5 having been first duly sworn,

6 was examined and testified as follows:

7

8 THE COURT: Please take the witness stand.

9 Detective, make yourself comfortable. I allow

10 witnesses to take their masks off when they testify, so

11 you may take your mask off.

12 Please make yourself comfortable. I'm going to

13 know you're comfortable because you're going to tell me

14 your first and last name, spelling your last name for the

15 record, when you're comfortable.

16 THE WITNESS: Good morning, Your Honor.

17 THE COURT: Good morning.

18 THE WITNESS: My name is Detective Patrick

19 Blas. Last name is spelled B-l-a-s.

20 THE COURT: Very good.

21 Mr. Stralla.

22 /////

23 /////

24 /////

DIRECT EXAMINATION

BY MR. STRALLA:

Q Mr. Blas, where are you employed?

A I'm currently employed with the Reno Police Department.

Q How long have you been with the Reno Police Department?

A Seventeen and a half years.

Q What's your current position?

A I'm currently assigned to the Reno Police Department Robbery/Homicide Unit as a detective.

Q How long have you been with the Robbery/Homicide Unit?

A This June will make eight and a half years.

Q All right. Were you assigned to the Robbery/Homicide Unit back in December of 2014?

A Yes, I was.

Q I want to direct your attention to December 10th of 2014.

Were you called in reference to a homicide case where they found a body in Downtown Reno?

A Yes, I was.

Q What was your initial assignment with regard to that?

1 A I was assigned to assist the lead detectives
2 with any follow-up investigation that needed to be
3 conducted. At the time we had given out assignments such
4 as trying to obtain a canvass for any potential
5 witnesses, any evidence, any video.

6 Q All right. And what type of evidence were you
7 looking for?

8 A I was told that we were possibly looking for
9 some discarded clothing or other items of evidence that
10 were in a white plastic bag that were evidence in this
11 particular case.

12 Q And did you have a particular area or location
13 that you were directed to?

14 A Yes. Detective Maher, the lead detective,
15 asked me to accompany Mr. Dahl so that he could show me
16 or give us a better area or location of where the items
17 of evidence or clothing had possibly been discarded.

18 Q Where did you make contact with Mr. Dahl?

19 A That was at the Reno Police Department main
20 station.

21 Q And had he finished his interview with
22 Detective Maher at that point?

23 A Yes, I believe so.

24 Q What happened next?

1 A Mr. Dahl and I got into my official police
2 vehicle, and he directed me to the area of the Flamingo
3 Hotel and then began to guide me as to the direction or
4 the path that he had taken when he left the motel.

5 Q So you drove over to the Flamingo?

6 A Yes, the area of the Flamingo. And he began to
7 guide me south, he believed, along Center Street as his
8 path.

9 Q Were you still in your vehicle at this point?

10 A Yes, sir, I was.

11 Q And so Mr. Dahl was communicating to you as to
12 what?

13 A He was communicating with me as far as the path
14 that he could recall that he took. He also indicated to
15 me that he had discarded the items in a trash can along
16 the way, one of the trash cans.

17 He believed -- gave a better description to me
18 as it having one of the pointed tops, so I was -- as I
19 drove south along Center, I began trying to -- kind of
20 slowly trying to get him to try and recall which trash
21 can at the time.

22 Q Was he able to answer your questions?

23 A Yes.

24 Q Was he communicating with you without any

1 difficulty?

2 A Oh, yes.

3 Q Did he appear to you to be intoxicated?

4 A No. In fact, he was a little more specific in
5 that it had a pointed top, and he was in the general area
6 and direction, providing me with direction.

7 Q All right. Did there come a point in time when
8 you were notified that some items might have been
9 located?

10 A Yes. So as I was driving Mr. Dahl, I believe
11 it was -- Detective Sergeant Salter and Detective LaMere
12 were also searching the area, and they advised me that
13 they had possibly located a white bag that matched the
14 description -- that contained some items that matched the
15 description of the items of evidence we were looking for.

16 Q Where was that location?

17 A They told -- well, yeah. So I had to go just
18 one block further west, which was at, I believe, Fifth
19 and Virginia.

20 Q What happened next?

21 A So as I was south on Center Street, they said
22 they had possibly located -- and they were fairly
23 certain they had located the items from one of the trash
24 cans in the area of Fifth and Virginia.

1 I was instructed to head back to the Flamingo
2 so that we could have Mr. Dahl take a look at the items
3 that were recovered, at which time we met up with
4 Detective LaMere and Detective Salter.

5 Q What happened there?

6 A At that point we wanted to confirm and make
7 sure we had the right bag or that we had found the
8 evidence and that it was, in fact, the evidence. So we
9 had Mr. Dahl take a look at the items as Detective LaMere
10 presented them to him to confirm whether, in fact, it was
11 the items we were looking for, the evidence.

12 Q What did the defendant say about that?

13 A So I had -- Detective LaMere, he had him -- he
14 had actually retrieved some of the clothing from the bag.
15 I believe first it was a set of black pants that he held
16 up, and Mr. Dahl confirmed, yes, those are the pants.

17 There was also a light-colored or white
18 short-sleeved shirt. He wasn't -- he couldn't be -- he
19 said he couldn't be exactly sure, but he advised that if
20 it was wet, then it was the shirt. And Detective LaMere
21 said, "It's soaking wet."

22 And then there was a towel. I think it was a
23 white -- I believe it was a white hand towel that was
24 also inside the bag. I asked Mr. Dahl about the towel,

1 and he stated that it was for the tub or the sink, which
2 I believe he was referring to, like, a hand towel for a
3 sink.

4 Q Were those items photographed?

5 A Yes.

6 Q Did you photograph them?

7 A I believe either I did or Detective LaMere did.

8 Q I'll show you a series of photographs.

9 I have a series of photographs. They're
10 Exhibits 4A through 4I. They've been stipulated by the
11 parties, Your Honor.

12 THE COURT: They're admitted.

13 (Exhibits 4A through 4I were admitted.)

14 BY MR. STRALLA:

15 Q Detective, I'm going to show you 4A.

16 Do you recognize that one?

17 A Yes.

18 Q What's that?

19 A That is one of the trash cans along Virginia
20 Street, in the area of Fifth and Virginia.

21 A All right. 4B?

22 A Same trash can. That's the intersection.

23 Q Where I'm pointing right here (indicating),
24 this is Fifth Street here?

1 A Correct.

2 Q And this is Virginia here?

3 A Yes.

4 Q 4C?

5 A Yes. I believe that's the same trash can with
6 a bag.

7 Q Is that the bag you saw?

8 A Yes.

9 Q So you were directed to this location.

10 Was Detective LaMere there at that time?

11 A Yes, he was.

12 Q 4D?

13 A Yes. That's the white hand towel.

14 Q All right. And whose hands are those with the
15 black gloves on?

16 A That would be Detective LaMere.

17 Q Okay. You indicated earlier in your testimony
18 that the defendant identified that as the towel he used.

19 A He referred to it as -- he only stated that it
20 was for the tub or -- the tub or sink, I believe. He
21 wouldn't elaborate. He talked about the blood, using it
22 to wipe off the blood.

23 Q He said he used it to wipe off blood?

24 A Yes.

1 Q And that blood has a dark red-brown stain,
2 doesn't it?

3 A Yes, it does.

4 Q Okay. 4E?

5 A Yes. The white short-sleeve shirt.

6 Q And I think your testimony was that the
7 defendant said that he wasn't sure unless it was wet?

8 A Yes. He couldn't be -- he said he wasn't sure.
9 He did comment that if it was wet, then it was the shirt.

10 Q And you indicated it was wet?

11 A Detective LaMere actually advised me that it
12 was soaking wet.

13 Q He's going to testify next, but that's
14 Detective LaMere holding that up, too?

15 A Yes.

16 Q And then 4F?

17 A Yes. Those are the pants.

18 Q And did the defendant identify those?

19 A Yes, he did.

20 Q So, Detective, after the defendant identified
21 his bag and the clothing items, what happened next?

22 A They were collected by Detective LaMere. As I
23 said, he had located the evidence and handled the
24 evidence, and I took Mr. Dahl back to the main station

1 and advised him at that point he was probably going to be
2 transported to the Washoe County Jail.

3 Q Was that the extent of your involvement in this
4 case?

5 A Yes.

6 MR. STRALLA: I have no further questions.

7 THE COURT: Thank you.

8 Cross-examination.

9

10 CROSS-EXAMINATION

11 BY MS. BRADLEY:

12 Q Good afternoon, Detective.

13 A Good afternoon.

14 Q In this case you assisted the lead detectives?

15 A Yes, I did.

16 Q And part of your job in this investigation was
17 to search for evidence?

18 A Yes.

19 Q And you had heard or learned that Mr. Dahl may
20 have discarded some clothing?

21 A Yes.

22 Q And so your job was to transport Mr. Dahl to
23 the area where that was suspected to be?

24 A Yes.

1 Q And you met with Mr. Dahl at the Reno Police
2 Station; is that correct?

3 A I believe so, yes.

4 Q And Mr. Dahl agreed to go with you; correct?

5 A Yes.

6 Q When Mr. Dahl was in the vehicle with you, he
7 began to recall the path that he took from the Flamingo
8 Motel to this particular trash can?

9 A He was trying to direct me in what he believed
10 was the path that he took from the Flamingo Hotel. Not
11 specifically to that trash can but tried to guide me so
12 that we could narrow the search area.

13 Q And he explained to you that he put clothing in
14 a plastic bag?

15 A He didn't explain to me.

16 Q Did he describe to you that he had discarded a
17 bag or some items?

18 A No.

19 Q Mr. Dahl did tell you that he may have walked
20 south on North Center Street; is that correct?

21 A Correct.

22 Q And eventually you were contacted by Sergeant
23 Salter and Detective LaMere; correct?

24 A Correct.

1 Q And they advised you that they may have found
2 the trash can that you were looking for; correct?

3 A Yes.

4 Q And this trash can -- I believe Mr. Stralla
5 showed you a photograph -- it had a pointed cover;
6 correct?

7 A Yes.

8 Q And that's the same description that Mr. Dahl
9 gave; correct?

10 A Yes. As we were driving south on Center
11 Street, none of the trash cans there had a pointed top,
12 and that's what he described. He said, "No. It's got a
13 pointed top." And so --

14 Q Mr. Dahl described a pointed top; correct?

15 A Yes.

16 Q And the trash can that was discovered that had
17 the items discarded also had a pointed top; correct?

18 A Yes.

19 Q So Mr. Dahl gave a fair and accurate
20 description of the trash can?

21 A Yes, he did.

22 Q And the location where this trash can was
23 found, that was only about a block west from the area
24 that you were with Mr. Dahl; correct?

1 A Yes.

2 Q Is it fair to say that the items or the trash
3 can was found near where Mr. Dahl said they would be?

4 A Yes.

5 Q Detective, eventually you and Mr. Dahl returned
6 to the Flamingo Motel; correct?

7 A Yes, we did.

8 Q And this was to meet with Detective Salter and
9 Detective LaMere?

10 A Yes.

11 Q So that Mr. Dahl could identify the items that
12 were found?

13 A Yes.

14 Q And before you showed Mr. Dahl the items, did
15 you advise him that you would be recording the interview?

16 A Yes, I did.

17 Q And he didn't have any objection to that;
18 correct?

19 A No, he did not.

20 Q And you testified on direct that the white
21 plastic bag contained three items; correct?

22 A Yes.

23 Q That was a pair of black pants?

24 A Yes.

1 Q A white shirt?

2 A Yes.

3 Q And a white rag?

4 A Yes.

5 Q And Dahl confirmed that these were the items

6 that he had discarded; correct?

7 A Yes, he did.

8 Q Throughout this encounter, Detective, Mr. Dahl

9 was cooperative?

10 A Yes, he was.

11 Q He was responsive?

12 A Yes, he was.

13 Q He did not try to flee?

14 A No, he did not.

15 Q He agreed to identify the items that were

16 found?

17 A Yes, he did.

18 Q And he did, in fact, identify those items?

19 A Yes, he did.

20 Q And you eventually thanked him for his

21 cooperation?

22 A Yes, I did.

23 MS. BRADLEY: Nothing further.

24 THE COURT: Mr. Stralla.

1 MR. STRALLA: No further questions.

2 THE COURT: Thank you for your testimony. You
3 may step down. You're excused.

4 Call your next witness.

5 MR. STRALLA: Your Honor, can I confer with my
6 investigator?

7 THE COURT: You sure can.

8 MR. STRALLA: May we approach.

9 (A discussion was held off the record at the
10 bench.)

11 THE COURT: Ladies and gentlemen, we're going
12 to -- let me tell you how it works in real life in
13 trials. This is not like Law and Order where the first
14 half-hour is the investigation; the second half-hour is
15 the trial.

16 We have to get the witnesses set up and put it
17 together so it can run smoothly for you. We have a
18 witness that will be here shortly, but I didn't want to
19 waste your time. So what I'm going to do is give you
20 your lunch break now. We'll come back at 12:30, and
21 we'll have another witness for your consideration and
22 give you more information about the trial.

23 The excellent news I have for you is we're
24 moving at a very good pace, so I'm anticipating that

1 early resolution to this case for your consideration
2 sooner than Friday. So please be patient with me as we
3 move the case along, and I'll see you back here at 12:30.
4 So this will be our lunch recess.

5 Please remember my admonition as follows: We
6 are going to take a lunch recess. During this lunch
7 recess, it's your duty not to converse amongst yourselves
8 or with anyone else on any subject connected with the
9 trial or to read, watch, or listen to any report of or
10 commentary on the trial with any person connected with
11 the trial, or about any medium of information, including,
12 without limitation, newspaper, television, Internet,
13 smartphones, radio. You're not to form or express any
14 opinion on any subject connected with this case until
15 it's finally submitted to you and the presentation of the
16 evidence and arguments are concluded.

17 We'll see you back at 12:30. I'm pretty sure
18 I'm right this time.

19 All rise for the jury.

20 (The following proceedings were held outside
21 the presence of the jury.)

22 THE COURT: We're still on the record outside
23 the presence.

24 Mr. Stralla, I appreciate the expeditious way

1 you've handled this case in prosecuting it and moving it
2 along, which is very appreciated in Department 9, and the
3 good work the defense is doing as well.

4 All right. So that being said, we have one
5 more witness today. I assume he's going to be short. He
6 found the evidence at the garbage can, right, so he's
7 sort of a detail witness, and he'll be done relatively
8 quickly, and then we'll be left with the doctor who will
9 be tomorrow morning.

10 There's a couple of ways we can handle the
11 remainder of the day, because we'll be done, you know, at
12 1:00 o'clock potentially with testimony and evidence.

13 One way we can approach it is I can canvass
14 Mr. Dahl now pursuant to Carter vs. Kentucky. I can do
15 that, but I was thinking along the lines of settling jury
16 instructions today because tomorrow I'm assuming that the
17 doctor will take a little bit of time, but that will be
18 morning session, early.

19 Who do you anticipate your witnesses to be?

20 MR. LESLIE: Your Honor, it depends on the
21 Fifth Amendment canvass and how that goes.

22 THE COURT: I understand.

23 MR. LESLIE: Then we will make a final
24 determination this evening about potentially

1 Dr. Piasecki.

2 THE COURT: So the defendant will make a
3 decision whether he wants to testify after I canvass him
4 in a moment, and you might have Dr. Piasecki.

5 Okay. So we're still -- I mean, I think we all
6 can agree you're still done probably at noon if the
7 defendant testifies or not. I mean from a timing
8 perspective only; I'm not talking about a strategy
9 perspective. Then we go to lunch, and you do closings
10 and give it to the jury tomorrow afternoon,
11 theoretically.

12 MR. LESLIE: I think it might potentially be
13 more accurate to say that -- I mean, what I anticipate is
14 Kubiczek coming in at 8:00, and, you know, if we decide
15 to call Piasecki, I'm probably going to ask her to get
16 here around 9:30.

17 THE COURT: Right.

18 MR. LESLIE: Maybe she has dead time. Maybe
19 she doesn't. She's up and down. She has to be out of
20 the courtroom by a quarter till noon.

21 THE COURT: So far so good.

22 MR. LESLIE: You said finish up at noon. I
23 think it depends on Mr. Dahl's decision, but after that,
24 we might get into the noon hour, push 1:00 o'clock, then

1 we're done.

2 THE COURT: But check this out: You finish
3 your case; you've already settled jury instructions; I'm
4 reading -- theoretically, if it follows the schedule, I'm
5 reading jury instructions after the lunch break; you're
6 doing your closings. The jury has the case tomorrow
7 afternoon.

8 MR. LESLIE: Yeah, overall. I was just being a
9 little more detailed, but overall I would not be
10 surprised if we're giving it to them tomorrow.

11 THE COURT: That's what I'm referring to,
12 tomorrow afternoon for sure. I mean, "for sure" is
13 always relative, but that makes some sense.

14 So why don't I do the Carter vs. Kentucky
15 admonishment now.

16 MR. LESLIE: The only footnote to that, Your
17 Honor, is that I was hoping to confer with him one last
18 time before that.

19 THE COURT: Well, I'm just going to advise him
20 of his rights if he was to testify. You can still confer
21 with him on what he wants to do. I usually do it after
22 the State closes its case, in that break, but if you have
23 some time, I can do that now, and then that's done. So
24 we still could contemplate on what we'd like to do with

1 you this evening and any other time that you need.

2 And then can we settle jury instructions after
3 Detective LaMere?

4 MR. STRALLA: Sure. But the only thing is,
5 like Mr. Leslie said, if the defendant testifies, there
6 might be another set of instructions.

7 THE COURT: Not a problem at all. Yeah, not a
8 problem at all. We can still settle anything that's from
9 a legal perspective, get that done. If I have to add any
10 tomorrow, that's fine.

11 MR. LESLIE: I think there's only one they're
12 objecting over, so not much.

13 THE COURT: That's even better, so that sounds
14 great.

15 Let me do the Carter vs. Kentucky admonishment.

16 Mr. Dahl, would you please stand for me. I'm
17 going to tell you some things about testifying.

18 This is called the Carter vs. Kentucky canvass.

19 The United States Supreme Court, Mr. Dahl,
20 requires me to read this to you, and I want to make sure
21 you understand it, all right, so please answer out loud
22 for me.

23 Under the Constitution of the United States and
24 under the Constitution of the State of Nevada, you cannot

1 be compelled to testify.

2 Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You may, at your own request, give
5 up this right and take the witness stand and testify. If
6 you do, you'll be subject to cross-examination by the
7 deputy district attorney, and anything that you may say,
8 be it on direct or cross-examination, will be the subject
9 of fair comment when the deputy district attorney speaks
10 to the jury in his final argument.

11 Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: If you choose not to testify, the
14 Court will not permit the deputy district attorney to
15 make any comments to the jury because you have not
16 testified.

17 Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: If you elect not to testify, the
20 Court will instruct the jury, but only if your attorney
21 specifically requests, as follows: The law does not
22 compel a defendant in a criminal case to take the stand
23 and testify, and no presumption may be raised, and no
24 inference of any kind may be drawn from the failure of

1 the defendant to testify.

2 Do you have any questions about these rights?

3 THE DEFENDANT: None. Thanks.

4 THE COURT: Do you have a prior felony?

5 THE DEFENDANT: No, I don't.

6 THE COURT: All right. Very good. That's the
7 extent of the canvass.

8 Did I read that correctly, Mr. Leslie?

9 MR. LESLIE: I think so, Your Honor. Yes, Your
10 Honor.

11 THE COURT: Thank you.

12 And, Mr. Stralla, did I read that correctly?

13 MR. STRALLA: Yes. Thank you, Your Honor.

14 THE COURT: Thank you. You may be seated.

15 I think we're good, then. So enjoy your lunch,
16 everyone, and I'll see you back here at 12:30, call the
17 witness, we'll call it a day, and then I'll see you back
18 in chambers for instructions, or we can do them out here,
19 whatever your pleasure.

20 We'll be in recess.

21 (The midday recess was taken.)

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RENO, NEVADA; TUESDAY, JUNE 8, 2021; 12:29 P.M.

-oOo-

(The following proceedings were held outside
the presence of the jury.)

THE COURT: Anything we need to do outside the
presence?

Very good. Let's bring the jury in.

(The following proceedings were held in the
presence of the jury.)

THE COURT: I'd note the presence of all the
jurors, the prosecution, the defense team.

Mr. Stralla, please call your next witness.

MR. STRALLA: Thank you, Your Honor.

Detective LaMere.

BERNARD LaMERE,
having been first duly sworn,
was examined and testified as follows:

THE COURT: Detective, please take the witness
stand.

You are permitted to take your mask off for

1 your testimony. Make yourself comfortable, and I'll know
2 you're comfortable because you're going to tell me your
3 first and your last name, spelling your last name when
4 you're comfortable.

5 THE WITNESS: Bernard LaMere, L-a-capital
6 M-e-r-e.

7 THE COURT: Thank you.

8 Mr. Stralla.

9 MR. STRALLA: Thank you, Your Honor.

10

11 DIRECT EXAMINATION

12 BY MR. STRALLA:

13 Q Where are you employed, Mr. LaMere?

14 A I'm employed as a police officer with the Reno
15 Police Department.

16 Q How long have you been a police officer?

17 A Eighteen years.

18 Q What's your current assignment?

19 A I'm a patrol officer.

20 Q Okay. Prior to being a patrol officer, were
21 you a detective?

22 A Yes.

23 Q How long were you a detective?

24 A Four years.

1 Q And what unit were you assigned to?

2 A I was assigned to the Family Crime Unit, Sex
3 Crimes Unit and also Robbery/Homicide.

4 Q I want to direct your attention to December 10,
5 2014.

6 Were you working in your capacity as a
7 detective at that time?

8 A Yes, I was.

9 Q And where were you assigned?

10 A At that time I was currently in the Family
11 Crimes Unit.

12 Q Were you asked to assist on a homicide
13 investigation on that date?

14 A Yes, I was.

15 Q And what was your assignment?

16 A My assignment was to go to try to locate
17 clothes that reportedly had been placed in a Dumpster in
18 Downtown Reno.

19 Q What information were you provided that
20 dictated your actions?

21 A I was given a general area of the 500 block of
22 Center Street and North Virginia Street, that the
23 clothing would consist of potentially a white shirt and
24 some sweatpants, and that they were in a white plastic

1 bag in a city Dumpster.

2 Q What efforts did you make to locate these
3 items?

4 A I worked with another officer and a sergeant.
5 We searched the 4- and 500 blocks of Center Street, North
6 Center Street, and when unable to find anything there, we
7 transitioned over to North Virginia Street.

8 Q Did you locate anything that was of interest at
9 that point?

10 A Yes, I did. In front of 490 North Virginia
11 Street, I located, in a city Dumpster, a bag such as
12 described to me by Detective Brouker.

13 Q When you located that bag, what did you do
14 next?

15 A I placed latex gloves on my hands, noting that
16 it would be possible evidence, and then I opened up the
17 bag.

18 Q What did you observe inside the bag?

19 A Inside the bag I found three items, all
20 apparently heavily soaked in water and cold to the touch.
21 Inside the bag was a white washcloth, a pair of
22 sweatpants, and then also a white Polo shirt.

23 Q Officer, I'm going to show you some photographs
24 at this time.

1 Let me ask you this before I do that: Were
2 these items photographed?

3 A Yes.

4 Q Were you the person holding the items while
5 they were photographed?

6 A I don't recall if I was the one holding the
7 items or if I was the one taking the photographs.

8 Q But you were there when that occurred, either
9 way?

10 A Yes.

11 Q I'm going to show you Exhibit 4A.

12 Do you recognize that?

13 A Yes, I do.

14 Q What's that?

15 A That's the trash can in front of 490 South
16 Virginia Street.

17 Q Is that the trash can that you located the
18 items you just described in?

19 A Yes.

20 Q So were they down inside the trash can?

21 A As I recall, they were actually laying on the
22 top.

23 Q All right. I'm going to show you 4B.

24 Do you recognize that?

1 A Yes.

2 Q What's that?

3 A That is a different angle of the same trash can
4 in front of 490 North Virginia Street.

5 Q All right. 4C?

6 A That would be the bag that I located inside the
7 trash can.

8 Q Is that how the bag was when you came upon this
9 trash can?

10 A It wasn't sitting on the side like that. It
11 was actually inside the can. I placed it there to
12 photograph it.

13 Q Okay. So there's a can located inside this, I
14 guess, structure?

15 A Yes.

16 Q And it was inside the actual trash can?

17 A Yes, it was.

18 Q Right on top?

19 A Near the top or on top. I don't recall which.

20 Q 4D?

21 A And that would be the washcloth I located
22 inside the bag after I opened it.

23 Q With the red staining on it?

24 A Yes.

1 Q You said it was soaking wet?

2 A Yes. It appeared to be soaked in, like, water.

3 Q 4E?

4 A And that's the shirt that I located inside
5 along with the washcloth.

6 Q What time of day did this occur?

7 A This was just a little bit before 2:00 o'clock
8 in the afternoon. I think it was about 1:44.

9 Q Okay. 4F?

10 A The sweatpants.

11 Q Is that you holding it up?

12 A It is me holding it up. I'm actually, sadly,
13 wearing the same suit today that I'm wearing on that day.
14 It still fits.

15 Q To me, that's not sad.

16 What happened after the photographs were taken?
17 What did you do next?

18 A I notified Detective Blas, who was in the area
19 with the suspect, and I went over to Detective Blas with
20 the evidence.

21 Q And did Detective Blas have the defendant with
22 him?

23 A He did.

24 Q What happened next?

1 A I showed Detective Blas, spoke with the suspect
2 as I showed the items that I had recovered from the bag,
3 and according to Detective Blas at the time, he
4 acknowledged that he had -- the suspect had positively
5 identified those items as items that he had discarded
6 earlier.

7 Q So just like in the photographs, you displayed
8 those to the defendant?

9 A Yes.

10 Q What did you do after that?

11 A Then I took -- the items being wet, you can't
12 book them into evidence as such. I dried them per our
13 procedures and then later booked them into evidence.

14 Q And was that the extent of your involvement in
15 this case?

16 A Yes, it was.

17 MR. STRALLA: Thank you. No further questions.

18 THE COURT: Any cross-examination?

19 MS. BRADLEY: Yes, Your Honor.

20

21 CROSS-EXAMINATION

22 BY MS. BRADLEY:

23 Q Good afternoon, Officer LaMere.

24 In this case you responded to 520 North Center

1 Street to search for some discarded clothing?

2 A That's correct.

3 Q And you learned that the suspect in this case
4 may have discarded this clothing?

5 A Correct.

6 Q And there were three trash cans that you
7 searched at the southeast corner of North Virginia Street
8 and East Fifth Street?

9 A I believe that is correct, yes.

10 Q And you did not find anything in these three
11 trash cans; is that correct?

12 A Nothing of obvious evidentiary value at the
13 time, no.

14 Q And it was about 1:44 p.m. that you searched a
15 trash can on the northeast corner of North Virginia
16 Street and East Fifth Street; correct?

17 A Correct.

18 Q And this is directly in front of Premier
19 Jewelry and Loan; do you recall?

20 A Yes.

21 Q And you discovered, as you testified on direct,
22 a white bag in the trash can that was on top of some
23 other trash?

24 A Yes. On top or near the top, yes.

1 Q And this bag, this is the type of bag that you
2 would find -- you would get through a retail store or
3 grocery store?

4 A Looked very consistent with that, yes.

5 Q And there were three items that you found in
6 the bag; correct?

7 A Yes.

8 Q A white washcloth?

9 A Yes.

10 Q A white collared shirt?

11 A Yes.

12 Q And a pair of black sweatpants?

13 A Yes.

14 Q Officer, from the location of this trash can,
15 were you able to see the Flamingo Motel?

16 A Without a map, I don't know if I could or not.
17 I'm not -- it's been a long time since I worked downtown.
18 I work south now. So if I had a map, I may be able to
19 tell you yes or no, but to my knowledge, I don't know if
20 I could or not.

21 Q Is it fair to say or would you be able to say
22 that it was nearby?

23 A It was in the general area as my knowledge of
24 the downtown goes, yes.

1 Q And eventually, Officer, you did respond to the
2 Flamingo Motel; correct?

3 A I may have. I don't recall, though.

4 Q But you did meet with Detective Blas and the
5 suspect in this case; correct?

6 A Yes.

7 Q And --

8 A I don't recall where we did. It was in the
9 downtown area nearby.

10 Q And the purpose of this was so the suspect
11 could identify the items that you found?

12 A It became that, yes. I didn't know what I was
13 going to be doing, just that I was directed to go over
14 there and meet with Detective Blas.

15 Q Is it fair to say that your role was to display
16 the items once you got to this location?

17 A Yes.

18 Q And the individual that you met with, he was
19 able to identify those items; correct?

20 A According to Detective Blas. I didn't speak
21 directly to the person. Detective Blas was the
22 interviewer. I was there just to kind of model things.

23 MS. BRADLEY: I have no further questions.

24 THE COURT: Anything further?

1 MR. STRALLA: No. Thank you, Your Honor.

2 THE COURT: Thank you. You may step down.
3 You're excused. Thank you very much.

4 Mr. Stralla, are we still in the same place we
5 were at the break?

6 MR. STRALLA: That's right, Your Honor.

7 THE COURT: All right. Ladies and gentlemen,
8 as I shared with you before, we try to make the case go
9 as smoothly as possible, so I'll share with you some very
10 good news.

11 Mr. Stralla has indicated that he has an
12 additional witness tomorrow and then anticipates the
13 State will rest. As a consequence, I will then turn to
14 the defense, and the defense may make the decision that
15 they may put on some evidence or they may not. It's up
16 to them.

17 And then we'll be in a place where, depending
18 on the circumstances tomorrow, we're going to be moving
19 the case at a very nice rate to the point where we
20 believe we might be able to get the case to you for
21 consideration tomorrow. That's way ahead of schedule as
22 we had anticipated, so as a consequence of that, I'm
23 going to allow you to leave today now, because the way
24 the schedule worked is that we have this remaining

1 witness for the State tomorrow, and then we'll see what
2 other evidence we have for you tomorrow, but I want you
3 to think about that for your scheduling.

4 We're going to start tomorrow at 8:00 o'clock,
5 as we did today. We'll have that witness, and then we'll
6 see how the day progresses, but be aware we are way ahead
7 of schedule, I'm pleased to report to you all, and
8 hopefully can get the case to you sooner than later along
9 that schedule.

10 So as a result of the fact you're all here on
11 time, I haven't had to look for anybody, and you're at
12 the right place at the right time, all the lawyers have
13 been very professional and moved this case along as they
14 should.

15 So that being said, I'm going to let you go
16 today, and I'm going to read you this admonition.

17 We're going to take the evening recess. During
18 this recess, it's your duty not to converse amongst
19 yourselves or with anyone else on any subject connected
20 with the trial, or to read, watch, or listen to any
21 report of or commentary on the trial with any person
22 connected to the trial or by any medium of information,
23 including, without limitation, newspaper, television,
24 Internet, smartphones, radio. You're not to form or

1 express an opinion on any subject connected to this case
2 until it is finally submitted to you and the presentation
3 of the evidence and arguments are concluded.

4 So far you've heard one side. Please keep that
5 in mind. Don't make any conclusions. The trial is
6 ongoing, so it's very important not to communicate or
7 converse with anybody about it. Keep your thoughts to
8 yourself. You haven't heard everything yet.

9 Very good. Have a good evening. We'll see you
10 all tomorrow at 8:00 o'clock.

11 Please all rise for the jury.

12 (The following proceedings were held outside
13 the presence of the jury.)

14 THE COURT: We're outside the presence.

15 I think we could settle jury instructions
16 tentatively, at least have what we're going to have, and
17 we can add more. Based upon whatever you choose to do
18 from a defense perspective, we can always do that.

19 Why don't we meet in chambers, or do you want
20 to do it out here?

21 MR. STRALLA: Whatever you want.

22 THE COURT: Let's meet in chambers. I don't
23 believe that -- do you need Mr. Dahl to stay for any
24 reason? Can they take him back?

1 MR. LESLIE: I don't, Your Honor, for the
2 jury --

3 THE COURT: We're just going to talk about jury
4 instructions, Mr. Dahl, so that way you can have an early
5 dinner back at Parr, and they can take you back there for
6 those purposes, and we'll see you back here tomorrow at
7 8:00, Mr. Dahl.

8 I'll see you all in chambers. Let's have the
9 jury instructions set up so at least you can start
10 preparing for your closing tomorrow. That sounds great.

11 We'll be in recess.

12 (The proceedings adjourned at 12:45 p.m.)
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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, PEGGY B. HOOGS, Certified Court Reporter in
5 and for the State of Nevada, do hereby certify:

6 That the foregoing proceedings were taken by me
7 at the time and place therein set forth; that the
8 proceedings were recorded stenographically by me and
9 thereafter transcribed via computer under my supervision;
10 that the foregoing is a full, true and correct
11 transcription of the proceedings to the best of my
12 knowledge, skill and ability.

13 I further certify that I am not a relative nor
14 an employee of any attorney or any of the parties, nor am
15 I financially or otherwise interested in this action.

16 I declare under penalty of perjury under the
17 laws of the State of Nevada that the foregoing statements
18 are true and correct.

19 Dated this 18th day of October, 2021.

20
21 /s/ Peggy B. Hoogs

22 Peggy B. Hoogs, CCR #160, RDR

23
24 The document to which this certificate is
attached is a full, true and correct copy of the
original on file and of record in my office.

By: ALICIA L. LERUD, Clerk of the Second
Judicial District Court, in and for the County of
Washoe.

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 27th day of January 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Jennifer P. Noble, Chief Appellate Deputy,
Washoe County District Attorney

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

Randall Lee Dahl (#1247561)
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, Nevada 89702

John Reese Petty
Washoe County Public Defender's Office