

IN THE SUPREME COURT OF THE STATE OF NEVADA

JECORY KEMP,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Docket No. 83383

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Michael Villani, District Judge
District Court No. C-20-346920-1

APPELLANT'S APPENDIX
VOL. 1 OF 3

Michael Sanft (8245)
SANFT LAW
411 East Bonneville Avenue, Suite 330
Las Vegas, Nevada 89101
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Attorney for Appellant JeCory Kemp

Electronically Filed
Dec 29 2021 08:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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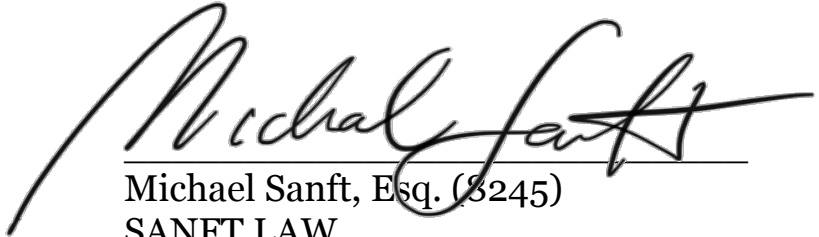
CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 29th day of December, 2021, a copy of the foregoing Appendix was served by electronic filing as follows:

District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155

Nevada Attorney General
100 N. Carson St.
Carson City NV 89701

DATED this 29th day of December, 2021.

A handwritten signature in black ink, appearing to read "Michael Sanft", is written over a horizontal line.

Michael Sanft, Esq. (8245)
SANFT LAW

411 East Bonneville Avenue, Suite 330
Las Vegas, Nevada 89101
(702) 497-8008

Attorney for Appellant JeCory Kemp

ORIGINAL

1 IND

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MARC DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006955
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

FEB 14 2020

BY, 

KIM ESTALA, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-20-346920-1

IND

Indictment

4896555



9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-20-346920-1

DEPT NO: III

12 JECORY ELES KEMP, aka,
13 Jecory Kemp, #7066250
14 TYESHIA EVAN JAMES, #8351796

Defendant(s).

INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant(s) above named, JECORY ELES KEMP, aka, Jecory Kemp, TYESHIA
18 EVAN JAMES and/or others yet unknown to the conspiracy accused by the Clark County
19 Grand Jury of the crime(s) of CONSPIRACY TO COMMIT ROBBERY (Category B Felony
20 - NRS 200.380, 199.480 - NOC 50147); MURDER WITH USE OF A DEADLY WEAPON
21 (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001); FIRST DEGREE
22 KIDNAPPING WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL
23 BODILY HARM (Category A Felony - NRS 200.310, 200.320, 193.165 - NOC 50056) and
24 ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380,
25 193.165 - NOC 50138), committed at and within the County of Clark, State of Nevada, on or
26 about the 30th day of December, 2019, as follows:

27 //

28 //

1 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

2 did willfully, unlawfully, and feloniously conspire with each other and/or unknown
3 individuals to commit a robbery, by the Defendants committing the acts as set forth in Counts
4 2 through 4, said acts being incorporated by this reference as though fully set forth herein.

5 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

6 did willfully, unlawfully, feloniously and with malice aforethought, kill MARION B.
7 JABBAR ANDERSON, a human being, with use of a deadly weapon, to wit: a firearm, by
8 shooting at and into the body of the said MARION B. JABBAR ANDERSON, the said killing
9 having been 1) willful, deliberate and premeditated and/or 2) committed during the
10 perpetration or attempted perpetration of a kidnapping and/or robbery, the Defendant(s) being
11 criminally liable under one or more of the following principles of criminal liability, to wit: (1)
12 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
13 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
14 commanding, inducing ad/or otherwise procuring the other to commit the crime; and/or (3)
15 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
16 Defendants and/or others yet unknown to the conspiracy acting in concert throughout.

17 COUNT 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
18 RESULTING IN SUBSTANTIAL BODILY HARM

19 did willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy,
20 abduct, conceal, kidnap, or carry away MARION B. JABBAR ANDERSON, a human being,
21 with the intent to hold or detain the said MARION B. JABBAR ANDERSON against his will,
22 and without his consent, for the purpose of committing a robbery, with use of a deadly weapon,
23 to wit: a firearm(s), resulting in substantial bodily harm to MARION B. JABBAR
24 ANDERSON, the Defendant(s) being criminally liable under one or more of the following
25 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by
26 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
27 by counseling, encouraging, hiring, commanding, inducing ad/or otherwise procuring the other
28 to commit the crime, whereby one of their number lured and/or enticed the said victim to the

1 crime scene under the guise of a drug deal with the intent to rob him, thereafter during the
2 course of the robbery and/or attempted robbery, one of their number shot at and into the body
3 of the said victim; and/or (3) pursuant to a conspiracy to commit this crime, with the intent
4 that this crime be committed Defendants and/or others yet unknown to the conspiracy acting
5 in concert throughout.


6 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

7 did willfully, unlawfully, and feloniously take personal property, to wit: Marijuana
8 and/or US Currency and/or vehicle and/or vehicle keys, from the person of MARION B.
9 JABBAR ANDERSON, or in his presence, without the consent and against the will of
10 MARION B. JABBAR ANDERSON, by means of force or violence or fear of injury,
11 immediate or future, to his person, the person of a member of his family, or of anyone in his
12 company at the time of the robbery, defendant using force or fear to obtain or retain possession
13 of the property, to prevent or overcome resistance to the taking of the property, and/or to
14 facilitate escape, with use of a deadly weapon, to wit: a firearm; the Defendant(s) being
15 criminally liable under one or more of the following principles of criminal liability, to wit: (1)
16 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
17 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
18 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)
19 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
20 Defendants and/or unknown individuals acting in concert throughout.

21 DATED this 13 day of February, 2020.

22 STEVEN B. WOLFSON
23 Clark County District Attorney
24 Nevada Bar #001565

25 BY


26 MARC DIGIACOMO
27 Chief Deputy District Attorney
28 Nevada Bar #006955

26 ENDORSEMENT: A True Bill

27 
28 Foreperson, Clark County Grand Jury

Names of Witnesses and testifying before the Grand Jury:

ALVARADO, ART – SAN BERNARDINO COUNTY SHERIFF

DOSCH, MITCHELL – LVMPD #7907

Additional Witnesses known to the District Attorney at time of filing the Indictment:

BOGATAY, MAUREEN – LVMPD #7782

CUSTODIAN OF RECORDS - CCDC

CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS - LVMPD RECORDS

HICKAMN, DAVON – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

HODSON, BRECK – LVMPD #9034

JAMES, TYSHIA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

KATOWICH, TODD – LVMPD #6360

MAGNESS JR., GARY – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

OGAZ, ERIC – SAN BERNARDINO COUNTY SHERIFF

TRAYLOR, WAYNE – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

19CGJ007A-B/20F00659A-B/ed-GJ

LVMPD EV# 200100003412

(TK11)

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

MAR 19 2020

BY, 
KIM ESTALA, DEPUTY

IND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MARC DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006955
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

C-20-346920-1
SIND
Superseding Indictment
4905111



THE STATE OF NEVADA,

Plaintiff,

CASE NO: C-20-346920-1

-vs-

DEPT NO: III

JECORY ELES KEMP, aka,
Jecory Kemp, #7066250
TYESHIA EVAN JAMES, #8351796
ARLEO EARL DAVIS, aka,
Arleo Earl Davis, Jr., #7054823

SUPERSEDING
INDICTMENT

Defendant(s).

STATE OF NEVADA }
COUNTY OF CLARK } ss.

The Defendant(s) above named, JECORY ELES KEMP, aka, Jecory Kemp, TYESHIA EVAN JAMES, ARLEO EARL DAVIS, aka, Arleo Earl Davis, Jr., and/or others yet unknown and/or DAVON WILLIAM HICKMAN, aka, Davon Hickman and PRESTON ALOOKHAI HUTESON to the conspiracy accused by the Clark County Grand Jury of the crime(s) of CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147); MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001); FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony - NRS 200.310, 200.320, 193.165 - NOC 50056) and ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138), committed at and within the County of Clark, State of Nevada, on or about the 30th day of December,

2019, as follows:

COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

did willfully, unlawfully, and feloniously conspire with each other and/or unknown individuals to commit a robbery, by the Defendants committing the acts as set forth in Counts 2 through 4, said acts being incorporated by this reference as though fully set forth herein.

COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and with malice aforethought, kill MARION B. JABBAR ANDERSON, a human being, with use of a deadly weapon, to wit: a firearm, by shooting at and into the body of the said MARION B. JABBAR ANDERSON, the said killing having been 1) willful, deliberate and premeditated and/or 2) committed during the perpetration or attempted perpetration of a kidnapping and/or robbery, the Defendant(s) being criminally liable under one or more of the following principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing ad/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed, Defendants and/or others yet unknown to the conspiracy acting in concert throughout.

COUNT 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
RESULTING IN SUBSTANTIAL BODILY HARM

did willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away MARION B. JABBAR ANDERSON, a human being, with the intent to hold or detain the said MARION B. JABBAR ANDERSON against his will, and without his consent, for the purpose of committing a robbery, with use of a deadly weapon, to wit: a firearm(s), resulting in substantial bodily harm to MARION B. JABBAR ANDERSON, the Defendant(s) being criminally liable under one or more of the following principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing ad/or otherwise procuring the other

1 to commit the crime, whereby one of their number lured and/or enticed the said victim to the
2 crime scene under the guise of a drug deal with the intent to rob him, thereafter during the
3 course of the robbery and/or attempted robbery, one of their number shot at and into the body
4 of the said victim; and/or (3) pursuant to a conspiracy to commit this crime, with the intent
5 that this crime be committed Defendants and/or others yet unknown to the conspiracy acting
6 in concert throughout.

7 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

8 did willfully, unlawfully, and feloniously take personal property, to wit: Marijuana
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10 JABBAR ANDERSON, or in his presence, without the consent and against the will of
11 MARION B. JABBAR ANDERSON, by means of force or violence or fear of injury,
12 immediate or future, to his person, the person of a member of his family, or of anyone in his
13 company at the time of the robbery, defendant using force or fear to obtain or retain possession
14 of the property, to prevent or overcome resistance to the taking of the property, and/or to
15 facilitate escape, with use of a deadly weapon, to wit: a firearm; the Defendant(s) being
16 criminally liable under one or more of the following principles of criminal liability, to wit: (1)
17 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
18 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
19 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)
20 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
21 Defendants and/or unknown individuals acting in concert throughout.

22 DATED this 19th day of March, 2020.

23 STEVEN B. WOLFSON
24 Clark County District Attorney
Nevada Bar #001565

25 BY


26 MARC DIGIACOMO
27 Chief Deputy District Attorney
Nevada Bar #006955

28 ENDORSEMENT: A True Bill


Foreperson, Clark County Grand Jury

Names of Witnesses and testifying before the Grand Jury:

ALVARADO, ART – SAN BERNARDINSO COUNTY SHERRIF

DOSCH, MITCHELL – LVMPD #7907

HODSON, BRECK – LVMPD #9034

MURPHY, MACKESHIA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

Additional Witnesses known to the District Attorney at time of filing the Indictment:

BOGATAY, MAUREEN – LVMPD #7782

CUSTODIAN OF RECORDS - CCDC

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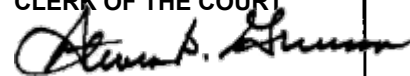
KATOWICH, TODD – LVMPD #6360

MAGNESS JR., GARY – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

OGAZ, ERIC – SAN BERNARDINO COUNTY SHERIFF

TRAYLOR, WAYNE – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

19CGJ007A,B,E/20F00659A,B,E/ed-GJ
LVMPD EV# 200100003412
(TK11)



1 **IND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MARC DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006955
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO: C-20-346920-1

11 -vs-

DEPT NO: X

12 **JECORY ELES KEMP, aka,**
13 **Jecory Kemp, #7066250**
14 **ARLEO EARL DAVIS, aka,**
15 **Arleo Earl Davis, Jr., #7054823**
16 **ANTHONY CLAUDE WOODS JR., aka,**
17 **Anthony Woods #8436597**

SECOND
SUPERSEDING
INDICTMENT

Defendant(s).

17 STATE OF NEVADA }
18 COUNTY OF CLARK } ss.

19 The Defendant(s) above named, JECORY ELES KEMP, aka, Jecory Kemp, ARLEO
20 EARL DAVIS, aka, Arleo Earl Davis, Jr., ANTHONY CLAUDE WOODS JR., aka, Anthony
21 Woods and/or others yet unknown and/or DAVON WILLIAM HICKMAN, aka, Davon
22 Hickman to the conspiracy accused by the Clark County Grand Jury of the crime(s) of
23 CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 -
24 NOC 50147); MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS
25 200.010, 200.030, 193.165 - NOC 50001); FIRST DEGREE KIDNAPPING WITH USE OF
26 A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A
27 Felony - NRS 200.310, 200.320, 193.165 - NOC 50056) and ROBBERY WITH USE OF A
28 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138), committed

1 at and within the County of Clark, State of Nevada, on or about the 30th day of December,
2 2019, as follows:

3 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

4 did willfully, unlawfully, and feloniously conspire with each other and/or unknown
5 individuals to commit a robbery, by the Defendants committing the acts as set forth in Counts
6 2 through 4, said acts being incorporated by this reference as though fully set forth herein.

7 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

8 did willfully, unlawfully, feloniously and with malice aforethought, kill MARION B.
9 JABBAR ANDERSON, a human being, with use of a deadly weapon, to wit: a firearm, by
10 shooting at and into the body of the said MARION B. JABBAR ANDERSON, the said killing
11 having been 1) willful, deliberate and premeditated and/or 2) committed during the
12 perpetration or attempted perpetration of a kidnapping and/or robbery, the Defendant(s) being
13 criminally liable under one or more of the following principles of criminal liability, to wit: (1)
14 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
15 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
16 commanding, inducing ad/or otherwise procuring the other to commit the crime, to-wit: by
17 Defendants formulating a plan to lure MARION B. JABBAR ANDERSON to an apartment at
18 6555 S. Boulder Highway under the pretext of a drug deal wherein the Defendants planned to
19 rob MARION B. JABBAR ANDERSON; thereafter, Defendants executing the plan and when
20 MARION B. JABBAR ANDERSON arrived at the apartment, one of the Defendants/Co-
21 Conspirators shot and killed MARION B. JABBAR ANDERSON; and/or (3) pursuant to a
22 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
23 and/or others yet unknown to the conspiracy acting in concert throughout.

24 COUNT 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
25 RESULTING IN SUBSTANTIAL BODILY HARM

26 did willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy,
27 abduct, conceal, kidnap, or carry away MARION B. JABBAR ANDERSON, a human being,
28 with the intent to hold or detain the said MARION B. JABBAR ANDERSON against his will,

1 and without his consent, for the purpose of committing a robbery, with use of a deadly weapon,
2 to wit: a firearm(s), resulting in substantial bodily harm to MARION B. JABBAR
3 ANDERSON, the Defendant(s) being criminally liable under one or more of the following
4 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by
5 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
6 by counseling, encouraging, hiring, commanding, inducing ad/or otherwise procuring the other
7 to commit the crime, whereby one of their number lured and/or enticed the said victim to the
8 crime scene under the guise of a drug deal with the intent to rob him, thereafter during the
9 course of the robbery and/or attempted robbery, one of their number shot at and into the body
10 of the said victim; and/or (3) pursuant to a conspiracy to commit this crime, with the intent
11 that this crime be committed Defendants and/or others yet unknown to the conspiracy acting
12 in concert throughout.

13 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

14 did willfully, unlawfully, and feloniously take personal property, to wit: Marijuana
15 and/or US Currency and/or vehicle and/or vehicle keys, from the person of MARION B.
16 JABBAR ANDERSON, or in his presence, without the consent and against the will of
17 MARION B. JABBAR ANDERSON, by means of force or violence or fear of injury,
18 immediate or future, to his person, the person of a member of his family, or of anyone in his
19 company at the time of the robbery, defendant using force or fear to obtain or retain possession
20 of the property, to prevent or overcome resistance to the taking of the property, and/or to
21 facilitate escape, with use of a deadly weapon, to wit: a firearm; the Defendant(s) being
22 criminally liable under one or more of the following principles of criminal liability, to wit: (1)
23 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
24 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,

25 //

26 //

27 //

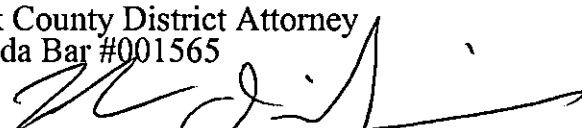
28 //

1 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)
2 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
3 Defendants and/or unknown individuals acting in concert throughout.

4 DATED this 8th day of October, 2020.

5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY


9 MARC DIGIACOMO
10 Chief Deputy District Attorney
11 Nevada Bar #006955

12 ENDORSEMENT: A True Bill

13 
14 Foreperson, Clark County Grand Jury
15
16
17
18
19
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Names of Witnesses and testifying before the Grand Jury:

ALVARADO, ART – SAN BERNARDINSO COUNTY SHERRIF

DOSCH, MITCHELL – LVMPD #7907

HODSON, BRECK – LVMPD #9034

MURPHY, MACKESHIA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

Additional Witnesses known to the District Attorney at time of filing the Indictment:

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KATOWICH, TODD – LVMPD #6360

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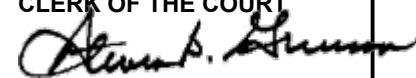
OGAZ, ERIC – SAN BERNARDINO COUNTY SHERIFF

TRAYLOR, WAYNE – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

19CGJ007A,E,G/20F00659A,E/20CR019949/ed-GJ

LVMPD EV# 200100003412

(TK11)



1 **IND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MARC DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006955
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-20-346920-1

11 -vs-

DEPT NO: X

12 **JECORY ELES KEMP, aka,**
13 **Jecory Kemp, #7066250**
14 ARLEO EARL DAVIS, aka,
15 Arleo Earl Davis, Jr., #7054823
16 ANTHONY CLAUDE WOODS JR., aka,
17 Anthony Woods #8436597
18 DAVON WILLIAM HICKMAN, aka,
19 Davon Hickman, #2591186

Defendant(s).

THIRD
SUPERSEDING
INDICTMENT

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss.

20 The Defendant(s) above named, JECORY ELES KEMP, aka, Jecory Kemp, ARLEO
21 EARL DAVIS, aka, Arleo Earl Davis, Jr., ANTHONY CLAUDE WOODS JR., aka, Anthony
22 Woods and DAVON WILLIAM HICKMAN, aka, Davon Hickman and/or others yet unknown
23 to the conspiracy accused by the Clark County Grand Jury of the crime(s) of CONSPIRACY
24 TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147);
25 MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010,
26 200.030, 193.165 - NOC 50001); FIRST DEGREE KIDNAPPING WITH USE OF A
27 DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A
28 Felony - NRS 200.310, 200.320, 193.165 - NOC 50056) and ROBBERY WITH USE OF A

1 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138), committed
2 at and within the County of Clark, State of Nevada, on or about the 30th day of December,
3 2019, as follows:

4 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

5 did willfully, unlawfully, and feloniously conspire with each other and/or unknown
6 individuals to commit a robbery, by the Defendants committing the acts as set forth in Counts
7 2 through 4, said acts being incorporated by this reference as though fully set forth herein.

8 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

9 did willfully, unlawfully, feloniously and with malice aforethought, kill MARION B.
10 JABBAR ANDERSON, a human being, with use of a deadly weapon, to wit: a firearm, by
11 shooting at and into the body of the said MARION B. JABBAR ANDERSON, the said killing
12 having been 1) willful, deliberate and premeditated and/or 2) committed during the
13 perpetration or attempted perpetration of a kidnapping and/or robbery, the Defendant(s) being
14 criminally liable under one or more of the following principles of criminal liability, to wit: (1)
15 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
16 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
17 commanding, inducing ad/or otherwise procuring the other to commit the crime, to-wit: by
18 Defendants formulating a plan to lure MARION B. JABBAR ANDERSON to an apartment at
19 6555 S. Boulder Highway under the pretext of a drug deal wherein the Defendants planned to
20 rob MARION B. JABBAR ANDERSON; thereafter, Defendants executing the plan and when
21 MARION B. JABBAR ANDERSON arrived at the apartment, one of the Defendants/Co-
22 Conspirators shot and killed MARION B. JABBAR ANDERSON; and/or (3) pursuant to a
23 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
24 and/or others yet unknown to the conspiracy acting in concert throughout.

25 COUNT 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
26 RESULTING IN SUBSTANTIAL BODILY HARM

27 did willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy,
28 abduct, conceal, kidnap, or carry away MARION B. JABBAR ANDERSON, a human being,

1 with the intent to hold or detain the said MARION B. JABBAR ANDERSON against his will,
2 and without his consent, for the purpose of committing a robbery, with use of a deadly weapon,
3 to wit: a firearm(s), resulting in substantial bodily harm to MARION B. JABBAR
4 ANDERSON, the Defendant(s) being criminally liable under one or more of the following
5 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by
6 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
7 by counseling, encouraging, hiring, commanding, inducing ad/or otherwise procuring the other
8 to commit the crime, whereby one of their number lured and/or enticed the said victim to the
9 crime scene under the guise of a drug deal with the intent to rob him, thereafter during the
10 course of the robbery and/or attempted robbery, one of their number shot at and into the body
11 of the said victim; and/or (3) pursuant to a conspiracy to commit this crime, with the intent
12 that this crime be committed Defendants and/or others yet unknown to the conspiracy acting
13 in concert throughout.

14 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

15 did willfully, unlawfully, and feloniously take personal property, to wit: Marijuana
16 and/or US Currency and/or vehicle and/or vehicle keys, from the person of MARION B.
17 JABBAR ANDERSON, or in his presence, without the consent and against the will of
18 MARION B. JABBAR ANDERSON, by means of force or violence or fear of injury,
19 immediate or future, to his person, the person of a member of his family, or of anyone in his
20 company at the time of the robbery, defendant using force or fear to obtain or retain possession
21 of the property, to prevent or overcome resistance to the taking of the property, and/or to
22 facilitate escape, with use of a deadly weapon, to wit: a firearm; the Defendant(s) being
23 criminally liable under one or more of the following principles of criminal liability, to wit: (1)
24 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
25 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,

26 //

27 //


28 //

1 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)
2 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
3 Defendants and/or unknown individuals acting in concert throughout.

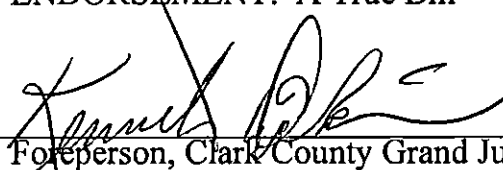
4 DATED this 5th day of November, 2020.

5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY


9 MARC DIGIACOMO
10 Chief Deputy District Attorney
11 Nevada Bar #006955

12 ENDORSEMENT: A True Bill

13 
14 Foreperson, Clark County Grand Jury

Names of Witnesses and testifying before the Grand Jury:

ALVARADO, ART – SAN BERNARDINOS COUNTY SHERIFF

DOSCH, MITCHELL – LVMPD #7907

HODSON, BRECK – LVMPD #9034

MURPHY, MACKESHIA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

Additional Witnesses known to the District Attorney at time of filing the Indictment:

BOGATAY, MAUREEN – LVMPD #7782

CUSTODIAN OF RECORDS - CCDC

CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS - LVMPD RECORDS

HICKAMN, DAVON – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

JAMES, TYSHIA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

KATOWICH, TODD – LVMPD #6360

MAGNESS JR., GARY – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

OGAZ, ERIC – SAN BERNARDINO COUNTY SHERIFF

TRAYLOR, WAYNE – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

19CGJ007A,C, E,G/20F00659A,C,E/20CR019949/ed-GJ
LVMPD EV# 200100003412
(TK11)

MOT
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Nevada Bar No. 001569
ARNOLD WEINSTOCK, ESQ.
Nevada Bar No. 000810
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Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Case No.: C-20-346920-5

Plaintiff,

Dept. No.: XVII

vs.

DAVON HICKMAN,

HEARING REQUESTED

Defendants.


NOTICE OF MOTION AND MOTION TO SEVER CO-DEFENDANTS

COMES NOW, the Defendant, DAVON HICKMAN, by and through DAN M. WINDER, ESQ., of the LAW OFFICE OF DAN M. WINDER, P.C. and hereby moves this Honorable Court for an Order Granting that the Defendant's trial be severed from his co-defendants.

This Motion is made and based upon the attached Points and Authorities, the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, the Nevada Constitution, article 1, section 8, all pleadings and papers on file herein, the record in this case, and any oral argument as this Court may deem necessary.

DATED this 21ST day of January, 2021.

LAW OFFICE OF DAN M. WINDER, P.C.


DAN M. WINDER, ESQ.
Nevada Bar No. 001569
ARNOLD WEINSTOCK, ESQ.
Nevada Bar No. 000810

POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

a. Grand Jury Presentation No. 1: The following facts are taken from the transcripts of the Grand Jury Hearing(s) held on February 13, 2020.

Testimony of Arturo Alvarado

Arturo Alvarado is employed as a detective in San Bernardino County, California.. He is currently assigned to the homicide division and has been for the last three years. On December 30, and December 31, 2019, he was called out to the scene of an alleged homicide located off the I-15 freeway between Baker and Barstow, California.. The nature of the call was for a death investigation, and that a vehicle was on fire, and a deceased victim had been on fire. From the I-15, he exited Field Road, where there is nothing other than desert. The area of the scene was on the west side of the freeway in an open dirt area.

The scene was located westbound of the freeway. The vehicle was fully burned to the ground. Everything was burned to a crisp. The vehicle was charred, and the rubber and plastic were burned away. The vehicle was a Lexus vehicle. There was damage to the interior and exterior of the vehicle.

When he arrived on scene, a deceased body was found in the trunk area of the car. The victim was not breathing when he arrived and was obviously deceased. The body was burned, more toward the legs as opposed to the upper body. He did not touch or manipulate the body, as in California only the coroner's division is allowed to touch the body.

After the body roll, information was gathered which led Detective Alvarez to contact Las Vegas homicide detectives. The body roll revealed a key card on a lanyard around the victim's neck. Information related to the actual vehicle involved, along with the key card information, led him to contact Las Vegas homicide detectives, specifically Detective Mitch Dosch. The bombs and arson expert arrived later and determined an accelerant was used in the fire.

1 **Testimony of Mitchell Dosch**

2 Mitchell Dosch is employed as a homicide detective with the Las Vegas Metropolitan Police
3 Department and has been for the last seven years. His involvement with the homicide
4 investigation began on December 31, 2019 after being contacted by the San Bernardino County
5 Sheriff's Department. His partner, Breck Hodson, received contact from the San Bernardino
6 County Sheriff's Department homicide section requesting information on an active death
7 investigation. Based on the contact from San Bernardino, he directed his attention to 6555
8 Boulder Highway, building 11, apartment 309. This address ended up being the primary crime
9 scene. This apartment in building 11 is located on the third floor, which is the top floor. Building
10 11 is in the northwest corner. To get to apartment 309, a person must go up one of two stairwells.
11 Around building 11 there was an apparent blood trail that appeared to initiate just outside of
12 apartment 309, went all the way down to the ground floor, around the building, and into the
13 parking lot.

14 Apparent blood splatter or a blood trail was located in a parking space, near where the trunk of a
15 vehicle would be if parked. Apparent blood was found on the stairs, as well. Based on the blood
16 trail, Detective Dosch drafted and obtained a search warrant for the apartment. When Detective
17 Dosch made entry into the apartment, he was hit with the overwhelming stench of cleaning
18 material. The tile floor was also very clean with the same white residue. There was apparent
19 blood on the far side where the appliances are located. Blood was also found on a light fixture in
20 the kitchen. Cleaning materials were found inside the apartment.

21 Two suspects were developed as a result of the apartment search and the investigation. They
22 were Jecory Kemp and Tyeshia James. The two were apprehended, read Miranda, acknowledged
23 their rights, and spoke with detectives. Jecory Kemp told detectives that the victim was killed
24 inside the apartment. The plan was to rob the victim. The murder occurred on December 30,
25 2019. A plan was developed a day or two earlier to purchase or request a large amount of
26 marijuana which would then be sold to the occupants of apartment 11-309. When the victim
27

1 arrived with the marijuana, it was their intent to rob him of the marijuana and not make payment
2 for the marijuana.

3 On the day of the murder, the victim came to the door and was let in. The victim moved to the
4 kitchen area after dropping his backpack, which contained one of the two pounds of marijuana
5 that was sought in the drug deal. Another individual within the apartment opened up the
6 backpack, examined, and noticed a pound of marijuana was missing. They discussed that the
7 other pound would be made available as the money was paid..

8 When the victim saw the individuals suddenly emerge from the bedroom, the victim pulled out a
9 firearm. Another individual within the apartment produced a firearm and pointed it at the victim,
10 and that is when the shooting occurred. At least one round was fired, which appeared to strike the
11 victim.

12 There were multiple people inside the apartment at the particular time, and some of the
13 individuals went through the victim's pockets and left the apartment. Jecory Kemp and Tyeshia
14 James left the apartment and returned when they initiated the process of cleaning up the
15 apartment and removing the victim's body. Jecory Kemp told the detective about attempts to
16 move and relocate the victim's body. The body was placed in trash bags. The victim was of fairly
17 large stature, and they planned to break off his legs and carry the body out in a gurney-like
18 fashion.

19 Defendants allegedly attached the body to a small shopping cart which was used to bring the
20 body down the stairs and into the parking lot of a waiting vehicle. The victim's vehicle was a
21 1998 Lexus four-door sedan. The car was then brought back to utilize disposing the body. The
22 victim's body was loaded into the trunk of his car. Kemp then drove the victim's car from the
23 apartment complex to I-15 and Field Road in San Bernardino County. As he was driving the car
24 down, Jecory Kemp was following another vehicle where another individual involved was
25 driving. That vehicle had to leave, and Kemp summoned another vehicle to pick them up and
26 bring them back to Las Vegas.

1 Tyeshia James initially lied to detectives about not having any role and about being on the
2 property grounds the day of the murder. Her story changed and she recounted a very similar story
3 to Jecory Kemp's. She did not discuss the movement of the body to California that her boyfriend,
4 Jecory Kemp, had told detectives. Tyeshia James was the renter of the 11-309 apartment and had
5 the lease for it. She moved into the apartment in November and the lease was set to expire in
6 early January. Tyeshia James told detectives about the robbery being planned a day or two before
7 the murder. At the time of the murder, she and another female were asked to leave the apartment
8 before the victim arrived. Later, they heard about what had happened and developed a plan to
9 clean up the apartment and help move the body from the apartment into a vehicle.

10 The autopsy did not take place until January 21, 2020, and the detective attended. The victim was
11 identified as Marion B. Jabbar Anderson. He was referred to as A.J. The body had an apparent
12 gunshot wound to his upper left chest and there was thermal damage to the lower half of his
13 body.

14 **Grand Jury Presentation No. 2:** The following facts are taken from the transcripts of the Grand
15 Jury Hearing(s) held on March 19, 2020.

16 **Testimony of Mackeshia Murphy**

17 Mackeshia Murphy, at the time of her testimony, was in custody for open murder, conspiracy to
18 commit robbery, robbery, and a probation violation. She was on probation for an attempt grand
19 larceny conviction. She was arrested in California in 2020 for absconding from probation. She
20 was also originally charged with counts related to what she is testifying about. In exchange for
21 her testimony, she received immunity and will not be charged with any crime associated with her
22 testimony. Tyeshia James is Mackeshia's sister. Tyeshia's boyfriend is Jecory Kemp. Mackeshia
23 was dating Defendant, Davon Hickman.

24 According to Ms. Murphy, Jecory Kemp's nickname was Smooth Got It. Davon Hickman's
25 nicknames were Little BD, Payso, or Pay Still Got It. In the end of 2019, Mackeshia was staying
26 at the Siena Suites at 6555 South Boulder Highway. She stayed there in an apartment with Davon
27

1 Hickman, Jecory Kemp, and Tyeshia James. On December 30, 2019, she was present for a
2 conversation about a man named AJ, who was the apartment complex's maintenance man.
3 Alledly, Mackeshia, Davon Hickman, Jecory Kemp, Tyeshia James, Sayso, and Sayso's brother
4 were all present. Sayso owed A.J. \$2,000.00 for marijuana. Sayso, Davon Hickman, Jecory
5 Kemp, and Sayso's brother were going to rob A.J. instead of paying him back. The plan was to
6 call A.J., have him bring two pounds of marijuana to the apartment, and rob him.
7 According, to Ms. Murphy, the murder happened the next day. She was walking down the stairs
8 with Tyeshia James when A.J. showed up. As she was leaving, A.J. was going up to the
9 apartment. Jecory Kemp, Sayso, Star, Davon Hickman, and Sayso's brother, remained in the
10 apartment.
11 The apartment was a one-bedroom. In the bedroom is a bathroom, and then when you go out of
12 the bedroom, there is a living room and the kitchen. Sayso and Sayso's brother were going back
13 to the bedroom. In the front room it was going to be Jecory Kemp, Davon Hickman, and Star.
14 Mackeshia and Tyeshia went to their friend Mariah's apartment. They were outside smoking
15 cigarettes when the men came running down the stairs, accoridng to Ms. Murphy, Davon said he
16 shot A.J. and A.J. was laying on the floor, shot.
17 Allegedly, there is a discussion between Sayso, Sayso's brother, Davon Hickman, and Jecory
18 Kemp about what to do with the body. Star left and wasn't seen again. Allegedly, the plan was to
19 take the body to Barstow or San Bernardino. She never saw the body. She helped her sister clean
20 up the outside of the apartment where the blood was. Her sister cleaned up the inside, while
21 Mackeshia cleaned up the stairs. She didn't know how the body left the apartment but was told
22 by Jecory Kemp that he and Ty moved the body. She didn't know whether or not A.J. had a car
23 until they moved it around the building.
24 Ms. Murphy alleged that Davon Hickman expressed to her he was scared because he was the one
25 who shot A.J. Davon allegedly told Mackeshia that AJ showed up with only half a pound of
26 marijuana. Sayso and his brother were in the bedroom and when they came out, AJ pulled out a
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1 gun. After AJ pulled out a gun, Davon Hickman shot him. Ms. Murphy never saw the marijuana
2 allegedly taken from AJ. After the murder, she and Davon Hickman went to Los Angeles,
3 California where she was arrested. An individual named Flaco picked up Davon Hickman and
4 Jecory Kemp. He followed Jecory Kemp to Barstow, California and brought them back.

5 **Testimony of Breck Hodson**

6 Breck Hodson is employed as a homicide detective with the Las Vegas Metropolitan Police
7 Department. He has been with Metro for fourteen years and has been in homicide for eighteen
8 months.

9 Davon Hickman goes by Little and/or Payso. Marion Jabbar Anderson went by AJ. Arleo Earl
10 Davis Junior went by the name Sayso. Anthony Woods was known as Sayso's brother. Preston
11 Huteson is known as Flaco. A request was made for the phone records associated with Davon
12 Hickman's phone number began with a 716 number and owned by the T-Mobile phone company.
13 A court order and/or pen register and/or search warrant was sent to T-Mobile to obtain a copy of
14 Davon Hickman's phone records. They were not able to locate the actual phone.

15 Arleo Davis had a phone on him when he made contact with police. The phone number assigned
16 to the phone had changed since the events that happened on December 20.

17 Arleo Davis was taken into custody by the fugitive apprehension team at the welfare office
18 parking lot at the intersection of Bonanza and Nellis. Arleo Davis was transported to LVMPD
19 headquarters where he was interviewed by detectives. He was read his Miranda rights and agreed
20 to speak with detectives. Arleo Davis told detectives he knew Marion Jabbar Anderson, Davon
21 Hickman, Jecory Kemp, Mackeshia Murphy, and Tyeshia James. He told detectives he had his
22 cell phone on him at the time the crime occurred, and that his phone number had changed since.
23 Davon Hickman's cell phone records corroborated Mackeshia Murphy's story that Davon
24 Hickman was present at the apartment at the time the crime occurred. The crime occurred
25 sometime around 2:00 p.m. on December 30, 2019.

26 The T-Mobile information provided was different than the Verizon information. The information
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1 provided from Arleo Davis's cell phone records corroborated what Mackeshia Murphy told
2 detectives about him being present at the time of the crime. At the Grand Jury Hearing on
3 November 6, 2020 the Grand Jurors returned a true bill against Davon Hickman.

4 II.

5 LEGAL ARGUMENT

6 Defendant DAVON HICKMAN (referred to herein as "DAVON") is entitled to have his
7 trial severed from the trial of his co-defendants due the Due Process Clauses of the United States and
8 Nevada Constitutions and Nevada Statutes and Case Law.

9 In order to protect DAVON from unfair prejudice, this Court must sever DAVON'S case
10 from his co-defendants cases for separate trials. NRS 174.165(1) states as follows:

11 If it appears that a defendant or the State of Nevada is prejudiced by a joinder of
12 offenses or of defendants in an indictment or information, or by such joinder for trial
13 together, the court may order an election or separate trials of counts, grant a
severance of defendants or provide whatever other relief justice requires.

14 Generally, a severance of co-defendant trials is warranted where "there is a serious risk
15 that a joint trial would compromise a specific trial right of one of the defendants, or prevent the
16 jury from making a reliable judgment about guilt or innocence." Chartier v. State, 2008 Nev.
17 LEXIS 73, 8, 191 P. 3d 1182, 1185 (2008) (quoting Marshall v. State, 118 Nev. 642, 647, 56
18 P.3d 376, 379 (2002)). In the case of Zafiro v. United States, 506 U.S. 534, 113 S. Ct. 933
19 (1993), the Supreme Court stated that:

20 We believe that, when defendants properly have been joined under Rule 8(b), a
21 district court should grant a severance under Rule 14 only if there is a serious risk
22 that a joint trial would compromise a specific trial right of one of the defendants,
23 or prevent the jury from making a reliable judgment about guilt or innocence.
24 Such a risk might occur when evidence that the jury should not consider against a
25 defendant and that would not be admissible if a defendant were tried alone is
26 admitted against a codefendant. For example, evidence of a codefendant's
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wrongdoing in some circumstances erroneously could lead a jury to conclude that a defendant was guilty. When many defendants are tried together in a complex case and they have markedly different degrees of culpability, the risk of prejudice is heightened. Evidence that is probative of a defendant's guilt but technically admissible only against a codefendant also might present the risk of prejudice. Conversely, a defendant might suffer prejudice if essential exculpatory evidence that would be available to a defendant tried alone were unavailable in a joint trial.

Id. At 540, 113 S. Ct. at 938 (citations omitted).¹¹

The Nevada Supreme Court has recognized that while one of these factors alone may or may not warrant severance, "[The] cumulative effect [of accumulation of evidence of guilt which comes from being tried with other defendants] may indeed become so unfairly prejudicial that severance is warranted." *Chartier*, 124 Nev. 760, 191 p 3d 1182 (2008)(citing *U.S. v. Koon*, 34 P.3d 1416, 1429 (9th Cir. 1994), *rev'd in part on other grounds*). In *Chartier*, the defendant argued that his case should have been severed from his co-defendants because their defenses were antagonistic and because his ability to prove his theory of defense was impaired by the joinder. The Nevada Supreme Court held that the district court abused its discretion by denying *Chartier's* motion to sever and that "the cumulative effect of the joint trial was not harmless, but rather resulted in a trial so unfair to *Chartier* as to warrant reversal of the judgment for conviction." *Id.* at 14, 191 P.3d at 1187.

Courts must remember, in exercising their discretion, that "although a single trial may be desirable from the standpoint of economical and efficient criminal procedure, the right of a defendant to a fair trial must be an overriding consideration." *State v. Martin*, 673 P.2d 104, 106 (Kan. 1983) (quoting *State v. Sully*, 547 p.2d 344 (Kan. 1976)). While courts have a legitimate interest in joint trials for codefendants, "this interest must never be allowed to eclipse a

¹¹ In *Zafiro*, the court addressed severance under Federal Rule of Criminal Procedure 14, however, the Nevada Supreme Court has recognized that the severance right under Rule 14 is the same as the right under NRS 174.165. *Marshall*, 118 Nev. at 647, 56 P. 3d at 379.

defendant's right to a fair trial." United States v. Long, 905 P. 2d 1572, 1581 (D.C. Cir. 1990).
 All doubts concerning severance should be resolved in favor of severance. State v. Velarde, 734
 P.2d 440, 444-45 (Utah 1986).

It should also be noted that "[t]he decisive factor in any severance analysis remains
 prejudice to the defendant.... Despite the concern for efficiency and consistency, the district
 court has "a continuing duty at all stages of the trial to grant a severance if prejudice does
 appear," Marshall v. State, 118 Nev. 642, 646, 56 P.3d 376, 378 (2002) (quoting Neil v. State,
 827 P.2d 884, 890 (Okla. Crim. App. (1992)).

DAVON'S SIXTH AMENDMENT CONFRONTATION RIGHTS REQUIRE SEVERANCE

The United States Supreme Court, in concluding that the Sixth Amendment's
 Confrontation Clause is applicable to the states, also recognized the importance of the Sixth
 Amendment right to confront and cross-examine witnesses, as the Court said in Pointer:

There are few subjects, perhaps, upon which this Court and other courts have been
 more nearly unanimous than in their expressions of belief that the right of
 confrontation and cross-examination is an essential and fundamental requirement
 for the kind of fair trial which is this country's constitutional goal.

Pointer v. Texas, 380 U.S. 400, 405, 85 S. Ct. 1065, 1068 (1965).

Subsequently, in Bruton v. United States, 391 U.S. 123, 88 S. Ct. 1620 (1968), the
 Supreme Court held that a defendant's right of cross-examination, which is secured by the
 Confrontation Clause of the Sixth Amendment, is violated when, at a joint trial, the court admits
 a non-testifying co-defendant's confession which must be disregarded in determining the
 defendant's guilt. *Id.* at 125, 88 S. Ct. at 1622. The Court explained:

[T]here are some contexts in which the risk that the jury will not, or cannot,
 follow instructions is so great, and the consequences of the failure so vital to the
 defendant, that the practical and human limitations of the jury system cannot be
 ignored. Such a context is presented here, where the powerfully incriminating
 extrajudicial statements of a co-defendant, who stands accused side-by-side with
 the incriminations devastating to the defendant but their credibility is inevitably
 suspect, a fact recognized when accomplices do take the stand and the jury is

1 instructed to weigh their testimony carefully given the recognized motivation to
2 shift blame onto another. The unreliability of such evidence is intolerably
3 compounded when the alleged accomplice, as here, does not testify and cannot be
4 tested by cross-examination.

5 *Id.* at 135-36, 88 S. Ct. at 1627-28.

6 Simple redaction of a co-defendant's statements has been disapproved by the Supreme
7 Court in Gray v. Maryland, 523 U.S. 185, 118 S. Ct. 1151 (1999). In Gray, the court addressed a
8 situation where a co-defendant's confession had been redacted but, as it demonstrated obvious
9 indication of deletion, it still directly referred to the existence of a non-confessing defendant,
10 thereby linking the defendant to the crime. The court stated "Unless the prosecutor wishes to
11 hold separate trials or to use separate juries or to abandon use of the confession, he must redact
12 the confession to reduce or eliminate the special prejudice that the Bruton Court found." *Id.* at
13 192, 118 S. Ct. At 1155. *cf.* Richardson v. Marsh, 481 U.S. 200, 211, 107 S. Ct. 1702 (1987)
14 (admission at a joint trial of co-defendant's confession that is redacted to omit all reference to
15 defendant's existence, does not violate defendant's confrontation rights).

17 Our Nevada Supreme Court has also recognized that redaction or limiting instructions are
18 not always sufficient to cure the prejudice to a defendant from the admission of confessions of a
19 non-testifying co-defendant. Stevens v. State, 97 Nev. 443, 444, 634 P. 2d 662 (1981). There,
20 although the State had excised all references to defendant Stevens before admitting the non-
21 testifying co-defendant's confession at a joint trial, the court reversed Stevens' conviction
22 pursuant to the Bruton rule. The Court reasoned:

24 It appears likely that the jury read the appellant's [Stevens] name into the blanks
25 in each of [co-defendant] Oliver's statements introduced at the trial below.
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1 The circumstantial links between Oliver and Stevens, referred to by the
2 prosecutor, and the fact that Oliver and appellant were being tried together made it
3 not only natural, but seemingly inevitable that the jury would infer appellant to be
4 the person referred to in the blanks in Oliver's statement.

5 *Id.* at 444, 634 P.2d at 663.

6 The Nevada Supreme Court addressed the issue again in Ducksworth v. State, 113 Nev.
7 780, 942 P.2d 157 (1997). There, this State's Supreme Court held that the district court erred in
8 refusing to sever defendant Martin's trial from his co-defendant Ducksworth's. "The evidence
9 against Martin was largely circumstantial and was much less convincing than was the evidence
10 against Ducksworth. Most damaging to Martin was the testimony of Crawl and Al concerning
11 Ducksworth's confessions which mentioned, both directly and by inference, that Ducksworth
12 acted with an accomplice." *Id.* at 794, 942 P.2d at 166. Because Ducksworth did not testify, the
13 introduction of his confession, which probably inculpated co-defendant Martin, violated Martin's
14 Sixth Amendment rights. *Id.* at 795, 942 P.2d at 167. In sum, under Bruton and its progeny, if a
15 non-testifying co-defendant in a joint trial has made a confession implicating a defendant and the
16 prosecution seeks to use the confession, the defendant has a right to exclusion of the confession,
17 severance or redaction of the confession to avoid mention or implication of him.

20 ANTAGONISTIC DEFENSES

21 In Nevada, a severance may be granted if the charged defendants have antagonistic
22 defenses. Rowland, 118 Nev. at 45. However, the co-defendants' defenses must be antagonistic
23 to the point that they are mutually exclusive before they are to be considered prejudicial. In order
24 for the co-defendants' defenses to be mutually exclusive, the core of one of the co-defendants'
25 defense must be so irreconcilable with the core of the other co-defendants' defense that the
26

1 acceptance of one co-defendants theory will preclude the jury from acquitting the other co-
2 defendant. Antagonistic defenses become prejudicial enough for severance when a co-
3 defendant's defense theory creates a "second prosecutor in to a case" by turning each co-
4 defendant in to the other's most forceful adversary. Marshall v. State, 118 Nev. 642, 648 (2002).
5
6 The Fifth and Sixth Amendments can pit one co-defendant's right to remain silent against
7 another's right to explore and produce all exculpatory evidence. The issue of mutually exclusive
8 defenses arose from the clash between two constitutionally protected rights. First, a defendant
9 has a Fifth Amendment right to remain silent without a negative inference being drawn from this
10 silence. Second, a defendant has a Sixth Amendment right to pursue all lines of inquiry that
11 might prove his innocence. When co-defendants are tried together and one defendant testifies
12 while the other remains silent, these two rights often conflict.
13

14 In the current case there exists the real threat that the co-Defendants will attempt to
15 portray each other as the guilty parties, while maintaining their own innocence. In these cases,
16 the primary purpose of requiring severance of irreconcilable defenses was avoiding the "second
17 prosecutor" problem.
18

19 CONCLUSION

20 In reviewing the allegations in this case, it is clear that the State's case against DAVON
21 HICKMAN is based upon statements of co-defendants which are apparently being attributed to
22 Mr. HICKMAN. HICKMAN has denied making these statements and since most of the
23 witnesses against him are not going to testify, HICKMAN cannot confront and cross examine his
24 accusers. Alternatively, HICKMAN will be forced to testify to attack his co-defendant's
25 credibility and to place their allegations against him into issue. Either way, HICKMAN will be
26
27
28

1 placed in an impossible position to either accept untrue statements attributed to him by his co-
 2 defendants, or to contest statements attributed to him as being made by unreliable co-defendants,
 3 which would affect the trial for all of the parties. Therefore, the only just resolution would be to
 4 sever HICKMAN's trial from that of his co-defendants and allow him to address these untrue
 5 allegations solely. Otherwise, HICKMAN's defense would be antagonistic to his co-defendants
 6 and would be prejudicial to HICKMAN's interest.

8 DATED this 21st day of January, 2021.

10 Law Office of Dan M. Winder, P.C.

11 
 12 DAN M. WINDER, ESQ.

13 Nevada State Bar No.: 001569

14 ARNOLD WEINSTOCK, ESQ.

15 Nevada State Bar No.: 000810

16 *****

17 **CERTIFICATE OF ELECTRONIC TRANSMISSION**

18 I hereby certify that service of the above and foregoing was made this 21 day of
 19 January, 2021, by electronic transmission to:

20 Marc DiGiacomo, Esq.

21 Email Address: marc.digiacom@clarkcountyda.com

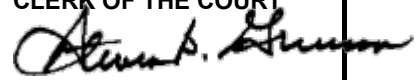
22 By: /s/Sherrie L. Martin

23 An Employee of Dan M. Winder, P.C.

lacks specificity as to antagonistic defenses, and therefore, ORDERED, Defendant Hickman's Motion to Sever DENIED. COURT FURTHER ORDERED, Co-Defendant Kemp SEVERED and SET for Central Trial Readiness Conference and upcoming hearings for Co-Defendants Hickman, Davis, and Woods STAND. Mr. Weinstock requested the Motion be denied without prejudice. CUSTODY 2/19/2021 8:30 AM STATUS CHECK: TRIAL READINESS - HICKMAN/DAVIS/WOODS 2/24/2021 11:30 AM CENTRAL TRIAL READINESS CONFERENCE (LLA) - KEMP 4/20/2021 8:30 AM CALENDAR CALL - HICKMAN/DAVIS/WOODS 5/3/2021 9:00 AM JURY TRIAL - HICKMAN/DAVIS WOODS CLERK'S NOTE: Minute Order corrected to say Bruton issue, not brute. 3/9/2021 sa

[Parties Present](#)

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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

JECORY ELES KEMP,

Defendant.

CASE NO. C-20-346920-1
DEPT NO. XVII

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

MONDAY, APRIL 5, 2021

JURY TRIAL - DAY 1

APPEARANCES:

FOR THE STATE:

MARC DiGIACOMO, ESQ.
Chief Deputy District Attorney
MICHAEL J. SCARBOROUGH, ESQ.
Deputy District Attorney

FOR THE DEFENDANT:

MICHAEL W. SANFT, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

1 LAS VEGAS, CLARK COUNTY, NEVADA, APRIL 5, 2021, 9:32 A.M.

2 * * * * *

3 (Outside the presence of the prospective jury panel.)

4 (No audio.)

5 (Panel of prospective jurors entering at 9:33 a.m.)

6 THE COURT: Is that everybody so far?

7 All right. Everyone have a seat.

8 Good morning, ladies and gentlemen. I am Judge
9 Michael Villani. I am the presiding Judge in Department 17.

10 I want to welcome all of you to the Regional Justice
11 Center, and in particular want to also thank you for honoring
12 your jury summons that you received in the mail. And as you
13 know, our system of justice does not work unless we have
14 individuals such as yourselves willing to serve on our juries.
15 Whether it's a criminal or civil case, we need individuals such
16 as yourself to make the decisions in our judicial system.

17 And I can tell you, and I think the attorneys know
18 this, I received a jury summons while being a sitting Judge,
19 and I was in this room just like all of you a couple years ago.
20 I went through the same process that all of you are going to go
21 through today, and lo and behold I was selected as a juror to
22 hear a civil case even though I'm a sitting Judge at this time.
23 So we all serve, and I hope all of you are able to serve if you
24 are selected in this case.

25 Before we go any further, I'm going to have the court

1 clerk call a roll call. And just say present or here when she
2 calls your name. Thank you.

3 (Roll called.)

4 THE COURT: And, ladies and gentlemen, I have some
5 preliminary remarks before we start with the jury selection in
6 this matter, and I want to give you some information about our
7 COVID protocols here. Obviously all of you are social
8 distance. We're all wearing masks. But I just want to advise
9 you that all of our concerns here are for the health and safety
10 of everyone in this process.

11 What many of you may be surprised to know is that the
12 courts have never shut down since COVID, as I think it came
13 into effect last March or so. We continue to have hearings.
14 We continue to have some bench trials, and we've had about
15 seven jury trials so far this year.

16 In March, when Governor Sisolak instituted the
17 original shut down, we did cease jury trials for a period of
18 time during those months. There was a group of seven Judges,
19 myself included that met weekly studying the national health
20 trends and how other jurisdictions were handling jury trials
21 and safety measures and precautions that we put in place to
22 ensure jury safety.

23 We then planned for the reopening of jury trials by
24 meeting with local healthcare professionals at the University
25 Medical Center as well as working with Southern Nevada Health

1 District to make sure we put everything in place to ensure your
2 health and safety. I'd like to briefly go over some of those
3 things with you at this time.

4 One, at all times, everyone will remain socially
5 distanced. Everyone will be required to wear a mask. We have
6 hand sanitizer at many areas within this room and throughout
7 the Regional Justice Center. We have worked with Clark County
8 property management to ensure that we have enhanced air quality
9 and air disinfection within this room as well as the courtroom
10 if you are selected as a juror in this case.

11 As you look around the room, you will see many black
12 boxes. These are the Synexis DHP technology. This allows for
13 the continuous use of dry hydrogen peroxide to reduce levels of
14 harmful bacteria and viruses along with fungi and mold in
15 occupied spaces. We have instituted infection and exposure
16 event protocol should anyone feel ill.

17 Once we are done selecting a jury, we will then move
18 into one of our two COVID-19 courtrooms. These courtrooms were
19 designed with the help of medical professionals. You will
20 notice that all of you will be seated 6 feet apart to maintain
21 social distancing.

22 Anyone, such as myself, court staff and the parties
23 who cannot be 6 feet apart will be separated by dividers. We
24 have installed Plexiglas dividers as to limit contact with one
25 another.

1 There are many other things that we have done, but I
2 just wanted to give you a highlight of some of the few things
3 that we have done here in the courthouse and to give you an
4 understanding of how seriously we take all of the health and
5 safety concerns. So again, thank you very much.

6 Ladies and gentlemen, as I mentioned before, part of
7 jury duty is your civic duty. It's under the Constitution that
8 individuals accused of a crime and individuals in civil cases
9 have the right to a jury trial. And so that's why we're here
10 today. You have been assigned to this particular case, which
11 is a criminal case, State of Nevada versus Jecory Kemp.

12 Before we go any further, ladies and gentlemen, I'm
13 going to have a representative of the district attorney's
14 office in front of me to my left introduce themselves, their
15 cocounsel. They're going to advise you of any relevant
16 locations, dates and times, and then they will read to you a
17 list of potential witnesses that may be called in this case.
18 They may not call all of the witnesses they identify, but they
19 do need to give you a complete list. Please listen to the
20 dates, times, locations and the potential witnesses because
21 some of these individuals may be friends, neighbors and
22 coworkers of yours, and we need to know if you have any
23 association or affiliation with these potential witnesses.

24 After that has been completed, I'll have the defense
25 counsel, who's seated in front of me, introduce himself, his

1 client, Mr. Kemp, as well as any potential witnesses they may
2 call. And then please listen to those names as well.

3 So, State, go ahead.

4 MR. DiGIACOMO: Good morning, ladies and gentlemen.
5 My name is Marc DiGiacomo. I'm the deputy district attorney
6 here in Clark County. With me is Jory Scarborough, who is also
7 a Deputy DA. And we've been assigned to prosecute the case of
8 State of Nevada versus Jecory Kemp.

9 Mr. Kemp is accused along with a number of other
10 individuals. Their names are Mackeisia Murphy, Tyeshia James,
11 Davon Hickman, Arleo Davis, and Anthony Woods.

12 He's accused of aiding in a conspiracy, at least with
13 the male members of that group, of committing a robbery, and
14 ultimately that robbery turns into a murder and kidnapping.
15 He's also accused -- well, the crime occurs at 11/309,
16 Apartment 11/309 at 6555 Boulder Highway, which is on Boulder
17 Highway somewhere in the area of Tropicana.

18 He is then accused of taking the victim, whose name
19 in this case is Marion Jabbar Anderson, who also goes by the
20 nickname of AJ, taking his body and his car to San Bernardino,
21 basically at the Marine Base, the logistics base that is just
22 before Barstow and then burning both the car and the body.

23 In order to establish these crimes, the State may
24 call some of the following witnesses. I'm not going to read
25 the entire witness list. I'm going to read you everybody

1 that's highlighted because they have a real potential of being
2 called. I guarantee you that this case is not going to last as
3 long as you think it is with all these witnesses I'm about to
4 read.

5 So there is two homicide detectives from Las Vegas by
6 the name of Mitch Dosch and Brett (phonetic) Hodson. There's
7 also two homicide detectives from San Bernardino County by the
8 name of Art Alvarado and Eric (phonetic) Ogaz.

9 There is a computer forensics detective by the name
10 of Vigil from Metro.

11 And then the following are all crime scene analysts
12 that were involved in the case. There is a C. Thomas, H
13 Ubbens, K. Biwer, T. Martin, S. Thi, an S. Fletcher, B.
14 Cornell, a G. Tapay, an M. Madonna, an S. Steinmetz, D.
15 Courtney, an A. Draus, J. Shannon, J. Smith, N. Herring, L.
16 Renhard, E. Wilson, G. Guerrero, D. Andrews, A. Felabom, and A.
17 Draus.

18 There is a fingerprint analyst by the name of Ashley
19 (phonetic) Bogus.

20 There is a Henderson officer by the name of D.
21 Erickson.

22 There is an officer from San Bernardino named S.
23 Locke.

24 There are a couple of firefighters that are at the
25 Marine Corps Base down there by the name of Gabriel Hammet and

1 Eric Keck. And then there is a fire investigator Lukacs from
2 San Bernardino as well.

3 There will be a number of phone records that will be
4 admitted here. So the custodian of records for Verizon,
5 T-Mobile, Sprint and TracFone will all potentially testify.

6 There is a medical examiner from San Bernardino by
7 the name of Brian Hutchins.

8 There is the victim's sister, Rolando Anderson;
9 another sister Marian Anderson; and his parents Marion and Gale
10 Anderson.

11 I already told you Tyeshia James and Mackeisha
12 Murphy.

13 There is another forensic computer detective by the
14 name Johnny Rodriguez from Metro.

15 There is a woman who used to live down on Boulder
16 Highway by the name of Juanitta Banks.

17 There is the custodian of records Tonia Gulley from
18 the Siena Suites. There's a Michael Kanakis who owns a
19 Sinclair and Breeze Rite liquor store there pretty much at the
20 Siena Suites.

21 There is a Walgreens at 6390 South Boulder Highway,
22 and there's a woman by the name of Maria Uy who's going to
23 testify.

24 There is a Zachary Cooper who used to live down at
25 the Siena Suites.

1 There is a Gary Magness who worked at the Siena
2 Suites; a Kristal Donovan, who lived there as well; a Rhea
3 Fredieu, who is the girlfriend of Mr. Anderson; and a Wayne
4 Traylor, who both worked and lived at the Siena Suites.

5 Thank you.

6 THE COURT: Thank you, Mr. DiGiacomo.

7 Is anyone here familiar with the attorneys, the
8 alleged incident or any of the potential witnesses? If so,
9 please raise your hand.

10 It appears that -- I have to look around the corner
11 here. Bear with me. It appears that we don't have any hands
12 being raised. All right. Thank you very much, ladies and
13 gentlemen.

14 Mr. Sanft, would you please introduce yourself, your
15 client as well as any relevant locations, dates, times that you
16 feel are necessary as well as any potential witnesses.

17 MR. SANFT: Thank you, Your Honor.

18 Good morning. My name is Michael Sanft. I represent
19 Jecory Kemp, who is sitting here to my right.

20 Jecory has been charged in the crimes that the State
21 has alleged at this particular point; he has pled not guilty.
22 We don't anticipate calling any witnesses, just
23 cross-examination of these (inaudible).

24 THE COURT: All right. Thank you, Mr. Sanft.

25 Anyone familiar with Mr. Sanft or with Mr. Kemp,

1 please raise your hand.

2 Again, it appears that no hands are being raised.

3 All right. Thank you very much.

4 Ladies and gentlemen, as I previously mentioned, I do
5 appreciate, the attorneys appreciate you coming down, honoring
6 your jury summons. This is part of our civic duty. Again,
7 please understand without all of you our system of justice will
8 not work. We need individuals such as yourselves willing to
9 sit and serve as jurors whether it's a criminal or civil case.
10 Okay.

11 Also during this process you may be called upon by
12 myself or one of the other attorneys. The marshal will come to
13 you with a microphone that's been sterilized. You'll hold the
14 microphone while you give your answers to any questions.

15 And also, just so you know, all of your seats have
16 been disinfected this morning. They will throughout the
17 process every single day. We have air, as I mentioned before,
18 air purifiers in this courtroom here.

19 Ladies and gentlemen, through this process that we're
20 going to have this morning as far as the questions by the Court
21 as well as the attorneys, what we're looking for is individuals
22 who will be fair to both sides in this case, will base whatever
23 decision may or may not be made in this case on the evidence
24 and the law of this case. Okay. So that's what we want you to
25 do.

1 And so, you know, at certain times the attorneys or
2 myself might talk about some bias and prejudices. We all have
3 bias and prejudices, whether it's racial or ethnic or just
4 likes, dislikes because we all have different backgrounds. We
5 all have different parents, obviously we all have different
6 value systems.

7 One of the most important things in a criminal trial
8 is that an individual accused of a crime is presumed innocent.
9 The State of Nevada -- our two prosecutors, the two gentlemen
10 in front of me to my left -- must prove the case beyond a
11 reasonable doubt. Some of you may have been jurors before in
12 civil or criminal cases maybe in other states. I don't know.
13 But that is the standard in this type of case, beyond a
14 reasonable doubt.

15 If you find the defendant -- if you find the State
16 has proved the case beyond a reasonable doubt, then you will,
17 if you're selected as a juror, then you would mark guilty. If
18 you feel that the State has failed to prove this case beyond a
19 reasonable doubt, then you would put an X in the box where it
20 says not guilty. Okay. It's a simple concept, but it's very
21 important that if you are selected that you perform your duties
22 with diligence and with an eye to being fair to both sides.

23 Also, ladies and gentlemen, if you are selected, at
24 the end of the jury trial, at the end of this trial, I will
25 read to you the laws that apply to this particular case. We do

1 not give you those laws, which are called jury instructions, at
2 the beginning of the case because we haven't heard any evidence
3 yet. And so at the end of the trial, I will decide which laws
4 apply to this particular case, and then I will give you those
5 laws, and then you apply the facts of the case to the laws.

6 Some of you may disagree with the laws in the State
7 of Nevada on various things, and that's okay, but if you are a
8 juror, you must follow the law of this particular case. I
9 guarantee you that the law I give you at the end of the trial,
10 before closing arguments and jury deliberations will, in fact,
11 be the laws for the State of Nevada as well as -- the laws
12 covered under our Constitution, our statutes and the United
13 States of America Constitution. I guarantee you that. Okay.

14 And, like I said, we don't give you those laws now
15 because we don't know what the evidence is.

16 And so this may be a tough question, but is there
17 anyone here who feels they could not follow the law that I give
18 you? Again, I guarantee you it will be the appropriate law,
19 but sometimes people think I'm not going to follow the law, no
20 matter what you say, Judge.

21 Is there anyone here that feels they could not follow
22 the law? Please raise your hand.

23 All right. Good. It appears that no one has raised
24 their hand here.

25 Also, is there anyone here who has a new language

1 issues, any difficulty understanding what's going on or
2 difficulty when you heard the attorneys speak? Anyone have any
3 difficulty understanding what's being stated here so far this
4 morning?

5 I do not see any hands at this point. Okay. Thank
6 you.

7 And it is my understanding --

8 Counsel, correct me if I'm wrong. Is this a five-day
9 or seven-day trial?

10 MR. DiGIACOMO: We anticipate we should be done by
11 Friday, but we were going to qualify through Tuesday.

12 THE COURT: Okay. So you may have heard that, ladies
13 and gentlemen. There's a good chance that we could be
14 completed by Friday. If not, then we'd come back the following
15 week, you know, come back on Monday.

16 And so -- and our typical schedule will be we'll
17 start at 9:00 o'clock. We'll take a break about every hour and
18 a half, hour and 45 minutes. We endeavor to take a lunch break
19 during the noon hour, somewhere in that area. And we will
20 adjourn promptly at 5:00 o'clock each day. And sometimes,
21 because of witness schedules, we may even stop earlier just
22 depending on a witness schedule.

23 Based upon the number of days that this trial may
24 take -- like I said, we may complete the trial by Friday,
25 possibly a day into next week, and then you heard our schedule

1 for each day -- is there anyone here who would have an extreme,
2 and I want to emphasize that, an extreme hardship if they were
3 called to serve in this case? Please raise your hand.

4 Okay. And, sir --

5 We have a hand over there. Before we go to that
6 gentleman there who raised his hand, we're going to have the
7 court clerk swear in all the jurors to make sure, and we assume
8 you will tell the truth on all your answers, and so we're just
9 doing the -- we're required by law to swear in all jurors that
10 all the answers you give in this selection process will be
11 truthful.

12 So please stand up and raise your right hand.

13 (Panel of prospective jurors sworn.)

14 THE COURT: All right. Thank you. You can have a
15 seat, ladies and gentlemen.

16 And I just want to go back again.

17 Again, is anyone familiar with either the attorneys,
18 Mr. Kemp, any potential witnesses or anything related to this
19 case?

20 There are no hands being raised.

21 Again, anyone here who feels they cannot follow the
22 jury instructions?

23 Again, no hands being raised.

24 All right. And we did have a gentleman -- I think it
25 was just a gentleman over --

1 UNIDENTIFIED SPEAKER: (Inaudible.)

2 THE COURT: Okay. And this is regarding hardship.

3 So, sir, if you can just go up to the microphone.

4 And if you can just lean towards it. Don't touch the
5 microphone, sir.

6 And, ladies and gentlemen, if you are going to raise
7 your hand on any of the questions that myself ask or any of the
8 attorneys ask, always state your name and your badge number,
9 the last three numbers of your badge. That way we can identify
10 you.

11 And understand that you may be called upon numerous
12 times during this process. It is difficult for myself as well
13 as the attorneys to memorize the names of 50 people. Okay. So
14 please bear with us. Each and every time you answer a
15 question, we need you to state your name and the last three
16 numbers on your badge.

17 So go ahead, sir.

18 PROSPECTIVE JUROR NO. 339: It's Matthew Lawetzki,
19 339. I'm the only one working in my family.

20 THE COURT: I'm sorry. Say it again, sir.

21 PROSPECTIVE JUROR NO. 339: I'm the only one working
22 in my household. My wife actually has cancer, and I have four
23 children.

24 THE COURT: All right. And what type of work do you
25 do, sir?

1 PROSPECTIVE JUROR NO. 339: I'm a towing and recovery
2 specialist.

3 THE COURT: Okay. And, sir, have you checked with
4 your employer to see if your employer will continue to pay you
5 while you're on jury service --

6 PROSPECTIVE JUROR NO. 339: Yes. Yes, I did, Your
7 Honor. We are commission based. So the employer doesn't offer
8 to pay for it.

9 THE COURT: Okay. And is there any other means of
10 income that your family has besides yourself, sir?

11 PROSPECTIVE JUROR NO. 339: No, sir.

12 THE COURT: Okay. All right. Thank you, sir.

13 Anyone else with an extreme hardship? Did I see any
14 other hands? We have one more coming up.

15 PROSPECTIVE JUROR NO. 331: Heather Flynn,
16 Number 331. I am a stay-at-home mom, and my husband works in
17 Alaska. I don't have anybody to get my son to and from school.
18 His school doesn't offer bus service, and it doesn't offer
19 before or after school care.

20 THE COURT: And what time does the school start?

21 PROSPECTIVE JUROR NO. 331: It starts at 7:55 and
22 ends at 2:00 p.m.

23 THE COURT: Okay. So you could get them to school,
24 but you wouldn't be able to pick them up.

25 PROSPECTIVE JUROR NO. 331: Exactly. Yes.

1 THE COURT: Okay. And do you have any relatives,
2 friends, family members that could help and pick up the child
3 if you are selected?

4 PROSPECTIVE JUROR NO. 331: The only one I have is my
5 mother-in-law. She lives with me, but she's disabled and can't
6 drive.

7 THE COURT: All right. Thank you, ma'am.

8 PROSPECTIVE JUROR NO. 331: Thank you.

9 THE COURT: Anyone else with an extreme hardship?
10 All right, ma'am. Come on up.

11 What we'll do is we'll always move the microphone to
12 your general area so we can minimize the movement in the jury
13 room here.

14 PROSPECTIVE JUROR NO. 148: My name is Jane Haddad,
15 and my number is 148. I'm an eighth grade teacher, and my
16 students are returning tomorrow for the first time in over a
17 year. And from what I hear, there's no subs.

18 THE COURT: Have you advised the school district that
19 you have a jury summons?

20 PROSPECTIVE JUROR NO. 148: I let my principal know,
21 yes. So she knows, and she is really concerned about there
22 being no one to cover my classes tomorrow.

23 THE COURT: Okay. All right. Thank you, ma'am.

24 PROSPECTIVE JUROR NO. 148: All right. Thank you.

25 THE COURT: Anyone else? Was there another hand?

1 No? Are we good?

2 THE MARSHAL: Yes, Your Honor. I don't see anyone.

3 THE COURT: Okay. All right. Ladies and gentlemen,
4 on each of your seats, you should have a list of questions
5 here. Normally, preCOVID, we would just go over these
6 questions with you orally and just ask you if you would be, you
7 know, if -- your answers to all of these questions, you know,
8 so then the attorneys can learn a little bit about you, your
9 background to see if you are the type of person that would be
10 fair to both sides in this particular matter. And so we gave
11 these to you in advance. You can look at those, and we're just
12 going to start at the beginning of our list, and which would be
13 Eric Anderson.

14 Where's Mr. Anderson?

15 There you are. Sorry. And, sir, do you have the
16 list there?

17 If anyone feels that they want me to read these
18 questions to you, I'll be more than happy to do so. All right.

19 Otherwise, sir, we'll just go down and you can just
20 say answer to Question 1. You don't have to read the question,
21 just 1, answer that question and then just identify for us 2.
22 Answer the question. So, Mr. Anderson, you're first up.

23 Yes, Mr. DiGiacomo?

24 MR. DiGIACOMO: Can we approach real quick?

25 THE COURT: Sure.

1 (Pause in the proceedings.)

2 THE COURT: All right. Mr. Anderson you get to go
3 first. All right. The marshal is going to --

4 Is the microphone over there -- or it will be there.

5 PROSPECTIVE JUROR NO. 012: Good morning. My name is
6 Eric.

7 THE MARSHAL: Hang on one second, Mr. Anderson.

8 PROSPECTIVE JUROR NO. 012: Oh, sorry.

9 THE COURT: Ladies and gentlemen, because we're in
10 this big room and we're all spread out, we have to move the
11 microphone to each individual. Normally we pick a jury in a --
12 in our courtroom, but the courtrooms are not large enough to
13 have social distancing during jury selection. They are large
14 enough to have the trial after we've selected the jurors.
15 Okay. So if you can bear with us. We appreciate it.

16 Mr. Anderson, thank you.

17 PROSPECTIVE JUROR NO. 012: Good morning. So
18 Number 1, I've lived in Clark County 23 years. That's my whole
19 life.

20 Number 2, I have a bachelor's in philosophy, and
21 that's as far as I've gone.

22 Number 3, I am employed. I work for American Medical
23 Response. I'm an EMT here in Vegas.

24 Number 4, no relationship, single.

25 Number 5, no kids.

1 Number 6, I know some people who have been the victim
2 of various crimes. I know various people who have been the
3 victim of crimes.

4 THE COURT: And can you tell us about that, sir, the
5 type of crimes, how they're associated with you.

6 PROSPECTIVE JUROR NO. 012: Well, I mean, none of
7 them are associated with me personally. It's just people I
8 know, luckily, most of them. Sexual assault, assault, rape,
9 things like that.

10 THE COURT: Was that here in Clark County, sir?

11 PROSPECTIVE JUROR NO. 012: Yes, sir.

12 THE COURT: And about how long ago were those
13 situations?

14 PROSPECTIVE JUROR NO. 012: The most recent one was
15 actually about a week ago. Not reported. I think before that
16 maybe there was another one a few months ago. Just it's one of
17 those things that it just happens to people I know every once
18 in a while I think.

19 THE COURT: And do you know if those individuals
20 reported that situation to law enforcement?

21 PROSPECTIVE JUROR NO. 012: None of them did. Yeah.
22 So.

23 THE COURT: All right. Thank you, sir.

24 PROSPECTIVE JUROR NO. 012: Okay. Yeah, so obviously
25 B, not applicable. C, not applicable because none of them were

1 reported.

2 7, I know some people who have been accused of
3 crimes, mostly just, you know, like I know various people who
4 have been accused of drug offenses and things like that, just
5 minor stuff. I can't remember when the last one happened but
6 nothing real major.

7 THE COURT: And did their cases go through the
8 judicial system, sir?

9 PROSPECTIVE JUROR NO. 012: I believe so, yeah. I
10 didn't keep up with them for the most part, but I know a few of
11 them went through the judicial system. Actually, I had a
12 family member who had several years ago just drug offenses.

13 THE COURT: Do you know anything in particular as to
14 how those cases were resolved?

15 PROSPECTIVE JUROR NO. 012: Yeah. I think what
16 happened was just got put, like, put on her record or something
17 like that. I didn't, you know, I didn't ask specifics really.
18 I just know it was put on her record, I think maybe later
19 expunged. I don't know. It was -- I don't really know much
20 about it. I'm sorry.

21 THE COURT: No, that's all right.

22 PROSPECTIVE JUROR NO. 012: 7A, again, don't know
23 much about it. I believe it was handled as it was supposed to
24 be.

25 Number 8, I've never served as a juror before. This

1 is my first time. So A, not applicable. Yeah, none of the
2 other ones are applicable there.

3 Number 9, no, I don't believe so. I think I could be
4 fine. I can't really think of anything that would make me
5 unable to be a juror.

6 Number 10, yes.

7 Number 11, yes.

8 THE COURT: All right. Thank you, sir.

9 PROSPECTIVE JUROR NO. 012: Oh, okay.

10 THE COURT: And we're just going to have -- next up
11 is Ms. Marilyn Yanes, and that's Badge 017.

12 PROSPECTIVE JUROR NO. 017: Thank you. Good morning
13 everyone. And my name is Marilyn Yanes.

14 I has been here for over 10 years.

15 I went to college, but I never finished.

16 I'm a banker for Bank of America.

17 I'm in a relationship. It's a veteran. It's a
18 security officer in a casino right now.

19 I do have two kids. 7 and 11 is the age. I have no
20 one ever been victim of a crime.

21 And I crossed the border. So I'm assuming that
22 that's going to be accused of a crime. I'm not sure.

23 THE COURT: I'm sorry. Say that again.

24 PROSPECTIVE JUROR NO. 017: I'm Cuban. So we cross
25 the border, and I think that that's considered like a crime;

1 right? So I'm assuming, yes --

2 THE COURT: All right. Thank you.

3 PROSPECTIVE JUROR NO. 017: -- to the 7.

4 I never been a juror before, and I don't have any
5 problem being a juror.

6 And absolutely, yes, I'm okay with the 10 and 11.
7 Yes.

8 THE COURT: All right. Thank you, ma'am. Thank you
9 very much.

10 Claudia Martinez, 019.

11 PROSPECTIVE JUROR NO. 019: I have been in Clark
12 County for 18 years.

13 And I only made it to 12th grade in high school.

14 I'm a stay-at-home mom.

15 I'm divorced.

16 I have two kids, 6 and 8.

17 Number 6, no.

18 Number 7, no.

19 Number 8, no.

20 Number 9, no.

21 And Number 10 and 11, yes.

22 THE COURT: All right. Thank you very much, ma'am.

23 Next up is Howard Beverstein, and that is 020.

24 PROSPECTIVE JUROR NO. 020: Hello. Hello?

25 THE COURT: We can hear you. Thank you, sir.

1 PROSPECTIVE JUROR NO. 020: I've lived in Clark
2 County for 21 years.

3 I completed community college with a degree in
4 computer programming.

5 I'm employed. I'm a box office manager.

6 I'm divorced. I have no children.

7 My home was broken into. It was reported. The
8 person was not caught. So I guess 6C is not applicable.

9 7, yes. My ex-wife had a DUI. I feel that the
10 situation was handled fairly by the criminal justice system.

11 Never served as a juror before.

12 9, I feel I could serve as a juror without problem --
13 without a problem.

14 And Number 10, yes.

15 And Number 11, yes.

16 THE COURT: All right. Thank you, sir. Thank you
17 very much.

18 And Cory -- is it Schleret?

19 PROSPECTIVE JUROR NO. 024: Schleret, yes, sir.

20 THE COURT: 024.

21 PROSPECTIVE JUROR NO. 024: Hello. My name is Cory
22 Schleret, 024.

23 I have been in Clark County for eight years as a
24 military PCS.

25 I finished my bachelor's. I've got two bachelors

1 degrees, public safety and security, criminal science
2 criminology and leadership and organizational management.

3 I'm currently 25 days out from retirement from the
4 Air Force.

5 I am married.

6 Two children, 13 and 14.

7 6, yes, for alpha, bravo. There was a UCMJ issue.

8 THE COURT: And, sir, what type of crime were they
9 accused of?

10 PROSPECTIVE JUROR NO. 024: Well, my significant
11 other was sodomized by her supervisor.

12 THE COURT: And about how long ago was that, sir?

13 PROSPECTIVE JUROR NO. 024: 2007.

14 THE COURT: And, sir, was that reported to law
15 enforcement?

16 PROSPECTIVE JUROR NO. 024: Not through law
17 enforcement. It was through UCMJ. So it was handled by Air
18 Force Office of Special Investigation.

19 THE COURT: And ultimately how was that handled, sir,
20 in the military system?

21 PROSPECTIVE JUROR NO. 024: He was allowed to retire.
22 So...

23 THE COURT: All right.

24 PROSPECTIVE JUROR NO. 024: Not accused -- Number 7,
25 not accused of a crime.

1 I have never served as a juror before, but I've been
2 summonsed four times in eight years.

3 THE COURT: Thank you for coming down again, sir.

4 PROSPECTIVE JUROR NO. 024: No problem, sir.

5 I have not heard anything about the trial.

6 Number 10, I believe I could be fair and impartial.

7 And I have heard nothing of the case -- I'm sorry,
8 Number 11, fair and impartial to both sides, yes, sir.

9 THE COURT: All right. Thank you very much, sir.

10 Next up is Barbara Eddy, 037.

11 PROSPECTIVE JUROR NO. 037: Thank you. Good morning.

12 I've lived here in Clark County my whole life, 62
13 years.

14 I have my --

15 Huh? I'll step forward. Sorry.

16 I have my bachelor's in education.

17 I am currently employed teaching second grade at Lamb
18 of God Lutheran School.

19 I am married. He just retired from Metro, 22 plus
20 years on.

21 And I have four adult children. Two are teachers,
22 and one is working with horses, and one works in real estate.

23 I have been involved in a crime. The person was not
24 caught.

25 No one has been accused of a crime in my family.

1 I have not served before. Been called down to do it
2 three times -- four times now.

3 I have not heard anything about the trial.

4 And I can, on Number 10, yes, I can.

5 And 11, yes.

6 THE COURT: And, ma'am, you had mentioned -- was it
7 your spouse is a former Metro officer?

8 PROSPECTIVE JUROR NO. 037: Uh-huh. He just retired
9 in December.

10 THE COURT: Okay. And do you know what particular
11 department or division he was assigned to?

12 PROSPECTIVE JUROR NO. 037: For most of his career,
13 motors.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 037: He was an IA for a little
16 while and retired out from the airport.

17 THE COURT: And IA, internal affairs?

18 PROSPECTIVE JUROR NO. 037: Yes.

19 THE COURT: Okay. All right. Thank you, ma'am.

20 And again you're not familiar with any of the
21 potential officers who may be called to testify in this case?

22 PROSPECTIVE JUROR NO. 037: I don't think so. No.

23 THE COURT: Okay. Thank you very much.

24 All right. Next up is Shin -- is it Chiou? 052.

25 Did I pronounce that correctly, ma'am?

1 PROSPECTIVE JUROR NO. 052: Morning.
2 Number 1, nine years.
3 Number 2, master's in hotel administration.
4 I'm not that short.
5 Number 3, Caesars Entertainment marketing executive.
6 Number 4, married. Engineer in Venetian.
7 Number 5, one son at age of 5.
8 6, 7, 8, 9, negative.
9 10, 11, yes. Thank you.
10 THE COURT: All right. Thank you, ma'am.
11 Andrew Custodio, 053.
12 PROSPECTIVE JUROR NO. 053: Good morning.
13 THE COURT: Good morning, sir.
14 PROSPECTIVE JUROR NO. 053: Number 1, I lived here
15 about 10 years.
16 I've graduated from a tech school, Universal
17 Technical Institute.
18 Let's see. I am currently employed for
19 (indiscernible) medical care. I am a biomedical technician.
20 I'm married. My wife is a nurse.
21 I have three children: A 2-year-old, an 8-year-old
22 and a 13-year-old.
23 Number 6, no.
24 7, no.
25 8, no.

1 9, no.
2 10, yes.
3 11, yes.
4 THE COURT: All right. Thank you, sir.
5 PROSPECTIVE JUROR NO. 053: Thank you.
6 THE COURT: Charlie Martinez-Francisco, 066.
7 PROSPECTIVE JUROR NO. 066: Number 1, I lived here
8 20 years.
9 Finished high school.
10 I'm employed, house person at a hotel.
11 4, no.
12 5, no.
13 6, no.
14 7, no.
15 8, never.
16 9, no.
17 10, yes.
18 11, yes.
19 THE COURT: All right. Thank you, sir.
20 Alex White, 077.
21 PROSPECTIVE JUROR NO. 077: Good morning.
22 Number 1 --
23 THE COURT: One minute, sir.
24 PROSPECTIVE JUROR NO. 077: Number 1, I've lived in
25 Clark County for 13 years.

1 I went to college for a bachelor's in fine arts.
2 I am self-employed. I run a small business downtown.
3 I am married, and my partner works for Clark County.
4 We do not have any children.

5 Number 6, I have a very close friend whose car was
6 stolen from him last month, and my sister was the victim of a
7 sexual assault.

8 THE COURT: Now, sir, as far as the, you said a
9 friend, his vehicle was stolen last month.

10 PROSPECTIVE JUROR NO. 077: Yes.

11 THE COURT: Was that situation reported to law
12 enforcement?

13 PROSPECTIVE JUROR NO. 077: Yes.

14 THE COURT: Do you know which agency?

15 PROSPECTIVE JUROR NO. 077: I believe Metro.

16 THE COURT: Okay. And do you know if they caught the
17 perpetrator or perpetrators?

18 PROSPECTIVE JUROR NO. 077: They did not get the
19 perpetrator, but they got the car totaled up.

20 THE COURT: Okay. And then you said -- was it your
21 sister?

22 PROSPECTIVE JUROR NO. 077: My sister was the victim
23 of sexual assault.

24 THE COURT: And was that here in Clark County, sir?

25 PROSPECTIVE JUROR NO. 077: No, sir.

1 THE COURT: About how long ago was that?

2 PROSPECTIVE JUROR NO. 077: It was probably about
3 eight years ago.

4 THE COURT: And was that situation reported to law
5 enforcement?

6 PROSPECTIVE JUROR NO. 077: Yes, sir.

7 THE COURT: And did that go through, that situation,
8 go through the judicial system?

9 PROSPECTIVE JUROR NO. 077: Yes.

10 THE COURT: Okay. And so did they catch the
11 perpetrator in that --

12 PROSPECTIVE JUROR NO. 077: Yes.

13 THE COURT: Okay. And were you a witness in that
14 case, sir?

15 PROSPECTIVE JUROR NO. 077: No, sir. I was not in
16 the same state.

17 THE COURT: Okay. And how do you feel that situation
18 was handled for your sister?

19 PROSPECTIVE JUROR NO. 077: You know, I'm very close
20 to my sister obviously. So it was not handled well, but it is
21 what it is.

22 THE COURT: Okay. All right. Thank you, sir. Go
23 ahead.

24 PROSPECTIVE JUROR NO. 077: For Number 7, my wife was
25 charged with a DUI.

1 THE COURT: And how do you think that situation was
2 handled for her?

3 PROSPECTIVE JUROR NO. 077: It was handled pretty
4 poorly, to be honest, on the officer's side for sure.

5 THE COURT: Okay. Do you recall what agency was that
6 officer employed with?

7 PROSPECTIVE JUROR NO. 077: This was over eight years
8 ago. I'm not sure exactly who the agency was at the time.

9 THE COURT: Okay. Was that here in Clark County?

10 PROSPECTIVE JUROR NO. 077: Yes, sir.

11 THE COURT: Okay. Thank you, sir. Go ahead.

12 PROSPECTIVE JUROR NO. 077: For Number 8, I have
13 never served as a juror.

14 For Number 9, I have not heard anything.

15 10, yes.

16 And 11, yes.

17 THE COURT: All right. Thank you very much, sir.

18 Wesley Villosos, 081.

19 PROSPECTIVE JUROR NO. 081: Thank you. Good morning.

20 I have lived in Clark County for 16 years.

21 I have a Bachelor's of Science in Nursing.

22 I work as a med-surg nurse.

23 I am single.

24 I do not have any children.

25 I have not had anyone close to me ever been in a

1 victim of a crime.

2 And 7, no.

3 8, I've never served as a juror before.

4 9, no.

5 10, yes.

6 11, yes.

7 THE COURT: All right. Thank you, sir.

8 Marcum Endicott, 089.

9 PROSPECTIVE JUROR NO. 089: I've lived in Clark
10 County for 28 years.

11 I'm a high school graduate.

12 I work for NV Energy as a line trouble man.

13 I am married, and I have -- she's a homemaker.

14 Three children, 19 -- well, actually 18, 21 and 28.

15 The two younger children are still in college out of state.

16 And then the older girl is in retail.

17 No, for Number 6.

18 I have not, so no for Number 7.

19 I have never served on a jury, no.

20 9, I haven't heard anything about this case.

21 And yes for Number 10.

22 And yes for Number 11.

23 THE COURT: All right. Thank you, sir.

24 Jose Contreras, 105.

25 PROSPECTIVE JUROR NO. 105: Good morning. My name is

1 Jose, and I've lived in Clark County for three years.
2 High school graduate.
3 I am retired from -- line of work was transportation.
4 I am married. My wife is unemployed.
5 We have three children, ages 32, 30 and 27, and they
6 work in transportation, security and restaurant work.
7 6 is no.
8 7, no.
9 8, no.
10 Number 9 is no. Sorry. Number 9 is no. Yes.
11 Number 10 is yes.
12 And 11, yes.
13 THE COURT: All right. Thank you, sir.
14 PROSPECTIVE JUROR NO. 105: Thank you.
15 THE COURT: Marylin Schoen, 113.
16 PROSPECTIVE JUROR NO. 113: Good morning. I am born
17 and raised, so 27 years in Clark County.
18 I did culinary arts.
19 I'm employed for Clark County, the Department of
20 Social Services. I'm a financial office specialist.
21 I am married. My husband works at the airport for a
22 wheelchair company.
23 I have two children, 1 and 5.
24 6 is yes, my mom.
25 THE COURT: And, ma'am, what type of crime was that?

1 PROSPECTIVE JUROR NO. 113: Domestic violence.
2 THE COURT: And about how long ago was that?
3 PROSPECTIVE JUROR NO. 113: 2009.
4 THE COURT: And was that here in Clark County?
5 PROSPECTIVE JUROR NO. 113: Yes.
6 THE COURT: Okay. And do you know which law
7 enforcement agency was involved in that situation?
8 PROSPECTIVE JUROR NO. 113: It had to be Metro, maybe
9 North Las Vegas.
10 THE COURT: And did that matter go through the court
11 system?
12 PROSPECTIVE JUROR NO. 113: Yes.
13 THE COURT: Okay. And how did you feel that that
14 matter was handled?
15 PROSPECTIVE JUROR NO. 113: That is fine.
16 THE COURT: All right. Go ahead.
17 PROSPECTIVE JUROR NO. 113: 7, yes, because that
18 relates to Number 6. That's my dad.
19 8 is no. This is my first time.
20 9 is no.
21 10 is yes.
22 11 is yes.
23 THE COURT: All right. Thank you, ma'am.
24 PROSPECTIVE JUROR NO. 113: Thank you.
25 THE COURT: Anita Tam, 116.

1 PROSPECTIVE JUROR NO. 116: Good morning. Anita Tam,
2 116. I have lived in Clark County 26 years.

3 I have a master's degree in education, elementary
4 education.

5 I am employed as a second grade teacher in a private
6 school.

7 I am married. My husband works in technical sales,
8 IT.

9 I have two children. One is 14, and when is 10.
10 No to Number 6.

11 Number 7, my father was charged with several DUIs.

12 THE COURT: Okay, ma'am. How long ago were those
13 DUIs?

14 PROSPECTIVE JUROR NO. 116: A -- he's deceased, but I
15 would say 20 something years ago.

16 THE COURT: Here in Clark County?

17 PROSPECTIVE JUROR NO. 116: No.

18 THE COURT: Okay. All right. Thank you.

19 PROSPECTIVE JUROR NO. 116: Number 8, no, I have
20 never served as a juror.

21 I have not heard anything about this trial.

22 And to Number 10 and 11, yes.

23 THE COURT: All right. Thank you. Jessie Ramos,
24 135.

25 PROSPECTIVE JUROR NO. 135: So I've lived in Clark

1 County for 20 years. I also live in Phoenix, Arizona.

2 I'm pursuing a bachelor's in finance and economics.

3 I work for my school taking inbound calls. I'm
4 single.

5 I don't have any children.

6 6 and 7, no.

7 I have never served as a juror.

8 Number 9, no.

9 And Number 10 and 11, yes.

10 THE COURT: All right. Thank you, sir.

11 Jane Haddad, 148.

12 PROSPECTIVE JUROR NO. 148: Thank you. All right.

13 Jane Haddad, 148. I have lived in Clark County for 29 years.

14 I have a master's in education.

15 I worked for CCSD. I'm an eighth grade geography
16 teacher.

17 I am married. My husband is a director of operations
18 for a casino in town.

19 I have two children. One is 14 -- or 15 actually,
20 and one is 25. My adult daughter is graduating college this
21 year.

22 I have been a victim of a crime. The crime was
23 reported, and the person was not caught.

24 THE COURT: And what type of crime was that, ma'am?

25 PROSPECTIVE JUROR NO. 148: A sexual nature.

1 THE COURT: Okay. Was that here in Clark County?
2 PROSPECTIVE JUROR NO. 148: Yes.
3 THE COURT: Again, I'm sorry. How long ago was that
4 situation?
5 PROSPECTIVE JUROR NO. 148: Like 20 years ago.
6 THE COURT: Okay. And did that matter ever go to
7 court?
8 PROSPECTIVE JUROR NO. 148: No. The person was never
9 caught.
10 THE COURT: Okay. All right. Thank you.
11 PROSPECTIVE JUROR NO. 148: My brother has been
12 accused of a crime and did serve time, and that was in New
13 York.
14 THE COURT: Okay. What type of crime?
15 PROSPECTIVE JUROR NO. 148: Drugs. A drug offense.
16 THE COURT: And do you know anything about his
17 situation as far as do you have an opinion as to how the
18 judicial system handled his case?
19 PROSPECTIVE JUROR NO. 148: I think it was handled
20 fine. He was a younger brother. So I had already moved out of
21 home, and so I didn't know a lot about the case or what
22 happened. I just know it was a drug offense, and he served
23 like a few months.
24 THE COURT: All right. Thank you.
25 PROSPECTIVE JUROR NO. 148: All right. I've never

1 served as a juror before.

2 Number 9, no.

3 And 10 and 11, yes.

4 THE COURT: All right. Thank you.

5 Jeffrey Roberts, 187.

6 PROSPECTIVE JUROR NO. 187: Good morning. I've lived
7 in Clark County for three years.

8 I have an associate degree in applied science.

9 I am retired. My wife is retired. We were small
10 business owners.

11 We have two children. Let's see. 34 and 39. One's
12 a student. One's an artist.

13 Number 6, never been accused or no one has ever been
14 in a violent crime.

15 Number 7, no.

16 Never served on a jury.

17 Know nothing about the case.

18 And 10 and 11, yes.

19 THE COURT: All right. Thank you, sir.

20 Ellen Vantreuren Richards, 196.

21 PROSPECTIVE JUROR NO. 196: I've been in Clark County
22 six and a half years.

23 I have a master's in healthcare administration.

24 I'm semiretired, still working as a quality
25 consultant in healthcare.

1 Married. My partner, my husband is retired. He was
2 a general manager for industrial laundry.

3 Two children.

4 I'm sorry. I have asthma. So I'm losing my breath
5 here.

6 I have a 40-year-old son who's a director of hair and
7 makeup and a 36-year-old son who's a videographer.

8 Crimes, identity theft, both my husband and I. No
9 one was caught.

10 THE COURT: And about how long ago was that
11 situation?

12 PROSPECTIVE JUROR NO. 196: It's probably been more
13 than 15 years.

14 THE COURT: Was that here in Clark County?

15 PROSPECTIVE JUROR NO. 196: No, it was in San Diego.

16 THE COURT: Okay. And they never caught the
17 perpetrator or perpetrators?

18 PROSPECTIVE JUROR NO. 196: It was through the U.S.
19 Postal Service inspector, and we were never told if they caught
20 them.

21 THE COURT: All right. Thank you.

22 PROSPECTIVE JUROR NO. 196: No one close to me
23 accused of a crime.

24 Have not served as a juror.

25 Have not heard of a trial.

1 And for 10 and 11, yes and yes.
2 THE COURT: All right. Thank you, ma'am.
3 Joshua Acquin, 200.
4 PROSPECTIVE JUROR NO. 200: Joshua Acquin. I have
5 lived in Clark County for going on 14 years.
6 Graduated high school. Have done a few college
7 classes.
8 I'm employed as an electronics technician with Mentum
9 (phonetic) and also a traditional reservist in the Air Force.
10 I am married. My wife does preschool.
11 I have three children ages 16, 13 and 10.
12 Number 6 is no.
13 7 is no.
14 Number 8 is I have never been a juror before.
15 Number 9, no.
16 10 and 11, yes.
17 THE COURT: All right. Thank you, sir.
18 Stanley Godges, Badge 202.
19 PROSPECTIVE JUROR NO. 202: Stan Godges, Number 202.
20 How far did you go to school?
21 THE MARSHAL: So you've got to step up and speak up.
22 THE COURT: How long have you lived in Clark County,
23 sir?
24 PROSPECTIVE JUROR NO. 202: I've lived in Clark
25 County for five to six years now.

1 THE COURT: All right.

2 PROSPECTIVE JUROR NO. 202: Okay. Doctor of dental
3 surgery. I've presently retired or I should say semiretired.
4 I'm still on consultant -- consultant basis.

5 During my career, military in the medical dental
6 field, retired. Private practice and also worked for the
7 Department of Corrections, State of California. Retired.
8 There was multiple years there where I did everything at one
9 time, not in a sequence.

10 My wife -- married. She just recently retired.
11 Occupational therapist specializing in neonatology.

12 One child, 32. He's employed here in Kern County.

13 Has anyone close to you ever been a victim of a
14 crime? Yes. I guess you could say more than two or three
15 individuals with DUI, professionals.

16 THE COURT: Were those situations that occurred here
17 in Clark County, sir?

18 PROSPECTIVE JUROR NO. 202: One of them, yes. And I
19 believe it was taken care of responsibly.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 202: Anybody been accused of a
22 crime? Like I said, DUIs.

23 Never served as a juror before.

24 Number 9, is there anything you've heard about the
25 trial? No.

1 10 and 11, again, my career in the Department of
2 Corrections. I'll try not to have any influence, but I've been
3 exposed to a hell of a lot, to include having to read -- see
4 files of multiple patients, but I'll try to make sure that this
5 doesn't have any influence. I'll try my best.

6 THE COURT: Okay. Sir, let me ask you, you said that
7 you worked in the Department of Corrections. Was that, as you
8 said, as a dentist?

9 PROSPECTIVE JUROR NO. 202: Yes. Specializing or
10 limiting to oral maxillofacial surgery.

11 THE COURT: And do you think that that employment,
12 that position you held would have any impact whatsoever on you
13 being a fair juror in this case?

14 PROSPECTIVE JUROR NO. 202: It's difficult for me to
15 say.

16 THE COURT: Okay. And why do you think it --

17 PROSPECTIVE JUROR NO. 202: Just because of the
18 horrificness of some of the crimes that I've been exposed to.
19 I will try my best not to have this as an influence.

20 THE COURT: Okay. Because again --

21 PROSPECTIVE JUROR NO. 202: But again I've been
22 exposed to a lot.

23 THE COURT: No, I understand that.

24 PROSPECTIVE JUROR NO. 202: Okay.

25 THE COURT: And this would apply to everybody, not

1 just you, sir.

2 PROSPECTIVE JUROR NO. 202: Understood.

3 THE COURT: Is that, you know, you haven't heard
4 anything about the case.

5 PROSPECTIVE JUROR NO. 202: Correct.

6 THE COURT: And as Mr. DiGiacomo stated, and I
7 emphasize as well, these are allegations. Nothing has been
8 proven in this matter. We haven't called a single witness. No
9 one has been sworn in. You haven't seen a single piece of
10 evidence.

11 PROSPECTIVE JUROR NO. 202: All right.

12 THE COURT: Okay. So again, and I had mentioned,
13 defendant is -- there's an allegation against him, but he is
14 presumed innocent.

15 PROSPECTIVE JUROR NO. 202: Right.

16 THE COURT: And if the State does not prove this case
17 beyond a reasonable doubt, it would be your -- even though you
18 have a background, sir, of seeing individuals in the prison
19 system, you understand that if you feel the State, our two
20 prosecutors here, failed to prove this case beyond a reasonable
21 doubt, will you hesitate to vote not guilty?

22 PROSPECTIVE JUROR NO. 202: I won't hesitate.

23 THE COURT: All right. Thank you, sir.

24 Go ahead with -- I think we have a couple. Did you
25 finish all your answers, sir? I think you did. All right.

1 THE MARSHAL: Sir, did you finish --

2 THE COURT: Did you finish Number 10 and 11? Did we
3 finish up on 10 and 11, sir? I just want to make sure.

4 PROSPECTIVE JUROR NO. 202: Can you base your verdict
5 solely on the evidence presented? Yes.

6 THE COURT: And 11?

7 PROSPECTIVE JUROR NO. 202: Yes.

8 THE COURT: All right. Thank you, sir.

9 Mark Lawrence, 209.

10 PROSPECTIVE JUROR NO. 209: Good morning, Judge.

11 THE COURT: Good morning, sir.

12 PROSPECTIVE JUROR NO. 209: Lived in -- lived in
13 Clark County for eight years.

14 Had my AA degree in business administration.

15 I am employed with mutual insurance company, a sales
16 executive with them.

17 I'm divorced.

18 I have two kids, 21 and 24. One is in sport sales,
19 and the other one is an Internet marketing company.

20 Anyone, Number 6, no.

21 Number 7, yes, my nephew. The situation was handled
22 poorly, very poorly.

23 THE COURT: Okay. What was he charged with, sir?

24 PROSPECTIVE JUROR NO. 209: He was accused of
25 entering a car. The victims in this case approached him, beat

1 him up. He fought back, injured one of the persons. They took
2 him to jail. He has mental issues. He has schizophrenia, and
3 it runs in the family. His mom is a schizophrenic, and she
4 committed suicide. And he was in jail for two years, and they
5 finally, fortunately, let them out through the circumstances,
6 but it was handled poorly in that situation.

7 THE COURT: Okay. And how long ago did that occur,
8 sir?

9 PROSPECTIVE JUROR NO. 209: It was about three years
10 ago.

11 THE COURT: And was that here in Clark County?

12 PROSPECTIVE JUROR NO. 209: No. It was in another
13 state.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 209: Yeah. But he always had
16 issues. You know, I raised him, help him raise with my brother
17 and stuff. So I know his whole situation, the whole
18 background. And it's unfortunate that it happened that way.

19 THE COURT: And which state was that in, sir?

20 PROSPECTIVE JUROR NO. 209: In North Carolina.

21 THE COURT: All right. Thank you. Go ahead.

22 PROSPECTIVE JUROR NO. 209: Number 8, yes, I served
23 on a jury before. It was a criminal trial. No verdict
24 reached. And C, no.

25 THE COURT: And how long ago was that jury service?

1 PROSPECTIVE JUROR NO. 209: Fifteen years ago.
2 THE COURT: Okay. And was that here in Clark County?
3 PROSPECTIVE JUROR NO. 209: No. It was in
4 California.
5 THE COURT: All right. Thanks.
6 PROSPECTIVE JUROR NO. 209: Uh-huh. And number
7 9, no.
8 And, yes, yes.
9 THE COURT: All right. Thank you, sir.
10 Maria Gonzalez-Soto, 231.
11 PROSPECTIVE JUROR NO. 231: Hi. I've been here in
12 Clark County for 20 years.
13 I dropped out from school. I work for New York New
14 York casino.
15 I marry.
16 I have four kids: 20, 18, 17 and 7.
17 6, no.
18 7, no.
19 THE COURT: Ma'am, you have an adult child. Are they
20 employed?
21 PROSPECTIVE JUROR NO. 231: No.
22 THE COURT: Okay. Thank you.
23 PROSPECTIVE JUROR NO. 231: 8, no.
24 9, no.
25 10 and 11, yes.

1 THE COURT: All right. Thank you.
2 Lezlie Mangold, 241.
3 PROSPECTIVE JUROR NO. 241: Good morning. I've lived
4 in Clark County for 36 years.
5 I have a degree in nursing.
6 I'm employed at University Medical Center, MedSurg,
7 working with COVID patients.
8 I am currently going through a divorce proceedings.
9 I have three children: 14, 13 and 11.
10 Number 6, no.
11 Number 7, no.
12 Number 8, yes. Criminal. Yes, there was a verdict.
13 No, I was not the foreperson.
14 THE COURT: And, ma'am, how long ago was that jury
15 service?
16 PROSPECTIVE JUROR NO. 241: It was 14 years ago, 15.
17 THE COURT: Was that here in Nevada?
18 PROSPECTIVE JUROR NO. 241: It was.
19 THE COURT: Okay. Was that here in Clark County?
20 PROSPECTIVE JUROR NO. 241: Yes.
21 THE COURT: All right. Thank you.
22 PROSPECTIVE JUROR NO. 241: Number 9, no.
23 And Number 10, yes.
24 11, yes.
25 THE COURT: All right. Thank you.

1 PROSPECTIVE JUROR NO. 241: Thank you.
2 Gwendolyn Holi Loque, 242.
3 PROSPECTIVE JUROR NO. 242: Hello. Lived in Clark
4 County five years.
5 Went to college, didn't finish.
6 Unemployed.
7 Have a significant other, works for the airlines.
8 I have four children: 16, 23, 26, 30. The adults
9 are landscaper, welder and carpenter.
10 Number 6 is no.
11 Number 7, yes. My significant other was arrested for
12 lewd at the casino, and they escorted. And I think in
13 Henderson three years ago. And I believe there was just
14 excessive of how the police officers handled it. The charges
15 were dropped with a -- and then after he serve time in jail
16 overnight.
17 THE COURT: Okay. And you said something about the
18 police officers. Can you -- I didn't quite hear you.
19 PROSPECTIVE JUROR NO. 242: Well, when they came to
20 escort him, I think it was over excessive for one person to
21 escort him out. And then some of them were just saying lewd
22 remarks while he was being escorted. So I don't think that
23 was -- it wasn't handled properly by the law enforcement of
24 Henderson.
25 THE COURT: Okay. It was the Henderson Police

1 Department?

2 PROSPECTIVE JUROR NO. 242: Yeah.

3 THE COURT: Okay. And did that matter ever go to
4 court?

5 PROSPECTIVE JUROR NO. 242: No. It actually got
6 dropped for time spent in jail overnight.

7 THE COURT: Okay. All right. Thank you.

8 PROSPECTIVE JUROR NO. 242: And then Number 8 is no.
9 Number 9 is no.

10 Number 10 and 11, yes.

11 THE COURT: Thank you.

12 Tiffany Porter, 255.

13 PROSPECTIVE JUROR NO. 255: Good morning. Lived in
14 Clark County for seven years.

15 High school graduate.

16 Unemployed.

17 Number 4 is single.

18 5, one child, age 13.

19 6 is no.

20 7 is no.

21 8 is no.

22 9 is no.

23 10 and 11, yes.

24 THE COURT: All right. Thank you.

25 Stephanie Johns, 257.

1 And, ma'am, if you can just wait one moment. The
2 marshal is going to disinfect the microphone for you.

3 PROSPECTIVE JUROR NO. 257: Thank you.

4 THE COURT: Go ahead, ma'am. Thank you.

5 PROSPECTIVE JUROR NO. 257: Hi. Stephanie Johns,
6 257. I've lived in Clark County for 23 years.

7 I did some college for psychology.

8 I am employed at TELUS International.

9 I'm not married. I'm single.

10 I do not have any children.

11 Number 6, no.

12 Number 7, yes. It was over a decade ago, and I
13 believe it was handled appropriately.

14 THE COURT: And what type of crime was someone
15 accused of?

16 PROSPECTIVE JUROR NO. 257: It was a theft at a
17 Walmart.

18 THE COURT: Okay. Was that here in Clark County?

19 PROSPECTIVE JUROR NO. 257: Yes.

20 THE COURT: Okay. Did that matter ever go to court?

21 PROSPECTIVE JUROR NO. 257: I was young. I'm not too
22 sure. So...

23 THE COURT: Okay. All right. Thank you.

24 PROSPECTIVE JUROR NO. 257: Uh-huh. I have never
25 served as a juror before.

1 Number 9, no.
2 Number 10, 11, yes.
3 THE COURT: All right. Thank you.
4 PROSPECTIVE JUROR NO. 257: Thank you.
5 THE COURT: Elizabeth Alvarez, 262.
6 PROSPECTIVE JUROR NO. 262: Seventeen years.
7 High school.
8 Employed for Capital One customer service.
9 Married. Works in carpentry.
10 I have two children: 16 and 14.
11 No, for Number 6.
12 7, maybe a couple of family members DUIs. Handled
13 properly.
14 THE COURT: Okay. Ma'am, were those situations here
15 in Clark County?
16 PROSPECTIVE JUROR NO. 262: No, California.
17 THE COURT: Okay. Thank you.
18 PROSPECTIVE JUROR NO. 262: Uh-huh. Number 8, no.
19 Number 9, no.
20 10 and 11, yes.
21 THE COURT: All right. Thank you.
22 Nathan Pargan, 265.
23 PROSPECTIVE JUROR NO. 265: Good morning. I've lived
24 in Clark County for 15 years.
25 I'm currently attending school for an associates of

1 science.

2 I work as a server in a restaurant.

3 Number 4 is no.

4 Number 5 is no.

5 Number 6 is no.

6 Number 7 is no.

7 Number 8 is no.

8 Number 9 is no.

9 10 and 11 are yes.

10 THE COURT: All right. Thank you, sir.

11 Janet Whalen, 266.

12 PROSPECTIVE JUROR NO. 266: Am I wiped? Am I good to

13 go?

14 THE MARSHAL: No.

15 PROSPECTIVE JUROR NO. 266: No.

16 Good morning, Your Honor.

17 THE COURT: Good morning.

18 PROSPECTIVE JUROR NO. 266: I have lived in Clark

19 County about six years.

20 I have a bachelor's degree in cultural studies and an
21 associate in nursing.

22 I am a critical care night charge nurse.

23 I am married. My husband is an unemployed bartender.

24 No children.

25 20 some years ago I was robbed at gunpoint, and it

1 took a while to catch the guy, and it was kind of a drawn out
2 court thing with lots of adjournments and continuances and so
3 on. And he did eventually get locked up for some time. And I
4 got notices for all his bail hearings and -- not bail, you
5 know, parole hearings and that kind of thing. So...

6 THE COURT: And that situation occurred here in Clark
7 County, Nevada?

8 PROSPECTIVE JUROR NO. 266: No, sir. That was in
9 Michigan.

10 THE COURT: All right. Thank you. And how did you
11 feel that the judicial system worked in your situation?

12 PROSPECTIVE JUROR NO. 266: Well, you know, the cops
13 were there before I was even off the phone when I called, and
14 it took awhile, but he wasn't exactly the Einstein of crime.
15 So he did eventually get caught. But the court proceedings
16 took a long time.

17 And honestly it was scary looking at that guy, you
18 know, with him in the front of the room, like, staring at me.
19 So, yeah, it's amazing how big a gun looks when it's pointed at
20 you, you know.

21 Accused of a crime, my husband was locked up for a
22 DUI for a little while. Various friends and acquaintances for
23 the usual stuff like, you know, fights, assaults, petty drug
24 offenses, DUIs, that kind of thing.

25 THE COURT: How about your husband's situation? Was

1 that here in Clark County, Nevada?

2 PROSPECTIVE JUROR NO. 266: No, sir. That was in
3 Arizona before we even met.

4 THE COURT: Oh, okay.

5 PROSPECTIVE JUROR NO. 266: So years ago.

6 I have never served as a juror.

7 I can't see why I'd have a problem with the trial. I
8 don't know anything about it.

9 And I should be able to base my verdict on the
10 evidence and be fair and impartial.

11 THE COURT: All right. Thank you very much.

12 PROSPECTIVE JUROR NO. 266: Thank you.

13 THE COURT: Zulema Ortega, 271.

14 PROSPECTIVE JUROR NO. 271: Zulema Ortega, 271. I've
15 lived in Clark County for 23 years.

16 High school graduate.

17 I work at H&M as a sales associate.

18 Single.

19 No children.

20 6, no.

21 7, no.

22 8, no.

23 9, no. And 10 and 11, yes.

24 THE COURT: All right. Thank you, ma'am.

25 Eric Phan, 285.

1 PROSPECTIVE JUROR NO. 285: Number 1, 28 years.
2 Number 2, high school.
3 Number 3, yes. As an usher.
4 4, no.
5 5, no.
6 6, no.
7 7, no.
8 8, no.
9 9, no.
10 10 and 11, yes.
11 THE COURT: All right. Thank you, sir.
12 Sophia Lu, 296.
13 PROSPECTIVE JUROR NO. 296: Good morning. 1, 33
14 years.
15 Some college for 2.
16 3, I work for United Health Group as a service
17 account manager.
18 4, I'm not married. Significant other. He works for
19 AAA.
20 I have two children: 8 and 10.
21 6, no.
22 7, yes. I have -- I was charged with a misdemeanor
23 about 17 years ago, which has been sealed, for a drug offense.
24 THE COURT: Was that here in Clark County, Nevada?
25 PROSPECTIVE JUROR NO. 296: Yes.

1 THE COURT: And do you recall which law enforcement
2 agency would have been involved?

3 PROSPECTIVE JUROR NO. 296: I don't.

4 THE COURT: And how did you feel that the judicial
5 system worked in your situation?

6 PROSPECTIVE JUROR NO. 296: Poorly because, you know,
7 it was -- it was something in the vehicle that I owned, but I
8 wasn't driving, and it was, you know, not mine. But, you know,
9 I mean, hey, what can I do? The vehicle was registered to me.
10 So, but it's sealed. So, I mean, hey, I'm not complaining now.

11 THE COURT: Okay. All right. Thank you.

12 PROSPECTIVE JUROR NO. 296: And 8, no.

13 9, no.

14 10 and 11, yes.

15 THE COURT: All right. Thank you.

16 Joseph Beck, 306.

17 PROSPECTIVE JUROR NO. 306: Joseph Beck.

18 I've lived in Clark County for the past six years.

19 High school grad.

20 Employed with a delivery company right now.

21 Single.

22 No children.

23 Victim of a crime. My niece, this past November.

24 THE COURT: What type of crime was that, sir?

25 PROSPECTIVE JUROR NO. 306: It was sexual.

1 THE COURT: Was that here in Clark County, Nevada?

2 PROSPECTIVE JUROR NO. 306: In Clark County with a
3 boyfriend.

4 THE COURT: Okay. Was that situation reported to law
5 enforcement?

6 PROSPECTIVE JUROR NO. 306: Yes, it's reported.

7 THE COURT: And do you know which agency that was
8 reported to?

9 PROSPECTIVE JUROR NO. 306: Metro.

10 THE COURT: Okay. And is that situation in the
11 judicial system right now?

12 PROSPECTIVE JUROR NO. 306: Yes.

13 THE COURT: Okay. Do you know what stage in the
14 proceedings?

15 PROSPECTIVE JUROR NO. 306: Pardon?

16 THE COURT: Do you know what stage in the
17 proceedings?

18 PROSPECTIVE JUROR NO. 306: No. It hasn't -- they're
19 still going through the rape kit and everything.

20 THE COURT: All right. Thank you, sir.

21 PROSPECTIVE JUROR NO. 306: And then as far as number
22 7, my brother who went after the person just recently. This
23 was this past November.

24 THE COURT: And is he charged with a crime?

25 PROSPECTIVE JUROR NO. 306: Yes. And he goes to

1 court in June.

2 THE COURT: Okay. And do you know what type? What's
3 the nature of the crime he's charged with?

4 PROSPECTIVE JUROR NO. 306: Well, I believe it's
5 assault with a deadly weapon.

6 THE COURT: All right. Were you a witness to any of
7 those situations?

8 PROSPECTIVE JUROR NO. 306: No.

9 THE COURT: All right. Thank you.

10 Well, sir, if he's charged with a crime here in Clark
11 County, if it's in justice court, he may be prosecuted by the
12 district attorney's office. Okay. And we have two of their
13 representatives here for this case. Do you feel that any of
14 the situations involved in your --

15 Is it your brother or brother-in-law, sir?

16 PROSPECTIVE JUROR NO. 306: My brother.

17 THE COURT: Okay. Do you feel that the situation
18 involving your brother would prevent you from being a fair
19 juror in this case?

20 PROSPECTIVE JUROR NO. 306: Not at all.

21 THE COURT: All right. Thank you, sir. I think --
22 did we finish all the answers for you, sir?

23 THE MARSHAL: Sir, you didn't answer all the
24 questions.

25 THE COURT: I think we're on Number 8, unless I

1 missed it.

2 PROSPECTIVE JUROR NO. 306: On Number 8. Never
3 served as a juror.

4 9, no.

5 10, yes.

6 11, yes.

7 THE COURT: Thank you, sir.

8 PROSPECTIVE JUROR NO. 306: Thank you.

9 THE COURT: Joseph Wilson, 317.

10 PROSPECTIVE JUROR NO. 317: 317.

11 33 years.

12 Associate's in applied science.

13 I'm employed as an estimator.

14 I'm married. My wife is retired. We have three
15 grown kids. They're 41 and 40 and 33. One works for UNLV.
16 One works in construction, and one is currently unemployed.

17 And then 6 is a tough one because, yes, that would be
18 my wife. It would be domestic violence. That was her
19 ex-husband and unfortunately me. And do I feel it was handled
20 correctly? I think on domestic violence both partners should
21 have to go because Metro came out. I went to jail. Spent the
22 night in jail and then went to counseling. I think it's
23 sealed.

24 THE COURT: And, sir, how do you feel that those
25 situations, besides -- you said both people should be put in

1 jail --

2 PROSPECTIVE JUROR NO. 317: Well, yeah, I think, you
3 know, people argue. Somebody is called. Both parties have to
4 learn.

5 THE COURT: How did you feel that the justice system
6 handled that matter?

7 PROSPECTIVE JUROR NO. 317: Well, once again, she
8 didn't have to go anything. Love her to death, but the lesson
9 wasn't learned for her at the time is the way I feel. That was
10 25 years ago, and we're still married.

11 THE COURT: All right. Thank you, sir.

12 PROSPECTIVE JUROR NO. 317: All right. Number 7, I
13 had a brother in Arizona. He was involved in drugs. I think
14 it was three times he went to jail for small amounts. He ended
15 up getting deported because my family is from Canada, and he
16 can never come back in here into this country. I don't feel
17 that was handled correctly, but that's the way I feel about
18 that one.

19 8, I've never been on a jury.

20 I've never heard about this.

21 I could base it on -- or, yes.

22 And I could be impartial.

23 THE COURT: All right. Thank you, sir.

24 Darcie -- is it Emge?

25 PROSPECTIVE JUROR NO. 323: Emge.

1 THE COURT: Emge. 323.

2 PROSPECTIVE JUROR NO. 323: Hello. 323. I've lived
3 in Clark County eight years.

4 I have a master's degree.

5 I'm employed as a physician assistant in the
6 emergency room.

7 I am not married. I have a long-term relationship.
8 He is a commercial airline pilot.

9 I have no children.

10 I had a car stolen decades ago. It was settled just
11 fine.

12 THE COURT: Was that here in Clark County, ma'am?

13 PROSPECTIVE JUROR NO. 323: San Bernardino County.

14 THE COURT: All right. Did they ever catch the
15 perpetrator or perpetrators?

16 PROSPECTIVE JUROR NO. 323: No. They found the car.
17 It was replaced and then it was vandalized, but it was all
18 settled fine.

19 THE COURT: Okay. Thank you.

20 PROSPECTIVE JUROR NO. 323: And then I moved.

21 I have two brothers who are convicted felons for
22 growing pot in Oregon. That was in the '80s, fairly large
23 scale apparently. I was not really aware of the details.
24 Ruined both of their lives. I was pretty mad at them at the
25 time. Now I'm mad at the system for everybody smoking and

1 taking pot okay.

2 THE COURT: All right.

3 PROSPECTIVE JUROR NO. 323: I've never served as a
4 juror.

5 I have not heard anything about the trial.

6 Number 10, yes.

7 Number 11, I think so, yes.

8 THE COURT: All right. Thank you, ma'am.

9 Derick Gutierrez, 324.

10 PROSPECTIVE JUROR NO. 324: Morning, Judge. Lived in
11 Clark County 34 years.

12 I have a bachelor's degree in criminal justice.

13 I'm employed by Las Vegas Municipal Court.

14 My wife works for Caesars Entertainment in IT.

15 No kids.

16 I've had my car broken into. Reported it. They were
17 never caught. It was handled fine. There's not much I could
18 do.

19 Number 7, no.

20 Number 8, no.

21 Number 9, I haven't heard anything about it.

22 And 10 and 11, yes.

23 THE COURT: And, sir, you had mentioned that you're
24 employed by Las Vegas Municipal Court is that --

25 PROSPECTIVE JUROR NO. 324: Oh, yeah.

1 THE COURT: Okay. I just want to double check.
2 You're not familiar with any of the attorneys in this case?

3 PROSPECTIVE JUROR NO. 324: No. I work in-house
4 arrest and pretrial. So no, I don't typically work with
5 attorneys.

6 THE COURT: Okay. All right. Thank you, sir.
7 Katherine Burdick, 327.

8 PROSPECTIVE JUROR NO. 327: Thank you. I've lived in
9 Clark County for 15 years.

10 I have a master's in public administration. I work
11 at UNLV as a financial aid counselor.

12 I am not married.

13 I do not have any kids.

14 Yes, about 10 years ago my cousin and his then
15 girlfriend were physically assaulted. It was reported. I feel
16 like it was handled very poorly. The agency that it was
17 reported to was Metro. As far as the details, I'm not sure if
18 the person was ever caught or if it ever went to trial.

19 7 is no.

20 THE COURT: I'm sorry, ma'am. How long ago was that
21 situation?

22 PROSPECTIVE JUROR NO. 327: About 10 years ago.

23 THE COURT: Okay. And so you just don't know if it
24 went to court or not; is that correct?

25 PROSPECTIVE JUROR NO. 327: I don't believe the

1 person was ever caught.

2 THE COURT: Okay. All right. Thank you.

3 PROSPECTIVE JUROR NO. 327: Number 8, no.

4 Number 9, no.

5 10 and 11, yes.

6 THE COURT: All right. Thank you.

7 Jan Acob, 330.

8 PROSPECTIVE JUROR NO. 330: Thank you. Good morning.

9 Number 1, I've been here 15 years.

10 Number 2, I am currently in school going to college
11 for nursing.

12 3, no.

13 4, single.

14 5, no.

15 6, no.

16 7, no.

17 8, no, never served as a juror.

18 9, no.

19 10 and 11, yes.

20 THE COURT: All right. Thank you.

21 Heather Flynn, 331.

22 PROSPECTIVE JUROR NO. 331: I've lived in Clark
23 County for seven years.

24 Attended the University of Alaska. No degree.

25 I'm a stay-at-home mom.

1 My husband is a heavy equipment lead on the north
2 Slope of Alaska.

3 My son is 9 years old.

4 Number 6 and 7, no.

5 Number 8, no.

6 9, no.

7 10 and 11, yes.

8 THE COURT: Okay. Thank you.

9 Douglas Hurd, 335.

10 PROSPECTIVE JUROR NO. 335: Hi. Douglas Hurd, 335.
11 I have been in Clark County for 33 years.

12 I went to UNLV for a Bachelor's of Science in
13 Electrical Engineering, and I'm currently employed by the State
14 of Nevada Gaming Control Board as a lab engineer.

15 My wife is in the investigations division as a
16 special agent.

17 We have no children.

18 I have been the victim of a burglary approximately
19 10 years ago here in Clark County. I do not believe the person
20 was ever caught, but I did recover some of my stuff from
21 various pawn stores in the county.

22 I have not been -- I don't know anyone accused of a
23 crime.

24 I have never served as a juror.

25 And I feel I can be impartial based on the evidence.

1 THE COURT: All right.

2 PROSPECTIVE JUROR NO. 335: And I have not heard
3 anything about the trial other than what was stated in this
4 room.

5 THE COURT: Okay. All right. Thank you, sir.
6 Matthew Lawetzki, 339.

7 PROSPECTIVE JUROR NO. 339: Good morning. I've lived
8 in Clark County three years.

9 High school is as far as I got.

10 I'm a -- I guess you could say I'm a tow truck
11 operator or a towing and recovery specialist for Big Valley
12 Towing here in the Valley.

13 I'm married. My wife does not work.

14 I have four children: 11, 7, 6 and 5.

15 Never had anybody the victim of a crime.

16 Multiple family members out of state convicted of
17 multiple different felonies.

18 THE COURT: Sir, can you just given us an idea of the
19 type of felonies?

20 PROSPECTIVE JUROR NO. 339: Anywhere I had an uncle
21 that was accused of manslaughter to my little brother with
22 assault with a deadly weapon of a minor, certain stuff like
23 that; drug charges.

24 THE COURT: And, sir, do you have an opinion as to
25 how those situations were handled by the judicial system?

1 PROSPECTIVE JUROR NO. 339: I think my uncle for his
2 manslaughter case went through the courtrooms probably about
3 six years and didn't hear an outcome of that.

4 My little brother is still going through court in
5 California for his.

6 THE COURT: Okay. And all of those situations were
7 out of state? I just want to confirm.

8 PROSPECTIVE JUROR NO. 339: Correct.

9 THE COURT: All right. Thank you, sir.

10 PROSPECTIVE JUROR NO. 339: I've never served on a
11 jury panel before.

12 Never heard anything about the trial.

13 And then questions 10 and 11, yes.

14 THE COURT: Thank you, sir.

15 Jose Sanchez, 344.

16 PROSPECTIVE JUROR NO. 344: Good morning. Number 1,
17 I've lived in Clark County for 18 years.

18 Did some college.

19 I'm a graphic designer.

20 My wife is unemployed.

21 No children.

22 Number 6, no.

23 Number 7, no.

24 8, 9, no.

25 10 and 11, yes.

1 THE COURT: All right. Thank you, sir.

2 Hugh Kent, 358.

3 PROSPECTIVE JUROR NO. 358: Mr. Hugh Kent, Number
4 358. I have lived in Clark County for 26 and a half years.

5 I received my bachelor's degree in corrections in
6 1977. I was a correctional officer for almost eight years in
7 the state of Iowa. I received my master's degree from Drake
8 University in Des Moines, Iowa. I am currently retired, and I
9 worked at Bally's Las Vegas making reservations.

10 I'm single with no children.

11 Number 6, yes. This was a crime that took place on
12 December 24th, 1968. A 10-year-old girl by the name of
13 Pamela Powers was kidnapped, sexually assaulted and then
14 murdered. I was pleased with the outcome of the man who
15 committed the crime. His name was Robert Anthony Williams. He
16 was given a life sentence.

17 THE COURT: Sir, was that here in Clark County,
18 Nevada?

19 PROSPECTIVE JUROR NO. 358: No, sir. This took place
20 in Des Moines, Iowa, in Polk County.

21 THE COURT: All right. Thank you.

22 PROSPECTIVE JUROR NO. 358: Mr. Williams has since
23 deceased.

24 Number 7, I don't know of anybody who has been
25 accused of a crime.

1 Number 8, yes. I have been a jury foreman, and I
2 have served on a jury.

3 THE COURT: How long ago was that, sir?

4 PROSPECTIVE JUROR NO. 358: Number 9, I -- I'm sorry.
5 Go ahead.

6 THE COURT: How long ago was that service, sir?

7 PROSPECTIVE JUROR NO. 358: I'm sorry, sir?

8 THE COURT: How long ago was that jury service?

9 PROSPECTIVE JUROR NO. 358: That took place on March
10 24th, 2011.

11 THE COURT: And was that here in Clark County,
12 Nevada?

13 PROSPECTIVE JUROR NO. 358: Yes, sir, it was here in
14 Clark County, sir.

15 THE COURT: All right. Thank you, sir.

16 PROSPECTIVE JUROR NO. 358: And Number 9, no, I know
17 nothing about the case.

18 10 and 11, yes.

19 THE COURT: Thank you, sir.

20 PROSPECTIVE JUROR NO. 358: My pleasure.

21 THE COURT: Sandra Ramirez Herrera, 359.

22 PROSPECTIVE JUROR NO. 359: Hello. I've lived in
23 Clark County for five years.

24 I've completed some college.

25 I'm employed by Apple. I'm a supervisor.

1 I am in a significant relationship. He works for
2 Tesla, inside sales.
3 Number 5, no.
4 Number 6, no.
5 7, no.
6 8, no.
7 9, no.
8 10, yes.
9 11, yes.
10 THE COURT: All right. Thank you.
11 Jesus Gonzalez, 360.
12 PROSPECTIVE JUROR NO. 360: Good morning.
13 THE COURT: Good morning, sir.
14 PROSPECTIVE JUROR NO. 360: I'm living in Clark
15 County like 16 years.
16 I graduated high school in Mexico.
17 Number 3 is no.
18 Number 4 is yes. My wife working in housekeeping.
19 Number 5, I have three childrens.
20 Number 6, no.
21 Number 7, no.
22 Number 8, yes.
23 Number 9, no.
24 THE COURT: So, sir, you said 8 is yes. So that's
25 prior jury service?

1 PROSPECTIVE JUROR NO. 360: Yes.

2 THE COURT: And was that for a civil or criminal
3 case?

4 PROSPECTIVE JUROR NO. 360: I'm not remembering. It
5 was like five years ago.

6 THE COURT: Okay. Was that here in Clark County?

7 PROSPECTIVE JUROR NO. 360: Yes.

8 THE COURT: Okay. Were you the foreperson of that
9 jury?

10 PROSPECTIVE JUROR NO. 360: Huh?

11 THE COURT: Were you the foreperson? Were you
12 actually selected, or did you just go through this process like
13 we're doing today, sir?

14 PROSPECTIVE JUROR NO. 360: I don't understand the
15 question.

16 THE COURT: Okay. You said you have prior jury
17 service.

18 PROSPECTIVE JUROR NO. 360: Yes.

19 THE COURT: Okay. Were you in charge of the jury
20 when you went to deliberate the case?

21 PROSPECTIVE JUROR NO. 360: I'm not -- I don't
22 understand the question.

23 THE COURT: And, sir, your native language, is that
24 Spanish, sir?

25 PROSPECTIVE JUROR NO. 360: I'm not speak English

1 very well.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 360: I don't understand.

4 THE COURT: Any agreement --

5 PROSPECTIVE JUROR NO. 360: Number 9, no.

6 THE COURT: Okay. Hang on a second, sir. I'm just
7 concerned. That we want to make sure that you do understand
8 everything.

9 State and defense?

10 MR. DiGIACOMO: No objection.

11 MR. SANFT: No, Your Honor.

12 THE COURT: Okay. All right. Sir, I wasn't aware of
13 the language issue, and we want to make sure anyone seated as a
14 juror in this case understands every single thing to be fair to
15 both sides.

16 And so I have met, you know, talked to the attorneys,
17 and we're going to excuse you, sir. We do thank you for coming
18 down. And perhaps in the future you'll be able to serve on a
19 jury.

20 PROSPECTIVE JUROR NO. 360: Okay. Thank you.

21 THE COURT: Okay, sir. Thank you, sir.

22 All right. Next up is Zachary Husch, 363.

23 PROSPECTIVE JUROR NO. 363: Good morning.

24 THE COURT: Good morning, sir.

25 PROSPECTIVE JUROR NO. 363: Number 1, lived here for

1 about 12 years.

2 I have a degree in lighting design and technologies.

3 I will be employed, when Cirque du Soleil comes back,
4 as a lighting technician.

5 I am married. She also works at Cirque Du Soleil.
6 So we will be hopefully going back soon.

7 I have one daughter. She is 4 years old.

8 Yes, I have been the victim of a crime. A couple
9 of -- two times Jeep was broken into. One time apartment
10 broken into. Never recovered items. Never caught a person.

11 I was also a victim of an assault once. Again,
12 person never caught, never -- obviously never tried.

13 THE COURT: Sir, were those situations here in Clark
14 County, Nevada?

15 PROSPECTIVE JUROR NO. 363: No, sir.

16 I understand that it's hard to deal with break-ins,
17 stuff like that. I feel those were handled appropriately.

18 The assault, however, there was security camera
19 footage. There was my ID of him and everything else, and there
20 was nothing done about it. So I feel that was handled very
21 inappropriately.

22 THE COURT: And which state did that occur in, sir?

23 PROSPECTIVE JUROR NO. 363: That was in Washington,
24 D.C.

25 THE COURT: All right. Thank you, sir.

1 PROSPECTIVE JUROR NO. 363: Yes, I have had a couple
2 of people accused of crimes, minor misdemeanors, drug offenses.
3 There was one large one here in Clark County. She was --

4 THE COURT RECORDER: Judge.

5 THE COURT: Hang on a second.

6 THE COURT RECORDER: The microphone.

7 THE COURT: I think the microphone went out. Hang
8 on.

9 (Pause in the proceedings.)

10 THE COURT: All right. So the battery died in the
11 microphone. So hang on. We're going to get you some new
12 batteries in there.

13 (Pause in the proceedings.)

14 THE COURT: All right. I think we had finished
15 Number 7. Is that correct, sir?

16 PROSPECTIVE JUROR NO. 363: I was still working on
17 Number 7.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 363: A friend and associate of
20 mine was accused of money laundering and fraud. He was not the
21 primary suspect in the case, but I feel he was unfairly coerced
22 into accepting a plea deal. So I do not feel that situation
23 was handled appropriately at all.

24 THE COURT: Was that here in Clark County, Nevada?

25 PROSPECTIVE JUROR NO. 363: That was here in Clark

1 County. It was about five years ago. He served two years.

2 THE COURT: Okay. And you said it was money
3 laundering; is that correct?

4 PROSPECTIVE JUROR NO. 363: It was a combination of
5 fraud and money laundering if I remember correctly.

6 THE COURT: Was that handled in federal court?

7 PROSPECTIVE JUROR NO. 363: I'm not sure. It may
8 have been handled in federal court. Actually, it probably was
9 handled in federal court, but I know he was a resident of Clark
10 County at the time.

11 THE COURT: Okay. All right. Thank you, sir.

12 PROSPECTIVE JUROR NO. 363: I have never served on a
13 jury before.

14 I know nothing about the trial.

15 For 10 and 11, I can certainly try. But with past
16 experiences I do have a strong distrust of law enforcement and
17 how evidence is handled and stuff.

18 THE COURT: Okay. Is that just for law enforcement
19 in Clark County or throughout the country or in other states?

20 PROSPECTIVE JUROR NO. 363: Throughout the country.
21 I've had situations running from North Carolina to Washington,
22 D.C., Connecticut and then back down to Clark County.

23 THE COURT: Okay. And I think you had mentioned
24 there was one situation with a friend or someone you know. It
25 was probably in federal court for money laundering. Have you

1 had any negative impact with Metro, North Las Vegas, Henderson
2 Police Department?

3 PROSPECTIVE JUROR NO. 363: Outside of friends, you
4 know, being -- reporting assaults and stuff like that and
5 nothing ever coming of it, it's, you know, it's difficult to
6 trust the system that does not follow through with certain
7 things.

8 THE COURT: Is that for everybody or just -- I mean,
9 is that your view for every single law enforcement officer?

10 PROSPECTIVE JUROR NO. 363: Not every single law
11 enforcement officer, but I feel sometimes evidence is slightly
12 manipulated to fit what they're looking to get in a case. If
13 they're looking to get, you know -- if they're looking to find
14 someone guilty, the evidence tends to get presented that way.

15 THE COURT: All right. Thank you, sir.

16 And Jonathan Hill, 376.

17 PROSPECTIVE JUROR NO. 376: Good morning.

18 THE COURT: Good morning, sir.

19 PROSPECTIVE JUROR NO. 376: I've been in Clark County
20 for 13 years.

21 All but dissertation for a Ph.D. in clinical
22 psychology.

23 My wife and I own a low-voltage contracting company
24 and a Subway restaurant.

25 I have two children: 10 and 17.

1 6, no.
2 7, no.
3 8, no.
4 9, no.
5 10 and 11, yes.
6 THE COURT: All right. Thank you, sir.
7 Is it Lynie Pascuez-Gray? And then it's 381.
8 PROSPECTIVE JUROR NO. 381: I have lived in Clark
9 County for about 19 years.
10 I took some college classes, but didn't complete.
11 I am currently employed with MGM Resorts in animal
12 care.
13 I am currently married with -- to a bartender.
14 We don't have any children.
15 I was a victim of a sexual assault back in 1998 in
16 Washington State. The crime was reported. The person was
17 caught, and I feel like that situation was handled fairly.
18 An uncle of mine has been accused of some drug
19 offenses and assault with a deadly weapon. I don't really have
20 an opinion to that situation because that's currently being
21 handled in Hawaii, and I have no information to what is going
22 on there.
23 Number 8 and 9, no.
24 Number 10 and 11, yes.
25 THE COURT: All right. Thank you.

1 Sheree Dean, 391.

2 PROSPECTIVE JUROR NO. 391: Okay. Good morning.
3 I've lived here 45 years.

4 Some college. No degree.

5 I am employed by the State of Nevada Employment
6 Security Division.

7 And I am divorced.

8 Two children. 27 and 20. The 27 year old is a
9 bartender. The 20 year old is a full-time student and works
10 fast food part time.

11 6, yes. Minor, just police reports given and the
12 situation was handled fine.

13 THE COURT: And what type of crimes, ma'am?

14 PROSPECTIVE JUROR NO. 391: Throughout the years
15 honestly a few various ones. My home was broken into. Car has
16 broken into. My ex-husband was robbed at gunpoint. As a State
17 of Nevada employee, I have been threatened a couple times, but
18 no action has been taken on any of that.

19 THE COURT: Okay. And all of those were here in
20 Clark County, Nevada?

21 PROSPECTIVE JUROR NO. 391: Correct. Yeah. Just
22 police reports filed.

23 THE COURT: All right. Thank you.

24 PROSPECTIVE JUROR NO. 391: Uh-huh. And Number 7,
25 no.

1 8, no.
2 9, no.
3 And 10 and 11, yes.
4 THE COURT: Thank you.
5 PROSPECTIVE JUROR NO. 391: All right. Thank you.
6 THE COURT: Neil Aldred, 399.
7 PROSPECTIVE JUROR NO. 399: Good morning. I've lived
8 here for 25 years in Clark County.
9 Some college, no degree.
10 Employed at the Venetian, supply chain.
11 Married. She is -- my wife works for Cisco in town.
12 Two children, 19 and 23. Both of them are in school.
13 No, to Number 6.
14 No, to Number 7.
15 No, to Number 8.
16 Never heard anything about the case.
17 And yes on 10.
18 And yes on 11.
19 THE COURT: All right. Thank you, sir.
20 Scott Stemmer, 412.
21 PROSPECTIVE JUROR NO. 412: Good morning, Your Honor.
22 THE COURT: Good morning.
23 PROSPECTIVE JUROR NO. 412: Scott Stemmer, 412. I've
24 lived here 13 years.
25 I've got a Bachelor of Science in Criminal Justice

1 from Arizona State.

2 I am currently employed with the City of Las Vegas as
3 a firefighter paramedic.

4 I am married the last 16 years. The last four she's
5 been at home with our four kids.

6 13. Twins are 10. Little guy's 5.

7 No, to 6.

8 No, to 7.

9 Number 8, no.

10 9, no.

11 10 and 11, yes.

12 THE COURT: All right. Thank you, sir.

13 David Blank, 429.

14 PROSPECTIVE JUROR NO. 429: Number 1 is just a little
15 over two years.

16 Number 2, associate's degree in general studies.

17 Number 3, yes, I'm employed as an usher. Also
18 retired from the Army and the Postal Service.

19 Not married.

20 Don't have children.

21 I have been a victim of a crime. The crime was
22 reported. The person was caught. It was handled fairly.

23 THE COURT: Sir, how long ago was that situation?

24 PROSPECTIVE JUROR NO. 429: It was in 1983.

25 THE COURT: And here in Clark County, Nevada?

1 PROSPECTIVE JUROR NO. 429: No, it was in Alabama.

2 THE COURT: All right. Thank you.

3 PROSPECTIVE JUROR NO. 429: Have you been accused --
4 yes. My ex-wife was accused of DUI.

5 THE COURT: And was that here in Clark County, sir?

6 PROSPECTIVE JUROR NO. 429: No. It was in Colorado.

7 THE COURT: All right. Thank you.

8 PROSPECTIVE JUROR NO. 429: And I have been a juror
9 before on a civil trial. There was a verdict reached, and I
10 was not the foreperson.

11 THE COURT: And how long ago was that service?

12 PROSPECTIVE JUROR NO. 429: I don't remember.

13 Probably three to five years ago.

14 THE COURT: Here in Clark County?

15 PROSPECTIVE JUROR NO. 429: I was in Colorado.

16 THE COURT: All right. Thank you.

17 PROSPECTIVE JUROR NO. 429: And have I heard anything
18 about the trial? No.

19 And 10 and 11, yes.

20 THE COURT: All right. Thank you.

21 Last but not least, Julie Guardian, 432.

22 PROSPECTIVE JUROR NO. 432: Hi. I've lived here in
23 Clark County for 19 years.

24 I have a Bachelor of Science in Nursing.

25 I am currently the director of patient care services

1 of a home health agency.

2 My husband is a retired consultant with the United
3 Nations.

4 I have three adult children. My eldest son is a
5 field agent of the office of -- it's OIG, office of the OIG.
6 And my other son is an RN. The youngest is a student at UNLV.

7 Number 6 is a no.

8 Number 7, my supervisor at my previous home health
9 agency was accused and was -- what's this -- she served time
10 for tax evasion case.

11 THE COURT: And was that here in Clark County,
12 Nevada?

13 PROSPECTIVE JUROR NO. 432: Yes, Your Honor.

14 THE COURT: All right. Thank you.

15 PROSPECTIVE JUROR NO. 432: Number 8, no, I have
16 never served as a juror.

17 9 is a no.

18 10 and 11 are a 10 -- are a yes.

19 THE COURT: All right. Thank you.

20 Can I have counsel approach, please.

21 (Conference at the bench not recorded.)

22 THE COURT: It's hard for us to communicate with the
23 Plexiglas. So bear with us. All right.

24 Ladies and gentlemen, we appreciate your patience. I
25 think you've been sitting here since 9:30. It's 11:30 right

1 now. And so why don't we take our lunch break -- now don't get
2 up and leave. There are some things we have to go over first.

3 First off, first and foremost, you are ordered to
4 come back. Okay. Don't keep going. All right. So we're
5 going to adjourn. It's 11:27. You'll be out of this room by
6 11:30. I want you to come back at 12:30. Wait outside like
7 you did. The marshal is going to line you up numerically like
8 you were earlier this morning. So if you can help him get in
9 line, we'd appreciate that.

10 And so, ladies and gentlemen, I also wanted to advise
11 you that on the first floor of this building there is a
12 sandwich stop.

13 Across the street of the building from where -- from
14 the main entrance where you came in this morning, there's three
15 or four eating establishments there. I'm not endorsing any of
16 those establishments. I'm just telling you where they're
17 located. It's up to you.

18 We have some vending machines in the building. And
19 if you think you have time, there's I think McDonald's and some
20 other fast food restaurants on Fremont Street. But again we
21 just have one hour. So be mindful of that.

22 Okay. And so, ladies and gentlemen, during this
23 lunch recess it is your duty not to converse among yourselves
24 or with anyone else on any subject connected with the trial; or
25 to read, watch or listen to any report or commentary on the

1 trial by any person connected with the trial or by any medium
2 of information, including, without limitation, newspaper,
3 television, radio and Internet. You are not to form or express
4 any opinion on any subject connected with this case until this
5 matter is finally submitted to you.

6 Also, you are not to do any research, such as
7 consulting dictionaries, using the Internet or using any
8 reference materials.

9 Also, you are not to make any investigation, test a
10 theory of the case, re-create any aspect of the case or in any
11 other way investigate or learn about the case on your own.
12 Okay.

13 So, ladies and gentlemen, you're going to come back
14 to the exact same seats when you come back. And there's
15 numbers there, and the marshal will help you with that.

16 So it's now 11:29. So we'll come back at 12:30. You
17 can wait outside in the hallway area until the marshal escorts
18 you back in.

19 Please have a good lunch. Take your personal items
20 with you. Thank you.

21 (Panel of prospective jurors recessed at 11:27 a.m.)

22 THE COURT: Sir, your number?

23 PROSPECTIVE JUROR NO. 339: 339.

24 THE COURT: Okay.

25 (Pause in the proceedings.)

1 THE COURT: I just want to, for the record, 331,
2 Heather Flynn, who is there, she had mentioned a hardship.

3 State, is there any objection to releasing her due to
4 her hardship?

5 MR. DiGIACOMO: No, Your Honor.

6 THE COURT: And the defense?

7 MR. SANFT: None.

8 THE COURT: All right. Ms. Flynn, thank you very
9 much, and we look forward to seeing you again through another
10 jury summons down the road, and thank you for your time this
11 morning. Okay.

12 And then we have Mr. Lawetzki, 339. He also
13 mentioned a hardship. In this matter.

14 Any objection by the State?

15 MR. DiGIACOMO: No, Your Honor.

16 THE COURT: Any objection by the defense?

17 MR. SANFT: None, Your Honor.

18 THE COURT: And, sir, also thank you for your time,
19 and we look forward to seeing you down the road with another
20 jury summons. Thank you, sir.

21 All right. Counsel, we will see you back at 12:30.
22 Have a good lunch.

23 (Outside the presence of the prospective jury panel.)

24 THE COURT: All right. We're outside the presence of
25 the jury panel.

1 Mr. Sanft, did you speak with your client.

2 Mr. Kemp, regarding waiving the penalty phase only if
3 obviously, sir, only if we get there. If the jury doesn't find
4 you guilty of first-degree murder, then there is no penalty
5 hearing, you know, with the jury.

6 Do you understand that, sir?

7 THE DEFENDANT: (Inaudible.)

8 THE COURT: Are you able to pick him up Cynthia?

9 THE COURT RECORDER: I'm sorry?

10 THE COURT: Were you able to pick up Mr. Kemp's
11 answer?

12 THE COURT RECORDER: I didn't have my headphones in.
13 Can you repeat it.

14 THE DEFENDANT: I said, yes. Yes, ma'am.

15 THE COURT RECORDER: Okay. I got it, Judge.

16 THE COURT: Okay. So, Mr. Sanft, can you just put on
17 the record that you explained to your client about waiving the
18 penalty phase if the jury comes back with first-degree murder.

19 MR. SANFT: Yes, Your Honor. That's strategic. You
20 know, we believe we have a better (inaudible) in front of the
21 Court than in front of a jury.

22 THE COURT: And did you answer any and all questions
23 Mr. Kemp may have had regarding the penalty phase?

24 MR. SANFT: Yes.

25 THE COURT: Is that correct, Mr. Kemp?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And did Mr. Sanft answer all of your
3 questions you had regarding waiving the penalty hearing if and
4 only if, again, only if we get to first-degree murder?

5 THE DEFENDANT: Yes, he did.

6 THE COURT: Okay.

7 And are you authorizing him to sign a waiver which
8 you'll be signing as well?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. All right. So the attorneys are
11 not going to question the jurors here because they're going to
12 have me, you know, if you're found guilty of first-degree
13 murder, I will do the penalty phase.

14 Do you understand that?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: Okay. Did you pick that up, Cynthia?

17 THE COURT RECORDER: Yes, Judge.

18 THE COURT: Okay. All right. Any questions?

19 THE DEFENDANT: No, not at all.

20 THE COURT: All right. Thank you.

21 MR. DiGIACOMO: For the record, Judge, the State also
22 agrees to waive, and we'll have a written waiver put on file.

23 THE COURT: Great. All right.

24 THE MARSHAL: Judge, we do have everyone out there if
25 we're ready.

1 THE COURT: Let's go.

2 THE MARSHAL: All right.

3 (Pause in the proceedings.)

4 MR. DiGIACOMO: Judge, I assume you want me to do
5 general questions and then follow up, or do you want me to --

6 THE MARSHAL: All rise for the potential jury.

7 (Jury reconvened at 12:51 p.m.)

8 THE COURT: All right. Thank you, Counsel.

9 Everyone be seated, please.

10 And thank you, ladies and gentlemen, for coming back
11 in a timely fashion. We did have you wait a little longer. We
12 had to resolve some technical difficulties here, and I can
13 always assure you that while you're waiting we are working. So
14 we're not sitting here. We always have items to take care of.
15 And something popped up at the last minute, and we had to work
16 on some electronical -- electronic issues. So thanks for
17 coming back.

18 Ladies and gentlemen, I'm going to have someone from
19 the DA's office -- Mr. DiGiacomo, I believe -- is going to ask
20 some general questions.

21 Now, the first set of general questions will go
22 through Juror Badge Number 012, which is Mr. Anderson, all the
23 way to Badge Number 285. So if you are in that section of
24 jurors, and if you're going to answer yes to any question, then
25 raise your hand.

1 If you're past 285, we will get to you later. We're
2 just going to do it in groups. Okay. Still listen to the
3 questions and the answers because you may learn something about
4 the system, the case, et cetera.

5 Okay. So, Mr. DiGiacomo, do you have any general
6 questions for the panel?

7 MR. DiGIACOMO: Thank you, Judge.

8 Good afternoon, ladies and gentlemen. We've been
9 going at this for a few hours, and the Judge has asked
10 basically three questions that has the exact same meaning that
11 everybody answered the appropriate way, yes. And it's
12 essentially a determination as to whether or not you could be
13 fair and impartial.

14 In the abstract, everybody can answer that question
15 that way. So I just want to get into a few specifics to make
16 sure nobody has anything in their background or their mind that
17 makes them think that, well, maybe there's something different.
18 So I'm going to sort of start with the way the system works.

19 The Judge sort of explained this to you.
20 Mr. Scarborough and I, we represent Clark County. We have to
21 present evidence, and if we present sufficient evidence to
22 prove beyond a reasonable doubt that Mr. Kemp is guilty for
23 this crime, then the jury is supposed to convict.

24 If we fail in our job, if we don't present that
25 evidence, the jury is supposed to acquit. And I think

1 everybody generally understands that's the way the system
2 works. The system is really quite simple, though some of the
3 rules can get kind of complicated at times.

4 There is a rule that says you must presume him
5 innocent. Everybody has heard that before, but what does that
6 really mean? What that really means is, as Mr. Kemp sits here,
7 you've got to assume he did nothing wrong. And you take it
8 from that assumption to see if Mr. Scarborough and I can
9 establish through evidence that he did do the crimes we accused
10 him of.

11 Is there anybody here who cannot look at Mr. Kemp
12 right now and assume that he didn't commit any crime?

13 Okay. Seeing no answers.

14 Flip side of that. There are things that happen in a
15 courtroom -- I'll put it like this. Victims aren't always the
16 most innocent people. They, particularly victims of homicide,
17 routinely engage in risky business, risk of -- they are not
18 real risk-averse. Whether they be dealing drugs and they get
19 robbed, or they're doing something else that they shouldn't be
20 doing. But ultimately the system says that a victim is a
21 victim, and the victim deserves justice.

22 Is there anybody here who for some reason would
23 think, well, if the victim wasn't a good guy or the victim was
24 doing drugs or he was involved in drug dealing somehow, the
25 system shouldn't protect him, and you would automatically

1 reject the evidence that Mr. Scarborough and I presented?

2 Okay. Seeing no answers. This is going to be fairly
3 short.

4 The Judge asked a question about what if you don't
5 agree with the law, can you just reject the law? And everybody
6 here said no, I wouldn't reject the law. That's sort of in the
7 abstract. So I'm going to give you an example. And, in fact,
8 one juror used my prime example earlier.

9 Let's say it was 10 years ago and we were in here on
10 a possession of marijuana case. There were some jurors back in
11 those days who said, look, I realize marijuana is illegal, but
12 I don't care, that there is no way that I'm going to convict
13 somebody of possession of marijuana no matter what the law says
14 it is. And that is a violation of the juror's oath.

15 Now, that shouldn't be a problem here. Nobody here
16 should like murder, per se, but the law is very general, or
17 there's broad categories of people that are involved in murder,
18 and you may not, as you sit here today, necessarily accept
19 everything the law says about who is and who is not guilty of
20 murder.

21 Is there anybody here who thinks for any reason that
22 they would reject the law the Judge gave? Does everybody here
23 recognize that while you're allowed to have your personal
24 opinions, ultimately, at the end of the day, the only way the
25 system works is if he gives you the law, you determine the

1 facts and you apply the two together and you come up with the
2 proper verdict?

3 (No audible response.)

4 MR. DiGIACOMO: Okay. In addition to that, criminal
5 trials, our witnesses are not going to be priests and nuns.
6 They're going to people who have credibility issues, no
7 question about it. There are times when the State has to
8 engage in agreements with some of these people. They have
9 their own criminal problems, and they may have to -- we may
10 ultimately decide that for their testimony we're going to give
11 them a reduced deal. And that's obviously something that you
12 guys can assess the credibility of that person: Why are they
13 saying what they're saying?

14 But is there anybody here who rejects the idea of
15 relying on what we call a rolled codefendant, cooperating
16 witness, someone who has turned State's evidence? Can
17 everybody here judge their credibility without completely
18 rejecting the notion that they have something legitimate to
19 say?

20 (No audible response.)

21 MR. DiGIACOMO: Lastly, there's been a lot of
22 discussion in the news lately about criminal justice, criminal
23 justice reform, all those types of things. And as I listen to
24 the majority of the jurors here who are either victims of a
25 crime or accused of a crime, a lot of them thought the criminal

1 justice system failed their family member, their friend or
2 anything else like that. And while that is a discussion that
3 we can have, it has no place in a jury trial. The purpose of a
4 jury trial is to make a determination as to guilt or innocence
5 of Mr. Kemp and nothing else.

6 Is there anybody here who does not think they can set
7 aside their feelings about law enforcement or anything else
8 like that?

9 Seeing no answers.

10 Is there anybody here for any reason thinks you can't
11 do the job we're asking you to do?

12 All right. Seeing no answers.

13 Thank you, Judge.

14 THE COURT: All right. Thank you.

15 Mr. Sanft, do you have any general questions for the
16 panel?

17 MR. SANFT: Did anyone raise their hand?

18 MR. DiGIACOMO: Nope.

19 MR. SANFT: Can everyone just raise their hand for a
20 second.

21 All right. So you are capable of doing that. So
22 it's not because they can't do it.

23 MR. DiGIACOMO: It's because I'm ineffective at
24 asking questions.

25 MR. SANFT: All right. Let me just ask a couple of

1 just general questions to the panel as a whole.

2 Does anyone here have issues with -- this is a murder
3 case. So there's going to be photographs that are taken of a
4 murder scene. There's going to be photographs taken of maybe
5 some autopsy pictures. I'm not quite clear on all of that, but
6 does anyone here have a problem with looking at that kind of
7 imagery or looking through that kind of evidence in a case like
8 this?

9 Do we have a nod, like a yes?

10 THE COURT: Mr. Sanft, there's a hand raised far
11 right by the wall.

12 MR. SANFT: Okay. I'm sorry, sir. If we could get
13 the microphone over to Juror Number 48.

14 And actually, you know, if I could just do this real
15 quick before we do that, Your Honor. We're just going to pick
16 from the first 32 if that's okay.

17 MR. DiGIACOMO: That's what he said. That's correct.

18 THE COURT: Yes. And that goes to Badge Number 285.

19 MR. SANFT: Okay. So Juror Number 48 so, we're not
20 (inaudible). So I'm just asking for the first 32 people in the
21 room so far. So that way you don't have to answer that
22 question, sir, for right now.

23 All right. But no one else in the first 32 would
24 have a problem with looking at imagery like that?

25 (No audible response.)

1 MR. SANFT: Okay. Because, of course, you know, the
2 danger to looking at that kind of imagery is that all of a
3 sudden emotions get involved, and then all of a sudden your
4 judgment is clouded as a result of you looking at potentially
5 somebody who was alive at one point and now is no longer alive.

6 Does anyone have an issue with that?

7 Ma'am, I'm sorry. What badge number are you?

8 PROSPECTIVE JUROR NO. 037: 37.

9 MR. SANFT: 37?

10 PROSPECTIVE JUROR NO. 037: 37.

11 MR. SANFT: Okay. And this is Juror Number 6.

12 PROSPECTIVE JUROR NO. 037: 6. Yeah.

13 MR. SANFT: Please, if you could share with us.

14 PROSPECTIVE JUROR NO. 037: Oh, do I -- my name?

15 MR. SANFT: Sure, yes.

16 THE COURT: Yes.

17 PROSPECTIVE JUROR NO. 037: Barbara Eddy, Number 37,
18 Juror 6. I just -- I might have just some issues a little bit
19 with seeing some of that stuff. Just...

20 MR. SANFT: Okay. Would that hinder your ability to
21 be fair and impartial in this case if you are selected as a
22 juror?

23 PROSPECTIVE JUROR NO. 037: Only because I might not
24 be able to, you know, see it. It just might upset me a whole
25 lot.

1 MR. SANFT: Okay.

2 PROSPECTIVE JUROR NO. 037: Depending on the graphic
3 or type. I usually don't look at that, don't do things like
4 that.

5 MR. SANFT: All right. Now, you do understand that
6 if images are introduced into evidence and the Judge allows
7 those images to be published to the jury that one of the
8 requirements is to take a look at all the evidence that's
9 provided to you. Is that something you would be able to do in
10 this case?

11 PROSPECTIVE JUROR NO. 037: I would give it my best
12 shot.

13 MR. SANFT: Okay.

14 PROSPECTIVE JUROR NO. 037: Like I don't -- because I
15 haven't ever. So I don't know my exact how I feel. I'm just
16 being honest there.

17 MR. SANFT: No, absolutely. And I appreciate your
18 candor. I really do, ma'am. Thank you so much.

19 Does anyone else share that same sort of trepidation
20 about potentially seeing something that is going to be
21 upsetting?

22 This is Juror Number 7, which is Badge Number 52,
23 Ms. Chiou.

24 Can you come up to the microphone as well, please.

25 PROSPECTIVE JUROR NO. 052: (Inaudible) same thing

1 here. Because we haven't seen it yet --

2 MR. SANFT: Just come up to the microphone.

3 THE COURT RECORDER: I cannot hear her.

4 PROSPECTIVE JUROR NO. 052: I'm not going to lie.

5 When I hear it's a homicide --

6 THE COURT: Can we get your badge number just so we
7 can pick up your answer.

8 PROSPECTIVE JUROR NO. 052: 052.

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR NO. 052: Seat Number 7. So when I
11 first hear the description about this case, I was like, oh, I
12 don't know. It's kind of too much for me to handle, but I
13 don't know if I can do it perfectly because, like the lady just
14 say, we have never seen it before. So...

15 MR. SANFT: All right. Thank you. I appreciate
16 that.

17 PROSPECTIVE JUROR NO. 052: Thank you.

18 MR. SANFT: Thank you so much.

19 Anybody else? I think we had -- ma'am, you are in
20 Seat Number 17. This is Badge Number 148, Ms. Haddad.

21 PROSPECTIVE JUROR NO. 148: Hi.

22 MR. SANFT: Hi.

23 PROSPECTIVE JUROR NO. 148: Jane Haddad, 148. I just
24 feel the same way. I'm just not used to looking at images like
25 that, and I try really hard like with movies and things that I

1 choose to watch and see not to -- I don't know how I would
2 handle seeing something like that. That's all. Simple as
3 that. It would be -- I'm sure it would be upsetting to
4 anybody; right?

5 MR. SANFT: Absolutely.

6 PROSPECTIVE JUROR NO. 148: But I think I could still
7 be fair and impartial. I just think that -- I just try to
8 avoid things like that. That's all.

9 MR. SANFT: Sure.

10 PROSPECTIVE JUROR NO. 148: Yeah.

11 MR. SANFT: All right. Thank you so much. I
12 appreciate it.

13 And then, ma'am --

14 PROSPECTIVE JUROR NO. 231: Maria Gonzalez
15 (inaudible).

16 MR. SANFT: Come up to the microphone.

17 PROSPECTIVE JUROR NO. 231: 231. I usually get dizzy
18 if I see a lot of blood, and, I don't know, it just gives me
19 the spins to think about see something like that.

20 MR. SANFT: Okay. Would that reaction be something
21 that would not make you able to fulfill the duties of being a
22 juror?

23 PROSPECTIVE JUROR NO. 231: I don't know. I don't
24 know.

25 MR. SANFT: So for instance, if this is a situation

1 where you're just looking at a picture for instance, and you're
2 required to look at the picture, are you telling us that you
3 would have a physical reaction to that --

4 PROSPECTIVE JUROR NO. 231: Yeah, probably. Yeah.

5 MR. SANFT: Okay. Thank you. I appreciate that.

6 PROSPECTIVE JUROR NO. 231: Thank you.

7 MR. SANFT: Thank you.

8 Anybody else?

9 Sir, Number 16, Mr. Ramos.

10 PROSPECTIVE JUROR NO. 135: Do you want me to say the
11 badge number?

12 MR. SANFT: Yes, please.

13 PROSPECTIVE JUROR NO. 135: 135.

14 MR. SANFT: And your name?

15 PROSPECTIVE JUROR NO. 135: Jessie. Jessie Ramos.

16 MR. SANFT: Okay.

17 PROSPECTIVE JUROR NO. 135: So initially I felt like
18 I would be okay with looking at pictures like that, but I guess
19 when you explained it more, about it being fair and impartial
20 when it comes to looking at those images, I don't think I
21 could. I think it would cloud my judgment.

22 MR. SANFT: Okay. Meaning that at that point you
23 couldn't sit here and just kind of weigh all the facts for what
24 it is? You would have an emotional reaction to?

25 PROSPECTIVE JUROR NO. 135: Yeah. Rather than like a

1 fair or irrational reaction to it.

2 MR. SANFT: Okay. And you understand there's a
3 difference between that and say what Ms. Ramirez had said -- or
4 Gonzalez had said earlier, sorry, about it being more like a
5 physical reaction, like, you know, you just can't see it.
6 You're more an emotional reaction to it is what you're saying?

7 PROSPECTIVE JUROR NO. 135: Yeah. Uh-huh.

8 MR. SANFT: Okay. And what emotions would you have
9 if you were to have that kind of emotional reaction?

10 PROSPECTIVE JUROR NO. 135: Sadness and probably
11 anger too.

12 MR. SANFT: Thank you so much. I appreciate that.

13 PROSPECTIVE JUROR NO. 135: Thank you.

14 MR. SANFT: Anybody else?

15 All right. No further hands.

16 The next question is does anyone here -- when we
17 work -- everyone here has jobs. Does anyone here not have a
18 job or ever not worked in their entire life? Anyone lucky
19 enough to raise their hand and say I have never worked a day in
20 my life? Anybody like that in here?

21 (No audible response.)

22 MR. SANFT: Okay. It hasn't yet happened yet, but
23 one of these days that will happen.

24 Does anyone here have a problem with holding police
25 officers to their standard of performance? Meaning like in

1 your jobs, you have a standard of performance, whatever job
2 that may be, teacher, you know, you work for a bank, you know,
3 you have standard performances. Does anyone here have a
4 problem holding police officers to their standard of
5 performance, stuff that they're supposed to be doing in their
6 jobs? Anyone here have a problem with that or cannot hold them
7 to their standard of performance?

8 Uniform nonresponse on that, Your Honor.

9 And then finally, one final question, obviously we're
10 all different people, and we're here today, and we're all
11 strangers to one another. When you're going through this
12 trial, you'll have an opportunity to maybe find out about each
13 other.

14 Does anyone here know each other? Church, work,
15 divorce, anything like that here? Because we've had that
16 before where you just realize, oh, wait you worked for me or I
17 worked for you or something along those lines. Anybody have
18 anything like that?

19 (No audible response.)

20 MR. SANFT: Okay. I have no further questions,
21 Judge.

22 THE COURT: All right. Thank you.

23 MR. SANFT: Thank you.

24 THE COURT: Ladies and gentlemen, I'm going to now
25 allow the attorneys to ask individual questions of our

1 potential jurors here.

2 And, State, do you have any follow-up questions for
3 Mr. Anderson, 012?

4 MR. DiGIACOMO: No, Your Honor.

5 THE COURT: Do you have any, Mr. Sanft?

6 MR. SANFT: No, Your Honor.

7 THE COURT: Okay. And, Mr. Sanft, do you have any
8 follow-up questions for Ms. Yanes, 017?

9 MR. SANFT: Just one question if I could.

10 PROSPECTIVE JUROR NO. 017: Yes.

11 MR. SANFT: Ms. Yanes, you had said something earlier
12 about Cuba and about people that come from Cuba after the
13 shutdown had happened, I think when Cuba was no longer -- I'm
14 not quite clear. Was that --

15 PROSPECTIVE JUROR NO. 017: Oh, I'm sorry. When I
16 came, I come as a -- I get a parole on the border. That was
17 like 11 years ago. So that was a crime. So I have it on my
18 record.

19 MR. SANFT: Okay.

20 PROSPECTIVE JUROR NO. 017: That's, I don't know.

21 MR. SANFT: So you have a conviction right now for
22 coming --

23 PROSPECTIVE JUROR NO. 017: No. No. No. That was
24 like 10 years ago, but they say that if we ever commit a crime.
25 So I notice because I was doing, like, childcare before, and

1 when I get my sheriff's card they tell me that that's like is
2 on my record as a crime like when you come in illegal. On the
3 border they give me a parole, and I can come in, but it is a
4 crime.

5 MR. SANFT: So what's your current immigration
6 status?

7 PROSPECTIVE JUROR NO. 017: Oh, no, no. I'm citizen
8 right now.

9 MR. SANFT: Oh, you're a citizen?

10 PROSPECTIVE JUROR NO. 017: Yeah. Yeah.

11 MR. SANFT: Okay. And you don't have any convictions
12 on your record or any felonies?

13 PROSPECTIVE JUROR NO. 017: No. No. No. I'm sorry.

14 MR. SANFT: Okay. No further questions.

15 THE COURT: Do you pass for cause, Mr. Sanft?

16 MR. SANFT: I do.

17 THE COURT: And also, Mr. Sanft, do you pass for
18 cause Mr. Anderson?

19 MR. SANFT: I do, Your Honor.

20 THE COURT: And, State, do you pass for cause
21 Mr. Anderson?

22 MR. DiGIACOMO: I do.

23 THE COURT: Okay. And, State, do you have any
24 questions for Ms. Yanes?

25 MR. DiGIACOMO: No. I guess I was somewhat confused.

1 PROSPECTIVE JUROR NO. 017: Oh, my mistake. I'm
2 sorry.

3 MR. DiGIACOMO: No, no. I'm sure it's mine. So you
4 crossed the border, and they said it was criminal when you
5 crossed the border, but ultimately you've since that time
6 gotten your citizenship?

7 PROSPECTIVE JUROR NO. 017: Whenever happens because
8 as a Cuban you have like a year, and then you apply for your
9 resident card. But between that year, we are waiting for the
10 trial. So if we get a trial, then the Judge is the one who
11 either will accept it or not. But before the -- that's only
12 during the year. After the year, we get the resident card, and
13 that's just like it close right away.

14 MR. DiGIACOMO: And then years later you applied for
15 citizenship, and you're --

16 PROSPECTIVE JUROR NO. 017: Yeah. Yes.

17 MR. DiGIACOMO: -- today a U.S. citizen?

18 PROSPECTIVE JUROR NO. 017: I got my residence, yeah,
19 and I'm a citizen, yeah.

20 MR. DiGIACOMO: Thank you very much.

21 PROSPECTIVE JUROR NO. 017: I don't know if I
22 explained myself right. I'm sorry. My mistake.

23 MR. DiGIACOMO: No, no. No, no, it wasn't. Thank
24 you very much, ma'am.

25 PROSPECTIVE JUROR NO. 017: My pleasure.

1 MR. DiGIACOMO: Judge, we pass for cause.
2 PROSPECTIVE JUROR NO. 017: That's it.
3 THE COURT: All right. Thank you.
4 And, State, do you have any follow-up questions for
5 Ms. Martinez, 019?
6 MR. DiGIACOMO: No, Your Honor.
7 THE COURT: Pass for cause?
8 MR. DiGIACOMO: Pass for cause.
9 THE COURT: All right. Mr. Sanft, do you have any
10 follow-up?
11 MR. SANFT: No, Your Honor. Pass for cause as well.
12 THE COURT: Thank you. Mr. Sanft, any follow-up for
13 Mr. Beverstein, 020?
14 MR. SANFT: No, Your Honor. We pass for cause.
15 THE COURT: All right. State?
16 MR. DiGIACOMO: No, Your Honor. We pass for cause.
17 THE COURT: Thank you. State, any follow-up for
18 Mr. -- is it Schleret -- 024?
19 MR. DiGIACOMO: Yes. You?
20 PROSPECTIVE JUROR NO. 024: Yes.
21 MR. DiGIACOMO: I think it's you.
22 PROSPECTIVE JUROR NO. 024: Cory Schleret, 024, Juror
23 Number 5.
24 MR. DiGIACOMO: Sir, I don't want to pry too much.
25 Your significant other was the victim of a crime?

1 PROSPECTIVE JUROR NO. 024: Correct.

2 MR. DiGIACOMO: And it was handled by military
3 justice, not by the civilian justice system?

4 PROSPECTIVE JUROR NO. 024: Correct.

5 MR. DiGIACOMO: And you made some sort of offhand
6 comment like the perpetrator was just allowed to resign.

7 PROSPECTIVE JUROR NO. 024: Correct.

8 MR. DiGIACOMO: So I'm guessing you didn't take a
9 very favorable view of the way that system worked?

10 PROSPECTIVE JUROR NO. 024: No, sir.

11 MR. DiGIACOMO: Okay. Do you have any views about
12 the civilian criminal justice system?

13 PROSPECTIVE JUROR NO. 024: Not necessarily unless I
14 don't morally agree with whatever law is being provided.

15 MR. DiGIACOMO: Okay.

16 PROSPECTIVE JUROR NO. 024: But aside from that, no.

17 MR. DiGIACOMO: And I sort of as -- I asked some
18 questions. I don't think there's going to be any moral
19 objections to murder and robbery, those kinds of things, but
20 there are times when that can be a problem in our system,
21 justice system.

22 PROSPECTIVE JUROR NO. 024: Correct.

23 MR. DiGIACOMO: You would agree with that. Will you
24 agree with me that whatever the law the Judge gives you you'll
25 follow?

1 PROSPECTIVE JUROR NO. 024: Correct. Yes.

2 MR. DiGIACOMO: Okay. And I'm assuming that anything
3 you think about the criminal justice system sort of on the
4 outside is not going to interfere with your ability to fairly
5 judge the facts in this particular case?

6 PROSPECTIVE JUROR NO. 024: That is correct, yes.

7 MR. DiGIACOMO: Thank you very much, sir.

8 Judge, I pass for cause.

9 THE COURT: Thank you.

10 Mr. Sanft, any follow-up for Mr. Schleret?

11 MR. SANFT: No, Your Honor. We pass for cause.

12 THE COURT: All right. Mr. Sanft, any follow-up for
13 Ms. Eddy, 037?

14 MR. SANFT: No, Your Honor. We pass for cause.

15 THE COURT: All right. Any follow-up by the State?

16 MR. DiGIACOMO: No, Your Honor.

17 THE COURT: State, any follow-up questions for -- is
18 it Chiou -- Shin Chiou, 052?

19 MR. DiGIACOMO: Is it Ms. Chiou? Come on down.

20 I just wanted to go back to the pictures. You know,
21 obviously in a murder case there are going to be some pictures
22 that are disturbing. At the end of the day, they're only being
23 offered for what we called their evidentiary value.

24 And I think what Mr. Sanft was talking about was do
25 you have the ability -- you don't have to stare at them or

1 anything like that, but, you know, do you have the ability if
2 the pictures come into evidence that you could rely upon them
3 for what their evidentiary value is, and it's not going to make
4 it so that you can't look at them and you can't make a decision
5 because you can't look at the evidence in the case?

6 PROSPECTIVE JUROR NO. 052: I would do my best
7 looking at it.

8 MR. DiGIACOMO: Okay. Thank you very much, ma'am.

9 THE COURT: Pass for cause?

10 MR. DiGIACOMO: I do.

11 THE COURT: All right. Thank you.

12 Mr. Sanft?

13 MR. SANFT: Your Honor, we have no questions. Pass
14 for cause.

15 THE COURT: Thank you. Mr. Sanft, any follow-up for
16 Mr. Custodio, 053?

17 MR. SANFT: Just one moment. No, Your Honor. We
18 pass for cause.

19 THE COURT: All right. State, any follow-up?

20 MR. DiGIACOMO: No, Judge. Pass for cause.

21 THE COURT: Thank you. State, any follow-up for
22 Charly Martinez-Francisco, 066?

23 MR. DiGIACOMO: Only briefly.

24 Sir, could you come on down. Mr. Francisco, the only
25 reason I have you here is because when I was typing I didn't --

1 I apparently missed everything you told us.

2 PROSPECTIVE JUROR NO. 066: Okay.

3 MR. DiGIACOMO: So the question I have for you is are
4 you employed?

5 PROSPECTIVE JUROR NO. 066: Employed, yes.

6 MR. DiGIACOMO: What do you do?

7 PROSPECTIVE JUROR NO. 066: A house person at a
8 hotel.

9 MR. DiGIACOMO: Okay. And how long have you been
10 here Clark County?

11 PROSPECTIVE JUROR NO. 066: Twenty years.

12 MR. DiGIACOMO: Okay. Ever been the victim of a
13 crime?

14 PROSPECTIVE JUROR NO. 066: No.

15 MR. DiGIACOMO: Or anybody you know ever been accused
16 of a crime?

17 PROSPECTIVE JUROR NO. 066: No.

18 MR. DiGIACOMO: Do you think you can be fair and
19 impartial in this case?

20 PROSPECTIVE JUROR NO. 066: Yeah.

21 MR. DiGIACOMO: Thank you very much, sir.

22 I pass for cause.

23 THE COURT: Thank you.

24 Any follow-up, Mr. Sanft?

25 MR. SANFT: No, Your Honor. We pass for cause.

1 THE COURT: Thank you. Mr. Sanft, any follow-up for
2 Mr. White, 077?

3 MR. SANFT: Yes, Your Honor.

4 Mr. White.

5 PROSPECTIVE JUROR NO. 077: 077, Number 10.

6 MR. SANFT: All right. So you own a restaurant?

7 PROSPECTIVE JUROR NO. 077: Correct.

8 MR. SANFT: Okay. And what kind of food do you make?

9 PROSPECTIVE JUROR NO. 077: Pizza.

10 MR. SANFT: Okay. And during COVID any problems with
11 making the bills? How's the business been?

12 PROSPECTIVE JUROR NO. 077: COVID was a very hard
13 time for us. It was right when I was trying to start the
14 business. So we had to kind of start the restaurant and then
15 kind of shut it down again right as COVID started.

16 MR. SANFT: Oh, wow.

17 PROSPECTIVE JUROR NO. 077: So it's been the last,
18 you know, obviously the last year getting ready for when we can
19 kind of open back up, and we got the opportunity to, we finally
20 did just a few months ago.

21 MR. SANFT: Okay. If you were to be selected as a
22 juror in this case, would you be able to devote all your time
23 and attention to focus on this case during the time that you're
24 here with us?

25 PROSPECTIVE JUROR NO. 077: It's very difficult. I

1 just started this business. I have six employees underneath me
2 who are all looking for work and trying to work with us. And
3 we are open five, six days a week. I'm thinking about them and
4 their families, very honestly. I can do my best, but as a
5 small business owner who's just getting started in the last few
6 months, it's really hard not (sic) to take a week or two out of
7 my time right now.

8 MR. SANFT: Thank you. I appreciate you sharing with
9 me.

10 PROSPECTIVE JUROR NO. 077: Thank you.

11 MR. SANFT: We'll pass for cause, Your Honor.

12 THE COURT: All right. Thank you.

13 MR. DiGIACOMO: We'll pass for cause, Judge.

14 THE COURT: All right. Thank you.

15 And, State, any follow-up questions for Wesley
16 Villosso, 081?

17 MR. DiGIACOMO: No, Your Honor.

18 THE COURT: Pass for cause?

19 MR. DiGIACOMO: Yes.

20 THE COURT: All right. Mr. Sanft?

21 MR. SANFT: I'll pass for cause, Your Honor. No
22 questions.

23 THE COURT: All right. Mr. Sanft, any follow-up
24 questions for Marcum Endicott, 089?

25 MR. SANFT: No, Your Honor. We'll pass for cause.

1 THE COURT: Thank you.
2 State, any follow-up?
3 MR. DiGIACOMO: No, Your Honor.
4 THE COURT: Pass for cause?
5 MR. DiGIACOMO: Pass for cause.
6 THE COURT: All right. State, any follow-up for Jose
7 Contreras, 105?
8 MR. DiGIACOMO: No, Your Honor.
9 THE COURT: Pass for cause?
10 MR. DiGIACOMO: Yes, Your Honor.
11 THE COURT: All right. Mr. Sanft?
12 MR. SANFT: One moment, Your Honor.
13 We have no questions. We'll pass for cause.
14 THE COURT: Thank you. Mr. Sanft, any follow-up
15 questions for -- is it Marilyn Schoen, 113?
16 MR. SANFT: No, Your Honor. We'll pass for cause.
17 THE COURT: All right. State, any follow-up?
18 MR. DiGIACOMO: No, Your Honor.
19 THE COURT: Pass for cause?
20 MR. DiGIACOMO: Pass for cause.
21 THE COURT: All right. State, any follow-up
22 questions for Anita Tam, 116?
23 MR. DiGIACOMO: No, Your Honor.
24 THE COURT: Pass?
25 MR. DiGIACOMO: Pass for cause.

1 THE COURT: Mr. Sanft?

2 MR. SANFT: Your Honor, I do have a question for
3 Ms. Tam.

4 THE COURT: Sure.

5 PROSPECTIVE JUROR NO. 116: 116, Anita Tam.

6 MR. SANFT: Hi.

7 PROSPECTIVE JUROR NO. 116: Hi.

8 MR. SANFT: First question, do you feel a little bit
9 uncomfortable being up front right in front of us?

10 PROSPECTIVE JUROR NO. 116: No.

11 MR. SANFT: Okay. Second question is you have a
12 master's in elementary education?

13 PROSPECTIVE JUROR NO. 116: Yes.

14 MR. SANFT: Okay. Are you going to be the type of
15 person that once you hear the State's opening you're like,
16 okay, I'm done and then just kind of tune out the rest of the
17 time and then at the end make a decision based upon what you
18 hear them saying in their opening?

19 PROSPECTIVE JUROR NO. 116: No. I definitely think
20 there's two sides to every story and that you need to hear both
21 sides. I think being a teacher helps you do that.

22 MR. SANFT: I would imagine. Well, let me ask you
23 this then: So say after the State's opening then you hear my
24 opening and then it's like, oh, yeah, definitely I am done now,
25 I've made my decision and not listen to any of the evidence

1 throughout the course of the trial?

2 PROSPECTIVE JUROR NO. 116: Well, from what I
3 understand, it's the evidence that is what's presented that we
4 really need to take into account and that what you guys are
5 presenting when you start is, you know, it's information, but
6 it's not considered evidence, and so we need to consider the
7 evidence.

8 MR. SANFT: Wow. Okay. Great. Well, thank you so
9 much. I appreciate it.

10 No further questions, Your Honor. Pass for cause.

11 THE COURT: All right. Thank you.

12 And I'd like to thank Ms. Tam.

13 Ladies and gentlemen, that's absolutely correct. The
14 attorneys are not witnesses. The Judge, I'm not a witness in
15 this case. The witnesses in the case will be called into court
16 to testify on the witness stand. They'll be placed under oath
17 and testify. There's a direct examination, cross-examination.
18 It's up to the jury to decide credibility of all witnesses.

19 Okay. Again, none of the court staff or the
20 attorneys are witnesses in this case. Okay.

21 Next up is, Mr. Sanft, any follow-up questions for
22 Jessie Ramos, 135?

23 MR. SANFT: No, Your Honor. We'll pass for cause.

24 THE COURT: Thank you.

25 How about the State?

1 MR. DiGIACOMO: I do.

2 THE COURT: All right.

3 MR. DiGIACOMO: Mr. Ramos, would you come on up.
4 Sir, I'm going to go to the pictures. Mr. Sanft talked to you
5 about the pictures a little bit.

6 PROSPECTIVE JUROR NO. 135: Uh-huh.

7 MR. DiGIACOMO: There are some witnesses -- some
8 jurors who said, like, look I don't really want to look at
9 these pictures, and it would be hard for me to stare at them
10 and those type of things.

11 PROSPECTIVE JUROR NO. 135: Uh-huh.

12 MR. DiGIACOMO: But you said something slightly
13 different. You thought it might make you less impartial if
14 there were really graphic photographs put in front of you. Can
15 you explain that to me.

16 PROSPECTIVE JUROR NO. 135: So I wouldn't necessarily
17 say I have an issue looking at the pictures, how graphic they
18 are. I guess when I look at them it'll make me feel some kind
19 of way where I can look at it from an objective perspective.

20 MR. DiGIACOMO: So, I mean, are you saying like if we
21 put really graphic photographs in front of you, you might allow
22 anger or something to seep in and not make a rational decision
23 as opposed to -- or you'd make an irrational decision instead
24 of a rational decision?

25 PROSPECTIVE JUROR NO. 135: Correct.

1 MR. DiGIACOMO: And so your fear is that you may, I
2 don't know, reduce the burden of proof that's required to
3 convict somebody because you see a really bad picture, and you
4 want to get to revenge for what happened to that person?

5 PROSPECTIVE JUROR NO. 135: Yeah, possibly.

6 MR. DiGIACOMO: Okay. Thank you, sir.

7 PROSPECTIVE JUROR NO. 135: Thank you.

8 MR. DiGIACOMO: We do not pass.

9 THE COURT: Okay. Mr. Sanft, do you have any
10 follow-up questions for Mr. Ramos?

11 MR. SANFT: No, Your Honor. We don't challenge.

12 THE COURT: Okay. Thank you.

13 Next up is, State, do you have any follow-up
14 questions for Ms. Haddad, 148?

15 MR. DiGIACOMO: No, Your Honor.

16 THE COURT: Pass for cause?

17 MR. DiGIACOMO: Yes.

18 THE COURT: Mr. Sanft?

19 MR. SANFT: We'll pass for cause, Your Honor.

20 THE COURT: All right. Mr. Sanft, any follow-up
21 questions for Mr. Roberts, 187?

22 MR. SANFT: No, Your Honor. Pass for cause.

23 THE COURT: Thank you. State, any follow-up?

24 MR. DiGIACOMO: Pass for cause.

25 THE COURT: State, any follow-up questions for

1 Ms. Vantreuren, 196?

2 MR. DiGIACOMO: No, Your Honor. Pass for cause.

3 THE COURT: State, any follow-up -- I mean, excuse
4 me, defense, Mr. Sanft, any follow-up questions?

5 MR. SANFT: No, Your Honor. Pass for cause.

6 THE COURT: Thank you. Mr. Sanft, any follow-up
7 questions for Mr. Acquin, 200?

8 MR. SANFT: No, Your Honor. We'll pass for cause.

9 THE COURT: State?

10 MR. DiGIACOMO: No, Your Honor. We'll pass for
11 cause.

12 THE COURT: Thank you. State, any follow-up
13 questions for Mr. -- is it Godges -- Number 202?

14 MR. DiGIACOMO: I do.

15 Sir, if you could come on up to the mic.

16 PROSPECTIVE JUROR NO. 202: Yes.

17 MR. DiGIACOMO: And it's Stanley --

18 PROSPECTIVE JUROR NO. 202: Godges.

19 MR. DiGIACOMO: Is it Godges?

20 PROSPECTIVE JUROR NO. 202: Yes.

21 MR. DiGIACOMO: You have a very soft voice, sir.

22 PROSPECTIVE JUROR NO. 202: Okay.

23 MR. DiGIACOMO: So try and speak up.

24 PROSPECTIVE JUROR NO. 202: Sure.

25 MR. DiGIACOMO: These whole masks and that plastic is

1 terrible for hearing.

2 You mentioned that you spent a long time working for
3 the California Department of Corrections.

4 PROSPECTIVE JUROR NO. 202: Correct. Yes.

5 MR. DiGIACOMO: And you felt like perhaps your
6 experiences in the Department of Corrections may affect your
7 ability to be fair and impartial?

8 PROSPECTIVE JUROR NO. 202: That is correct.

9 MR. DiGIACOMO: Why?

10 PROSPECTIVE JUROR NO. 202: From the patients that I
11 worked on and knowing what they did, because I had to read
12 their C files, sometimes made it difficult even for me to treat
13 the patient. I had to try to really sincerely remove myself
14 and think of them as a relative. And once I got that in the
15 frame of my mind, I was able to go ahead and treat fairly and
16 to the best that I possibly could for that patient.

17 MR. DiGIACOMO: So you would agree with me though
18 that people that were in the California Department of
19 Corrections, those are convicted individuals?

20 PROSPECTIVE JUROR NO. 202: That is correct, yes.

21 MR. DiGIACOMO: Those are people who the system has
22 said, whether by plea or by trial they committed their offense?

23 PROSPECTIVE JUROR NO. 202: Yes.

24 MR. DiGIACOMO: As Mr. Kemp sits here today, he's
25 presumed innocent. Are you telling me because of your

1 California Department of Corrections experience that you have a
2 hard time presuming him innocent?

3 PROSPECTIVE JUROR NO. 202: No.

4 MR. DiGIACOMO: Okay. If you see evidence that
5 there's a lot of -- well, something that happened. I mean,
6 obviously in a murder case something bad definitely happened in
7 this case -- that somehow that's going to affect your ability
8 to weigh the evidence?

9 PROSPECTIVE JUROR NO. 202: I don't think so.

10 MR. DiGIACOMO: Obviously everybody is going to walk
11 in here and some people have had bad experiences with law
12 enforcement, and some people have had -- been victims of crime.
13 Some people -- you've had, and only you can tell us, I mean,
14 you've had some interactions with probably some very bad people
15 in the California Department of Corrections. Is that in any
16 way going to effect your ability to look at the evidence and
17 decide if the State has proved their case beyond a reasonable
18 doubt?

19 PROSPECTIVE JUROR NO. 202: No. I will be impartial.

20 MR. DiGIACOMO: Thank you very much.

21 THE COURT: Pass for cause?

22 MR. DiGIACOMO: I do.

23 THE COURT: All right. Mr. Sanft, any follow-up
24 questions.

25 MR. SANFT: No, Your Honor. Pass for cause.

1 THE COURT: All right. Thank you. Mr. Sanft, any
2 follow-up questions for Mr. Lawrence, 209?

3 MR. SANFT: No, Your Honor. We pass for cause.

4 THE COURT: State, any follow-up questions?

5 MR. DiGIACOMO: I do.

6 PROSPECTIVE JUROR NO. 209: Mark Lawrence, 209.

7 MR. DiGIACOMO: Sir, I think you're the first one in
8 22 people who has prior jury service.

9 PROSPECTIVE JUROR NO. 209: Yes.

10 MR. DiGIACOMO: Was it a civil or criminal trial?

11 PROSPECTIVE JUROR NO. 209: It was criminal.

12 MR. DiGIACOMO: Do you remember what the charge was?

13 PROSPECTIVE JUROR NO. 209: It was kind of unusual.

14 Well, it was kind of ridiculous, but the gentleman stole his
15 mom's TV. The mom called the police. The police came over.
16 And there was an altercation with the police; they had to jump
17 him. Come to find out that he actually did the crime, and, you
18 know, but we didn't reach a verdict there just based on my
19 recollection.

20 MR. DiGIACOMO: You said you didn't reach a verdict.
21 So my question is, is does that mean you actually made it to
22 deliberations in the back room?

23 PROSPECTIVE JUROR NO. 209: Yes.

24 MR. DiGIACOMO: And some people felt one way and some
25 people felt the other, and ultimately it resulted in a

1 nonverdict?

2 PROSPECTIVE JUROR NO. 209: Exactly. One person.

3 MR. DiGIACOMO: Were you the foreperson?

4 PROSPECTIVE JUROR NO. 209: No.

5 MR. DiGIACOMO: Is there anything about that
6 experience that gives you any trepidation about sitting in this
7 case?

8 PROSPECTIVE JUROR NO. 209: Yes. Because, and I
9 don't want to get on my horse here, but I know the justice
10 system was built against my people in the beginning, and we
11 know that a lot of our people are in jail right now, a majority
12 of us, of color, African American, black natives -- I call them
13 black natives -- but, and that really hurts a lot, you know,
14 but, you know, to be impartial and look at evidence, I could do
15 that. But that's always in the back of my mind, what's going
16 on. And to be honest, you know, I'm not going to sit here and
17 sugarcoat this --

18 MR. DiGIACOMO: I mean, look --

19 PROSPECTIVE JUROR NO. 209: -- and people look at
20 me --

21 MR. DiGIACOMO: When we talk about -- when we talk
22 about criminal justice reform you're not talking about it for
23 people like me; right?

24 PROSPECTIVE JUROR NO. 209: Yeah. Right. Right.
25 Right. Right. Right.

1 MR. DiGIACOMO: You know, and so it is something that
2 you, you know, like I talked about before, it's something that
3 sort of a national conversation at this point.

4 PROSPECTIVE JUROR NO. 209: Yeah. And I've seen my
5 nephew go through it. I've seen a lot of my cousins been
6 through it from LA, and it's really hard for me to -- I don't
7 want to say hard, but it's always in the back of my mind all
8 the time. And, you know, and just, you know, being -- I mean,
9 I'm a citizen. I grew up here, and my dad was in the Navy. He
10 was a master chief in the Navy and service -- I mean, a
11 military guy, everything. But, you know, still people when I
12 walked down the street, you know, still have that connotation.

13 MR. DiGIACOMO: Sure.

14 PROSPECTIVE JUROR NO. 209: I don't want to put that
15 involved in what's going on here, but I'm just saying that as
16 far as the justice system, you know, and the criminal system is
17 built for my people, and that's unfortunate. And that's my
18 opinion. It's not, you know, anybody else here. It's just my
19 opinion. I walk through life and walked in my shoes and see
20 that. But that's all.

21 MR. DiGIACOMO: And look, and that's an opinion
22 that --

23 PROSPECTIVE JUROR NO. 209: Yeah.

24 MR. DiGIACOMO: -- that, you know, you're free to
25 have. It's an opinion that a large portion of our population

1 now has; right?

2 PROSPECTIVE JUROR NO. 209: Uh-huh. Yeah. Yeah.

3 MR. DiGIACOMO: The question becomes, you know,
4 obviously this is now a jury trial, which Mr. Scarborough and
5 I, we're going to try and prove that Mr. Kemp committed a
6 number of crimes.

7 Do you accept that once you get to a jury trial part
8 all of the idea of how the system is built or why there is
9 policing and all that other stuff can be something left outside
10 the door --

11 PROSPECTIVE JUROR NO. 209: Yeah. I mean --

12 MR. DiGIACOMO: -- and you look at the evidence?

13 PROSPECTIVE JUROR NO. 209: -- I've been through it
14 before, and I understand that. You know, and I have a lot of
15 respect for the justice system in that part and law enforcement
16 in that part. So, yes, but it's still in the back of my mind I
17 know that there's biases.

18 MR. DiGIACOMO: Sure.

19 PROSPECTIVE JUROR NO. 209: I mean, you all know
20 that. I mean, there's biases in this country and the justice
21 system. And we can't ignore that. And I just look up in the
22 make of the room, like think about it. All right. I'm the
23 only African-American male in here. So it's kind of
24 interesting how that made up, you know, came across when it's
25 supposed to be a jury of your peers. So that's how I feel.

1 MR. DiGIACOMO: But do you think you could still do
2 what we are asking you --

3 PROSPECTIVE JUROR NO. 209: Uh-huh.

4 MR. DiGIACOMO: -- if Mr. Scarborough and I proved
5 beyond a reasonable doubt that Mr. Kemp was involved in these
6 crimes.

7 PROSPECTIVE JUROR NO. 209: Yeah. Uh-huh.

8 MR. DiGIACOMO: Would you convict him?

9 PROSPECTIVE JUROR NO. 209: I'll have to look at the
10 evidence.

11 MR. DiGIACOMO: Sure.

12 PROSPECTIVE JUROR NO. 209: I mean, I'll have to look
13 at evidence and how it's gathered, how is -- you know, look at
14 the witnesses and judge them by their merit. I can't just go
15 out and say, yeah. No, I can't say that until I see the
16 evidence.

17 MR. DiGIACOMO: You can't say --

18 PROSPECTIVE JUROR NO. 209: I just can't throw it out
19 and say it because I haven't seen it.

20 MR. DiGIACOMO: Right.

21 PROSPECTIVE JUROR NO. 209: So...

22 MR. DiGIACOMO: That's my -- my question is more of a
23 process one, not would you --

24 PROSPECTIVE JUROR NO. 209: Well, that's part of the
25 process.

1 MR. DiGIACOMO: Do you have the ability to set aside
2 sort of your preconceived notions about the criminal justice
3 system and look at the evidence and decide if the evidence
4 proves Mr. Kemp is guilty or not?

5 PROSPECTIVE JUROR NO. 209: Yeah. I guess. I guess
6 I can.

7 MR. DiGIACOMO: You give me some hesitation there.

8 PROSPECTIVE JUROR NO. 209: Well --

9 MR. DiGIACOMO: It's hard with masks too because you
10 get no verbal --

11 PROSPECTIVE JUROR NO. 209: -- it's hard to say yes
12 or no when you don't see the evidence and know what's going on.

13 MR. DiGIACOMO: Sure.

14 PROSPECTIVE JUROR NO. 209: And to, you know,
15 actually be involved in it. I mean, that's the only thing. I
16 can tell you all I'll be impartial and then till I get there
17 and then like, oh, sheet. You know, so in a sense, yes, I
18 mean, I'll say 80/20, yes.

19 MR. DiGIACOMO: Okay. And what's the other 20?

20 PROSPECTIVE JUROR NO. 209: The 20 is that other side
21 of me is saying that, you know, how the evidence is gathered,
22 the witnesses, all of that. All that in the case. It's just,
23 you know, that's how I look at it. I can't be like a hundred
24 percent sure like I'm going to be not have that in the back of
25 my head, back of my mind I guess.

1 MR. DiGIACOMO: All right. Thank you, sir.
2 PROSPECTIVE JUROR NO. 209: No problem.
3 THE COURT: Mr. DiGiacomo?
4 MR. DiGIACOMO: Oh, pass for cause, Judge.
5 THE COURT: All right. Thank you. Any follow-up by
6 the State to Ms. Gonzalez-Soto, 231?
7 MR. DiGIACOMO: No, Your Honor.
8 THE COURT: Pass for cause?
9 MR. DiGIACOMO: Yes.
10 THE COURT: All right. Mr. Sanft, any follow-up?
11 MR. SANFT: No, Your Honor. We'd pass for cause.
12 THE COURT: All right. Mr. Sanft, any follow-up
13 questions for Lezlie Mangold, 241?
14 MR. SANFT: No, Your Honor. We pass for cause.
15 THE COURT: State, any follow-up?
16 MR. DiGIACOMO: No, Your Honor.
17 THE COURT: Pass for cause?
18 MR. DiGIACOMO: Pass for cause.
19 THE COURT: All right. Thank you.
20 State, any follow-up questions for Gwendolyn Holi
21 Loque, 242?
22 MR. DiGIACOMO: No, Your Honor.
23 THE COURT: Pass?
24 MR. DiGIACOMO: Pass.
25 THE COURT: Mr. Sanft?

1 MR. SANFT: No, Your Honor. We pass for cause.

2 THE COURT: Mr. Sanft, any follow-up questions for
3 Tiffany Porter, 255?

4 MR. SANFT: No, Your Honor. We pass for cause.

5 THE COURT: Any follow-up, State, to Ms. Porter?

6 MR. DiGIACOMO: No. Pass for cause.

7 THE COURT: State, any follow-up questions for
8 Stephanie Johns, 257?

9 MR. DiGIACOMO: No, Your Honor.

10 THE COURT: Pass for cause?

11 MR. DiGIACOMO: Pass for cause.

12 THE COURT: Mr. Sanft, any follow-up?

13 MR. SANFT: One moment please, Your Honor.

14 We pass for cause.

15 THE COURT: All right. Thank you.

16 Just one moment, please.

17 All right. Mr. Sanft, any follow-up questions for
18 Elizabeth Alvarez, 262?

19 MR. SANFT: No, Your Honor. We pass for cause.

20 THE COURT: State, do you have any follow-up?

21 MR. DiGIACOMO: No, Your Honor. Pass for cause.

22 THE COURT: Thank you.

23 State, any follow-up questions for -- is it Nathan
24 Pargan -- 265?

25 MR. DiGIACOMO: No, Your Honor.

1 THE COURT: Pass?

2 MR. DiGIACOMO: Pass for cause.

3 THE COURT: Defense, any follow-up?

4 MR. SANFT: No, Your Honor. Pass for cause.

5 THE COURT: Thank you. Defense, any follow-up

6 questions for Janet Whalen, 266?

7 MR. SANFT: No, Your Honor. We pass for cause.

8 MR. DiGIACOMO: We pass for cause, Judge.

9 THE COURT: Okay. Thank you. State, any follow-up

10 questions for Zulema Ortega, 271?

11 MR. DiGIACOMO: No, Your Honor. Pass for cause.

12 THE COURT: Thank you.

13 Defense?

14 MR. SANFT: Your Honor, no questions. Pass for

15 cause.

16 THE COURT: Thank you. Defense, any follow-up

17 questions to Eric Phan, 285?

18 MR. SANFT: No, Your Honor. We pass for cause.

19 THE COURT: State?

20 MR. DiGIACOMO: No, Your Honor. Pass for cause.

21 THE COURT: Thank you.

22 May I have counsel approach? We'll just go into the

23 side hallway.

24 And Cynthia, I'll bring the microphone.

25 (Conference at the bench begins.)

1 MR. DiGIACOMO: So if we just do Sophia Lu, we should
2 be good --

3 THE COURT: So.

4 MR. DiGIACOMO: -- (inaudible).

5 THE COURT: For Mr. Ramos, that was 135, there was a
6 challenge by the State.

7 MR. SANFT: I didn't oppose it. That was --

8 THE COURT: Okay. All right. So then we'll just go
9 one more then?

10 MR. SANFT: And just for the record, that was Michael
11 Sanft talking because I think the clerk wants us to --

12 MR. DiGIACOMO: Oh, Mark DiGiacomo for the State.

13 THE COURT: All right.

14 MR. DiGIACOMO: And so then if we just do Sophia Lu.

15 THE COURT: Okay.

16 MR. DiGIACOMO: And then we should have 32, and then
17 we can do perempts.

18 THE COURT: Okay.

19 MR. DiGIACOMO: That was Mark DiGiacomo talking.

20 THE COURT: All right. And this is Judge Villani.
21 Let's go back.

22 (Conference at the bench ends.)

23 THE COURT: All right. A couple more questions that
24 the attorneys want to ask some of the other jurors.

25 We're going to follow up with Sophia Lu, which is

1 296.

2 Mr. DiGiacomo, you can go over your general questions
3 as well as any individual questions you may have for Ms. Lu.

4 And then, Mr. Sanft, you'll have the same right as
5 well.

6 MR. DiGIACOMO: Ms. Lu, did you hear all those
7 general questions that I asked earlier?

8 PROSPECTIVE JUROR NO. 296: Yes.

9 MR. DiGIACOMO: And, well, would you have answered
10 any of them? Nobody else raised their hand. So would you have
11 raised your hand on any of them?

12 PROSPECTIVE JUROR NO. 296: No.

13 MR. DiGIACOMO: Do you think you would be fair and
14 impartial in this particular case?

15 PROSPECTIVE JUROR NO. 296: Yes.

16 MR. DiGIACOMO: Mr. Sanft brought up questions about
17 pictures and the graphic nature of them. And I can tell you
18 that there are some pictures, and some of them are not real
19 pleasant to look at.

20 Do you think you are capable of looking at them for
21 their evidentiary value?

22 PROSPECTIVE JUROR NO. 296: Yes.

23 MR. DiGIACOMO: You also mentioned that there was
24 some issue that was a misdemeanor, but you think it sealed, way
25 back in the day.

1 PROSPECTIVE JUROR NO. 296: Yes.

2 MR. DiGIACOMO: Anything about that that would affect
3 your ability to be fair and impartial?

4 PROSPECTIVE JUROR NO. 296: No.

5 MR. DiGIACOMO: Thank you very much, ma'am.

6 Judge, we pass for cause.

7 THE COURT: Thank you.

8 Mr. Sanft, do you have any follow-up questions for
9 Mr. Lu?

10 MR. SANFT: No, Your Honor. We --

11 THE COURT: Or any general questions for her or any
12 individual questions?

13 MR. SANFT: No, Your Honor. We pass for cause.

14 THE COURT: Okay. I think that's 32 pass for cause.

15 Ladies and gentlemen, you may have noticed that the
16 attorneys have a packet of materials here, and also some of you
17 may have filled out a questionnaire either online or this
18 morning, a very general questionnaire. So the attorneys, as
19 well as myself, we have these packets here, and they've all
20 been studied by the attorneys as well as by myself.

21 Based upon some of your answers to my general
22 questions to all of you, to the general questions by the
23 attorneys and the individual questions, they feel that they
24 have sufficient information to now make a decision as to who
25 they will select to hear this case.

1 In this type of case, each side has the right to
2 exercise what we call peremptory challenges, which means that
3 they can just in a secret fashion just mark off some names of
4 those individuals to be excused from this case. And so we're
5 going to hand the paper to the State.

6 Each side is entitled to -- State and Mr.--

7 State and defense, are both parties agreeing just to
8 exercise 9 at one time; is that correct?

9 MR. DiGIACOMO: That's correct, Judge.

10 MR. SANFT: Yes, Your Honor.

11 THE COURT: Is that correct? All right. So we'll
12 just hand --

13 THE CLERK: Just to be clear, Seat 16 is now going to
14 be Ms. Lu on the list; correct?

15 THE COURT: I'm sorry.

16 THE CLERK: Seat 16 is now going to be Ms. Lu?

17 THE COURT: Yes.

18 THE CLERK: Okay. Thank you.

19 THE COURT: She'll take that seat.

20 MR. DiGIACOMO: Oh, is she going into Seat 16?

21 THE COURT: Yes.

22 THE CLERK: Yes.

23 MR. DiGIACOMO: Oh, okay.

24 THE COURT: Okay.

25 THE CLERK: I just wanted to make sure --

1 MR. DiGIACOMO: Thank you for clarifying that.

2 THE CLERK: Okay.

3 (Pause in the proceedings.)

4 THE COURT: And just for the record, if either party
5 waives a peremptory challenge, it doesn't mean they waive the
6 rest of their challenges.

7 MR. SANFT: Yes, Your Honor.

8 (Pause in the proceedings.)

9 THE COURT: All right. The State will now exercise
10 their first peremptory challenge.

11 MR. DiGIACOMO: Oh, we started using mine.

12 THE CLERK: Yes, I know.

13 MR. DiGIACOMO: It's all right. We'll use this one,
14 Judge.

15 (Pause in the proceedings.)

16 THE COURT: All right. It appearing to the Court
17 that the parties have either waived or exercised their
18 peremptory challenges, at this time, ladies and gentlemen, the
19 court clerk will read the names of those individuals who have
20 been selected to hear this case. All right.

21 THE CLERK: Seat Number 1 will be Badge Number 012,
22 Eric Anderson.

23 Seat Number 2 will be 019, Claudia Martinez.

24 Seat Number 3 will be Badge Number 024, Cory
25 Schleret.

1 Seat Number 4 will be Badge Number 053, Andrew
2 Custodio.

3 Seat 5 will be 066, Charly Martinez-Francisco.

4 Seat Number 6 will be Badge Number 089, Marcum
5 Endicott.

6 Seat 7 will be Badge Number 105, Jose Contreras.

7 Seat 8 will be Badge Number 116, Anita Tam.

8 Seat 9 will be 296, Sophia Lu.

9 Seat 10 will be Badge Number 187, Jeffrey Roberts.

10 Seat 11 will be Badge Number 200, Joshua Acquin.

11 Court's indulgence. Sorry.

12 Seat 12 will be Badge Number 255, Tiffany Porter.

13 Seat 13 will be Badge Number 257 Stephanie Johns.

14 And Seat 14 will be Badge Number 262 Elizabeth
15 Alvarez.

16 THE COURT: All right. Thank you, Madame Clerk.

17 Ladies and gentlemen, those of you whose names and
18 numbers have just been called, please stay in your seats. The
19 rest of you --

20 I've got to make sure it's picked up by the
21 microphone.

22 So, ladies and gentlemen, those of you whose names
23 and badge numbers have just been called, please stay in your
24 seats. The rest of you, you have my thanks, the thanks of the
25 attorneys and the entire court system here for coming down,

1 honoring your jury summons performing your civic duty. Again,
2 most of those individuals whose names have been called, please
3 stay in your seats.

4 The remaining individuals, thank you. Have a great
5 day. Have a safe drive home.

6 (Remainder of panel of prospective jurors excused.)

7 (Pause in the proceedings.)

8 THE COURT: All right. Ladies and gentlemen, those
9 of you that are remaining here, congratulations on being
10 selected. We are going to start the trial tomorrow at
11 9:00 a.m. in Courtroom 3F. It's on this floor. So it's just
12 Courtroom 3 F. Just wait outside the courtroom until the
13 marshal escorts you in tomorrow morning.

14 Please be on time. As you know, in the morning,
15 sometimes traffic is heavy on the freeway. There's also
16 parking. There might be some issues.

17 The marshal that we have here today, she's going to
18 give you an instruction sheet, because you'll park at a
19 different location, and they'll know that you're jurors, and
20 they'll, you know, pay for your parking.

21 And also, do you have the badges, Marshal?

22 THE MARSHAL: I do. I have some. I may be missing a
23 couple.

24 THE COURT: Okay.

25 THE MARSHAL: So they'll get new ones tomorrow, the

1 ones who don't get them.

2 THE COURT: Okay.

3 (Pause in the proceedings.)

4 THE COURT: All right. So our marshal here is going
5 to hand you your new badges and give you some instruction sheet
6 of where to park.

7 And again, you are all ordered to return tomorrow at
8 9:00 a.m., but please be a few minutes early. Again, please
9 allow yourself time for traffic and parking and then wait
10 outside Court 3F. Again, it's on this floor, 3F.

11 And, so ladies and gentlemen, during this evening
12 recess, it is your duty not to converse among yourselves or
13 with anyone else on any subject connected with the trial; or to
14 read, watch or listen to any report of or commentary on the
15 trial by any person connected with the trial or by any medium
16 of information, including, without limitation, newspaper,
17 television, radio and the Internet. You're not to form or
18 express an opinion on any subject connected with this case.

19 As I also mentioned before, you're not to do any
20 research, such as consulting dictionaries, using the Internet
21 or using any reference materials. You're not to make any
22 investigation, test a theory of the case, re-create any aspect
23 of the case, or in any other way investigate or learn about the
24 case on your own.

25 You may tell your family and friends that you are a

1 juror in a criminal case. That is all you can tell them.

2 Okay.

3 And so we're hoping to get the other badges for you,
4 but I think we're missing some badges. We'll have those for
5 you in the morning.

6 So again, you have our thanks, and we will see you
7 back tomorrow, 9:00 a.m. Wait outside 3 F, which is on this
8 floor.

9 Have a safe drive home and thank you very much.

10 (Jury recessed for the evening at 2:06 p.m.)

11 THE COURT: All right. We're outside the presence of
12 the jury panel.

13 Counsel, I will -- I'm in the building usually an
14 hour before court every day. If there's any issues, just
15 contact chambers, and we can take the bench earlier if
16 necessary.

17 MR. DiGIACOMO: Can I make one quick record?

18 THE COURT: Sure.

19 MR. DiGIACOMO: We have both now signed --

20 Have we? Yeah.

21 We both have signed the agreement to waive the
22 separate penalty hearing, and it's been filed with the clerk.

23 THE COURT: All right. And Mr. Kemp has signed that
24 as well; is that right?

25 THE DEFENDANT: Yes.

1 THE COURT: Thank you, sir.

2 MR. SANFT: And he read it before he signed it, Your
3 Honor.

4 THE COURT: Okay. Good. All right.

5 And then so, like I said, I'm usually in the building
6 an hour before court. So if there's any issues, contact my law
7 clerk, and so I'll take the bench earlier.

8 I know Mr. Kemp will probably be brought down maybe
9 30 minutes early in any event.

10 And so I'll see everyone back at 9:00 o'clock.

11 And if you have the time, if you can forward to my
12 law clerk in the next day or so proposed jury instructions,
13 special instructions, case citations.

14 MR. DiGIACOMO: As I told your law clerk, Mr. Sanft
15 and I, we've done this a lot. We've pretty much agreed on the
16 entire instructions. So if there's any we disagree on, we'll
17 give that to your law clerk. But other than that you're going
18 to have a full packet.

19 THE COURT: Okay. Great.

20 Anything by the State before we adjourn for the day?

21 MR. DiGIACOMO: No, Your Honor. Thank you.

22 THE COURT: Anything by the defense?

23 MR. SANFT: No, Your Honor.

24 THE COURT: All right. We'll see you tomorrow at
25 9:00.

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MR. SANFT: Thank you, Your Honor.

THE COURT: Thank you, everybody.

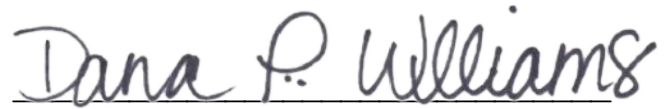
Thank you, Officers.

Thank you, Mr. Kemp.

(Proceedings recessed for the evening at 2:08 p.m.)

-oOo-

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

A handwritten signature in dark ink, reading "Dana L. Williams". The signature is written in a cursive style with a horizontal line underneath the name.

Dana L. Williams
Transcriber

<p>MR. DIGIACOMO: [159]</p> <p>MR. SANFT: [108] 9/17 73/11 86/7 86/17 87/19 87/24 94/17 94/19 94/25 95/12 95/19 96/1 96/9 96/11 96/13 96/15 96/20 97/1 97/5 97/13 97/17 98/2 98/15 98/18 98/22 99/5 99/9 99/11 99/16 99/20 99/25 100/5 100/7 100/12 100/14 100/16 100/22 101/2 101/8 101/12 101/14 101/22 102/20 102/23 103/6 103/9 103/11 103/19 103/21 104/5 104/9 104/11 104/14 104/16 104/19 106/11 106/14 108/11 108/14 109/13 109/17 110/25 111/3 111/6 111/8 111/10 111/16 111/21 112/8 112/11 112/21 112/25 113/12 113/16 114/2 114/6 114/8 114/11 114/14 114/22 115/8 115/23 117/11 117/19 117/22 118/5 118/8 120/25 121/3 127/11 127/14 128/1 128/4 128/13 128/19 129/4 129/7 129/14 129/18 130/7 130/10 132/10 132/13 133/10 134/7 139/2 139/23 140/1</p> <p>PROSPECTIVE JUROR NO. 012: [12] 19/5 19/8 19/17 20/6 20/11 20/14 20/21 20/24 21/9 21/15 21/22 22/9</p> <p>PROSPECTIVE JUROR NO. 017: [17] 22/12 22/24 23/3 103/10 103/15 103/20 103/23 104/7 104/10 104/13 105/1 105/7 105/16 105/18 105/21 105/25 106/2</p> <p>PROSPECTIVE JUROR NO. 019: [1] 23/11</p> <p>PROSPECTIVE JUROR NO. 020: [2] 23/24 24/1</p> <p>PROSPECTIVE JUROR NO. 024: [19] 24/19 24/21 25/10 25/13 25/16 25/21 25/24 26/4 106/20 106/22 107/1 107/4 107/7 107/10 107/13 107/16 107/22 108/1 108/6</p> <p>PROSPECTIVE JUROR NO. 037: [15]</p>	<p>26/11 27/8 27/12 27/15 27/18 27/22 96/8 96/10 96/12 96/14 96/17 96/23 97/2 97/11 97/14</p> <p>PROSPECTIVE JUROR NO. 052: [7] 28/1 97/25 98/4 98/8 98/10 98/17 109/6</p> <p>PROSPECTIVE JUROR NO. 053: [3] 28/12 28/14 29/5</p> <p>PROSPECTIVE JUROR NO. 066: [8] 29/7 110/2 110/5 110/7 110/11 110/14 110/17 110/20</p> <p>PROSPECTIVE JUROR NO. 077: [26] 29/21 29/24 30/10 30/13 30/15 30/18 30/22 30/25 31/2 31/6 31/9 31/12 31/15 31/19 31/24 32/3 32/7 32/10 32/12 111/5 111/7 111/9 111/12 111/17 111/25 112/10</p> <p>PROSPECTIVE JUROR NO. 081: [1] 32/19</p> <p>PROSPECTIVE JUROR NO. 089: [1] 33/9</p> <p>PROSPECTIVE JUROR NO. 105: [2] 33/25 34/14</p> <p>PROSPECTIVE JUROR NO. 113: [9] 34/16 35/1 35/3 35/5 35/8 35/12 35/15 35/17 35/24</p> <p>PROSPECTIVE JUROR NO. 116: [10] 36/1 36/14 36/17 36/19 114/5 114/7 114/10 114/13 114/19 115/2</p> <p>PROSPECTIVE JUROR NO. 135: [15] 36/25 100/10 100/13 100/15 100/17 100/25 101/7 101/10 101/13 116/6 116/11 116/16 116/25 117/5 117/7</p> <p>PROSPECTIVE JUROR NO. 148: [16] 17/14 17/20 17/24 37/12 37/25 38/2 38/5 38/8 38/11 38/15 38/19 38/25 98/21 98/23 99/6 99/10</p> <p>PROSPECTIVE JUROR NO. 187: [1] 39/6</p> <p>PROSPECTIVE JUROR NO. 196: [5] 39/21 40/12 40/15 40/18 40/22</p> <p>PROSPECTIVE JUROR NO. 200: [1] 41/4</p>	<p>PROSPECTIVE JUROR NO. 202: [30] 41/19 41/24 42/2 42/18 42/21 43/9 43/14 43/17 43/21 43/24 44/2 44/5 44/11 44/15 44/22 45/4 45/7 118/16 118/18 118/20 118/22 118/24 119/4 119/8 119/10 119/20 119/23 120/3 120/9 120/19</p> <p>PROSPECTIVE JUROR NO. 209: [41] 45/10 45/12 45/24 46/9 46/12 46/15 46/20 46/22 47/1 47/3 47/6 121/6 121/9 121/11 121/13 121/23 122/2 122/4 122/8 122/19 122/24 123/4 123/14 123/23 124/2 124/11 124/13 124/19 125/3 125/7 125/9 125/12 125/18 125/21 125/24 126/5 126/8 126/11 126/14 126/20 127/2</p> <p>PROSPECTIVE JUROR NO. 231: [8] 47/11 47/21 47/23 99/14 99/17 99/23 100/4 100/6</p> <p>PROSPECTIVE JUROR NO. 241: [6] 48/3 48/16 48/18 48/20 48/22 49/1</p> <p>PROSPECTIVE JUROR NO. 242: [5] 49/3 49/19 50/2 50/5 50/8</p> <p>PROSPECTIVE JUROR NO. 255: [1] 50/13</p> <p>PROSPECTIVE JUROR NO. 257: [7] 51/3 51/5 51/16 51/19 51/21 51/24 52/4</p> <p>PROSPECTIVE JUROR NO. 262: [3] 52/6 52/16 52/18</p> <p>PROSPECTIVE JUROR NO. 265: [1] 52/23</p> <p>PROSPECTIVE JUROR NO. 266: [8] 53/12 53/15 53/18 54/8 54/12 55/2 55/5 55/12</p> <p>PROSPECTIVE JUROR NO. 271: [1] 55/14</p> <p>PROSPECTIVE JUROR NO. 285: [1] 56/1</p> <p>PROSPECTIVE JUROR NO. 296: [11] 56/13 56/25 57/3 57/6 57/12 131/8 131/12 131/15 131/22 132/1 132/4</p> <p>PROSPECTIVE JUROR NO. 306: [16]</p>	<p>57/17 57/25 58/2 58/6 58/9 58/12 58/15 58/18 58/21 58/25 59/4 59/8 59/16 59/20 60/2 60/8</p> <p>PROSPECTIVE JUROR NO. 317: [4] 60/10 61/2 61/7 61/12</p> <p>PROSPECTIVE JUROR NO. 323: [6] 61/25 62/2 62/13 62/16 62/20 63/3</p> <p>PROSPECTIVE JUROR NO. 324: [3] 63/10 63/25 64/3</p> <p>PROSPECTIVE JUROR NO. 327: [4] 64/8 64/22 64/25 65/3</p> <p>PROSPECTIVE JUROR NO. 330: [1] 65/8</p> <p>PROSPECTIVE JUROR NO. 331: [6] 16/15 16/21 16/25 17/4 17/8 65/22</p> <p>PROSPECTIVE JUROR NO. 335: [2] 66/10 67/2</p> <p>PROSPECTIVE JUROR NO. 339: [11] 15/18 15/21 16/1 16/6 16/11 67/7 67/20 68/1 68/8 68/10 85/23</p> <p>PROSPECTIVE JUROR NO. 344: [1] 68/16</p> <p>PROSPECTIVE JUROR NO. 358: [9] 69/3 69/19 69/22 70/4 70/7 70/9 70/13 70/16 70/20</p> <p>PROSPECTIVE JUROR NO. 359: [1] 70/22</p> <p>PROSPECTIVE JUROR NO. 360: [13] 71/12 71/14 72/1 72/4 72/7 72/10 72/14 72/18 72/21 72/25 73/3 73/5 73/20</p> <p>PROSPECTIVE JUROR NO. 363: [14] 73/23 73/25 74/15 74/23 75/1 75/16 75/19 75/25 76/4 76/7 76/12 76/20 77/3 77/10</p> <p>PROSPECTIVE JUROR NO. 376: [2] 77/17 77/19</p> <p>PROSPECTIVE JUROR NO. 381: [1] 78/8</p> <p>PROSPECTIVE JUROR NO. 391: [5] 79/2 79/14 79/21 79/24 80/5</p> <p>PROSPECTIVE JUROR NO. 399: [1] 80/7</p> <p>PROSPECTIVE JUROR NO. 412: [2]</p>	<p>80/21 80/23</p> <p>PROSPECTIVE JUROR NO. 429: [9] 81/14 81/24 82/1 82/3 82/6 82/8 82/12 82/15 82/17</p> <p>PROSPECTIVE JUROR NO. 432: [3] 82/22 83/13 83/15</p> <p>THE CLERK: [8] 133/13 133/16 133/18 133/22 133/25 134/2 134/12 134/21</p> <p>THE COURT RECORDER: [7] 75/4 75/6 87/9 87/12 87/15 88/17 98/3</p> <p>THE COURT: [437] THE DEFENDANT: [8] 87/7 87/14 88/1 88/5 88/9 88/15 88/19 138/25</p> <p>THE MARSHAL: [11] 18/2 19/7 41/21 45/1 53/14 59/23 88/24 89/2 89/6 136/22 136/25</p> <p>UNIDENTIFIED SPEAKER: [1] 15/1</p> <hr/> <p>'80s [1] 62/22</p> <hr/> <p>-</p> <hr/> <p>-oOo [1] 140/6</p> <hr/> <p>0</p> <p>012 [3] 89/22 103/3 134/21</p> <p>017 [2] 22/11 103/8</p> <p>019 [3] 23/10 106/5 134/23</p> <p>020 [2] 23/23 106/13</p> <p>024 [5] 24/20 24/22 106/18 106/22 134/24</p> <p>037 [2] 26/10 108/13</p> <p>052 [3] 27/24 98/8 108/18</p> <p>053 [3] 28/11 109/16 135/1</p> <p>066 [3] 29/6 109/22 135/3</p> <p>077 [3] 29/20 111/2 111/5</p> <p>081 [2] 32/18 112/16</p> <p>089 [3] 33/8 112/24 135/4</p> <hr/> <p>1</p> <p>1 and [1] 34/23</p> <p>1 is [1] 81/14</p> <p>10 [64] 22/6 22/14 23/6 23/21 24/14 26/6 27/4 28/9 28/15 29/2 29/17 32/15 33/5 33/21 34/11 35/21 36/9 37/9 39/3 39/18 41/1 41/11 41/16 43/1 45/2 45/3 47/25 48/23 50/10 50/23 52/2 52/20 53/9 55/23 56/10</p> <p style="text-align: right;">AA175</p>
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[29] 56/20 57/14 60/5 63/6 63/22 64/14 64/22 65/5 65/19 66/7 68/13 68/25 70/18 71/8 76/15 77/25 78/5 78/24 80/3 80/17 81/6 81/11 82/19 83/18 83/18 92/9 103/24 111/5 135/9 10 years [1] 66/19 10-year-old [1] 69/12 105 [3] 33/24 113/7 135/6 11 [57] 22/7 22/19 23/6 23/21 24/15 26/8 27/5 28/9 29/3 29/18 32/16 33/6 33/22 34/12 35/22 36/22 37/9 39/3 39/18 41/1 41/16 43/1 45/2 45/3 45/6 47/25 48/9 48/24 50/10 50/23 52/2 52/20 53/9 55/23 56/10 57/14 60/6 63/7 63/22 65/5 65/19 66/7 67/14 68/13 68/25 70/18 71/9 76/15 78/5 78/24 80/3 80/18 81/11 82/19 83/18 103/17 135/10 11/309 [1] 6/15 113 [2] 34/15 113/15 116 [5] 35/25 36/2 113/22 114/5 135/7 11:27 [1] 84/5 11:27 a.m [1] 85/21 11:29 [1] 85/16 11:30 [2] 83/25 84/6 12 [2] 74/1 135/12 12:30 [3] 84/6 85/16 86/21 12:51 p.m [1] 89/7 12th [1] 23/13 13 [9] 25/6 29/25 41/11 48/9 50/18 77/20 80/24 81/6 135/13 13-year-old [1] 28/22 135 [4] 36/24 100/13 115/22 130/5 14 [8] 25/6 36/9 37/19 41/5 48/9 48/16 52/10 135/14 148 [6] 17/15 37/11 37/13 98/20 98/23 117/14 15 [6] 37/19 40/13 48/16 52/24 64/9 65/9 16 [10] 32/20 41/11 49/8 52/10 71/15 81/4 100/9 133/13 133/16 133/20 17 [5] 2/9 47/16 56/23 77/25 98/20 18 [4] 23/12 33/14 47/16 68/17 187 [3] 39/5 117/21 135/9 19 [5] 4/18 33/14 78/9 80/12 82/23 196 [2] 39/20 118/1</p>	<p>1968 [1] 69/12 1977 [1] 69/6 1983 [1] 81/24 1998 [1] 78/15</p> <hr/> <p>2 2-year-old [1] 28/21 20 [11] 36/15 37/1 38/5 47/12 47/16 53/25 79/8 79/9 126/18 126/19 126/20 20 years [1] 29/8 200 [3] 41/3 118/7 135/10 2007 [1] 25/13 2009 [1] 35/3 2011 [1] 70/10 202 [3] 41/18 41/19 118/13 2021 [2] 1/13 2/1 209 [3] 45/9 121/2 121/6 21 [3] 24/2 33/14 45/18 22 [2] 26/19 121/8 23 [5] 19/18 49/8 51/6 55/15 80/12 231 [3] 47/10 99/17 127/6 24 [1] 45/18 241 [2] 48/2 127/13 242 [2] 49/2 127/21 24th [2] 69/12 70/10 25 [4] 25/3 37/20 61/10 80/8 255 [3] 50/12 128/3 135/12 257 [4] 50/25 51/6 128/8 135/13 26 [3] 36/2 49/8 69/4 262 [3] 52/5 128/18 135/14 265 [2] 52/22 128/24 266 [2] 53/11 129/6 27 [4] 34/5 34/17 79/8 79/8 271 [3] 55/13 55/14 129/10 28 [3] 33/10 33/14 56/1 285 [5] 55/25 89/23 90/1 95/18 129/17 29 [1] 37/13 296 [3] 56/12 131/1 135/8 2:00 p.m [1] 16/22 2:06 p.m [1] 138/10 2:08 p.m [1] 140/5</p> <hr/> <p>3 3 F [2] 136/12 138/7 3 is [1] 71/17 3, yes [1] 81/17 30 [3] 34/5 49/8 139/9 306 [1] 57/16 309 [2] 6/15 6/16 317 [2] 60/9 60/10 32 [7] 34/5 42/12 95/16 95/20 95/23 130/16 132/14 323 [2] 62/1 62/2</p>	<p>324 [1] 63/9 327 [1] 64/7 33 [4] 56/13 60/11 60/15 66/11 330 [1] 65/7 331 [3] 16/16 65/21 86/1 335 [2] 66/9 66/10 339 [4] 15/19 67/6 85/23 86/12 34 [2] 39/11 63/11 344 [1] 68/15 358 [2] 69/2 69/4 359 [1] 70/21 36 [1] 48/4 36-year-old [1] 40/7 360 [1] 71/11 363 [1] 73/22 37 [4] 96/8 96/9 96/10 96/17 376 [1] 77/16 381 [1] 78/7 39 [1] 39/11 391 [1] 79/1 399 [1] 80/6 3F [3] 136/11 137/10 137/10</p> <hr/> <p>4 4 is [3] 50/17 53/3 71/18 4 years [1] 74/7 40 [1] 60/15 40-year-old [1] 40/6 41 [1] 60/15 412 [2] 80/20 80/23 429 [1] 81/13 432 [1] 82/21 45 [2] 13/18 79/3 48 [2] 95/13 95/19</p> <hr/> <p>5 5 is [1] 53/4 50 [1] 15/13 52 [1] 97/22 5:00 o'clock [1] 13/20</p> <hr/> <p>6 6 and [4] 23/16 37/6 66/4 67/14 6 feet [2] 4/20 4/23 6 is [7] 34/7 34/24 49/10 50/19 53/5 60/17 83/7 6 will [1] 135/4 6, yes [2] 69/11 79/11 62 [1] 26/12 6390 [1] 8/21 6555 [1] 6/16 6C [1] 24/8</p> <hr/> <p>7 7 and [1] 22/19 7 is [4] 41/13 50/20 53/6 64/19 7, no [3] 48/11 56/7 65/16 7, yes [2] 35/17 49/11 7:55 [1] 16/21</p>	<p>7A [1] 21/22</p> <hr/> <p>8 8 and [2] 56/20 78/23 8 is [5] 35/19 41/14 50/21 53/7 71/24 8, no [1] 56/8 8, yes [1] 48/12 8-year-old [1] 28/21 80/20 [1] 126/18</p> <hr/> <p>9 9 at [1] 133/8 9 is [7] 34/10 34/10 35/20 50/9 50/22 53/8 83/17 9, no [2] 47/7 66/6 9:00 [1] 139/25 9:00 a.m [3] 136/11 137/8 138/7 9:00 o'clock [2] 13/17 139/10 9:30 [1] 83/25 9:32 [1] 2/1 9:33 a.m [1] 2/5</p> <hr/> <p>A a.m [6] 2/1 2/5 85/21 136/11 137/8 138/7 AA [1] 45/14 AAA [1] 56/19 ability [10] 96/20 108/4 108/25 109/1 119/7 120/7 120/16 126/1 132/3 140/9 able [11] 2/23 16/24 55/9 73/18 87/8 87/10 96/24 97/9 99/21 111/22 119/15 about [83] 3/6 3/14 7/3 11/2 13/17 17/21 18/8 20/4 20/12 20/15 21/20 21/23 25/12 26/5 27/3 28/15 31/1 31/2 33/20 35/2 36/21 38/16 38/21 39/17 40/10 42/24 44/4 46/9 49/17 53/19 54/25 55/8 56/23 61/17 61/20 63/5 63/21 64/14 64/22 67/3 68/2 68/12 70/17 74/1 74/20 76/1 76/14 78/9 80/16 82/18 85/11 87/17 90/3 92/4 92/19 93/7 93/22 94/7 97/20 98/11 99/19 100/19 101/4 102/12 103/12 103/12 107/11 108/3 108/24 112/3 115/25 116/5 122/5 122/6 122/21 122/22 122/22 123/2 124/22 126/2 131/16 132/2 137/23 above [1] 140/8 above-entitled [1] 140/8 absolutely [4] 23/6 97/17 99/5 115/13 abstract [2] 90/14 92/7 accept [3] 92/18</p>	<p>105/11 124/7 accepting [1] 75/22 account [2] 56/17 115/4 accused [32] 5/8 6/9 6/12 6/15 6/18 11/8 21/2 21/4 22/22 25/9 25/24 25/25 26/25 38/12 39/13 40/23 42/21 45/24 51/15 54/21 66/22 67/21 69/25 75/2 75/20 78/18 82/3 82/4 83/9 91/9 93/25 110/15 Acob [1] 65/7 acquaintances [1] 54/22 Acquin [4] 41/3 41/4 118/7 135/10 acquit [1] 90/25 across [2] 84/13 124/24 action [1] 79/18 actually [12] 15/22 20/15 21/11 33/14 37/19 50/5 72/12 76/8 95/14 121/17 121/21 126/15 addition [1] 93/4 adjourn [3] 13/20 84/5 139/20 adjournments [1] 54/2 administration [4] 28/3 39/23 45/14 64/10 admitted [1] 8/4 adult [4] 26/21 37/20 47/19 83/4 adults [1] 49/8 advance [1] 18/11 advise [3] 3/8 5/15 84/10 advised [1] 17/18 affairs [1] 27/17 affect [3] 119/6 120/7 132/2 affiliation [1] 5/23 African [2] 122/12 124/23 African-American [1] 124/23 after [8] 5/24 16/19 19/14 49/15 58/22 103/12 105/12 114/23 afternoon [1] 90/8 again [30] 5/5 10/2 10/6 12/18 14/16 14/17 14/21 14/23 15/20 21/22 22/23 26/3 27/20 38/3 43/1 43/20 43/21 44/12 61/7 74/11 84/20 86/9 88/4 111/15 115/19 136/1 137/7 137/8 137/10 138/6 against [2] 44/13 122/10 age [3] 22/19 28/7 50/18 agency [9] 30/14 32/5 32/8 35/7 57/2 58/7</p>
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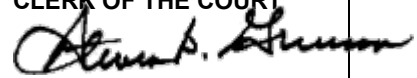
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

JECORY ELES KEMP,

Defendant.

CASE NO. C-20-346920-1

DEPT. NO. XVII

BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE

TUESDAY, APRIL 6, 2021

**RECORDER'S TRANSCRIPT OF PROCEEDINGS
CENTRAL JURY TRIAL #1 - DAY 2**

APPEARANCES:

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Chief Deputy District Attorney
MICHAEL J. SCARBOROUGH
Deputy District Attorney

For the Defendant:

MICHAEL W. SANFT, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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None

1 LAS VEGAS, NEVADA, TUESDAY, APRIL 6, 2021, 9:17 A.M.

2 * * * * *

3 [Outside the presence of the jury panel]

4 THE COURT: All right. All the jurors are present. Defendant is here with
5 counsel. We're going to bring the jury in, we'll have them sworn in, I will give some
6 introductory remarks, and then we'll open it up for opening statements by the
7 parties.

8 Anything by the State before we bring the jury?

9 MR. DIGIACOMO: No, Your Honor.

10 THE COURT: Anything by the defense?

11 MR. SANFT: No, Your Honor.

12 THE COURT: All right. We'll get the jury in.

13 THE MARSHAL: All rise for the entering jury.

14 [In the presence of the jury panel]

15 THE COURT: Everyone have a seat. Good morning, ladies and gentlemen,
16 welcome back and thank you for all showing up on time. And so at this time -- and
17 you have been selected to try this case as jurors. We're going to -- the court clerk is
18 going to swear you in for your duty as a juror now. So if everyone can stand please
19 stand and raise your right hand.

20 [The Clerk swears in the jury panel]

21 THE COURT: All right. Thank you, ladies and gentlemen, please have a
22 seat.

23 Ladies and gentlemen, I'm going to just read to you some introductory
24 remarks just to give you an idea of what to expect during the trial. It's not regarding
25 the evidence, it's just more of the procedure of the trial. And as I'd mentioned

1 before, at the end of the trial I will read to you the jury instructions which are the
2 laws that apply to this particular case and then the attorneys will have their closing
3 arguments for you. And so at this time I'm just going to give you some introductory
4 remarks and then the State will give you their opening and the defense may, if they
5 so choose at this time, give you an opening as well.

6 As you know this is a criminal case brought by the State of Nevada
7 against the defendant. This case is based upon a third superseding indictment.
8 The clerk will now read to you the third superseding indictment and state the
9 defendant's plea.

10 [The Clerk read the Third Superseding Indictment aloud]

11 THE COURT: Ladies and gentlemen, you should distinctly understand that
12 the third superseding indictment just read to you is simply a description of the
13 charges made by the State against the defendant. It is not evidence of anything. It
14 does not prove anything. Therefore, the defendant starts out with a clean slate.
15 The defendant has pled not guilty and is presumed innocent.

16 In a criminal case there are two basic rules to keep in mind. One,
17 defendant is presumed innocent unless proven guilty beyond a reasonable doubt.
18 The defendant is not required to present any evidence or to prove his innocence.
19 The law never imposes upon a defendant in a criminal case the burden of calling
20 any witnesses or introducing any evidence.

21 Two, to convict the State must prove beyond a reasonable doubt that
22 the crimes were committed and that defendant is the person who committed them.
23 Certain things are not evidence and you must not consider them as evidence in
24 deciding the facts of this case: Statements and arguments by the attorneys,
25 questions and objection of the attorneys, testimony I instruct you to disregard, and

1 anything that you see or hear when court is not in session even if it comes from one
2 of the parties or witnesses. Remember, evidence is sworn testimony by a witness
3 while court is in session and documents and other things received into evidence as
4 exhibits.

5 There are two kind of evidence, direct and circumstantial. Direct
6 evidence is testimony about what the witness saw, heard, or did. Circumstantial
7 evidence is indirect proof of one or more facts from which you can find another fact.
8 For example, if you wake up in the morning and see the ground, the sidewalk, and
9 the streets are all wet and water is running down the gutter, you may find from those
10 facts that it rained during the night. It is proof of one or more facts from which you
11 can find another fact.

12 If you were awake during the night and saw the rain fall, that would be
13 direct evidence which is something you personally saw. You may consider both
14 direct and circumstantial evidence in deciding this case. The law permits that you
15 give equal weight or value to both. But it is for you to decide how much
16 consideration to give any evidence.

17 There are rules of law that control what can be received into evidence.
18 When a lawyer asks a question or offers an exhibit into evidence and the lawyer on
19 other side thinks that it is not permitted by the rules that lawyer may object. If I
20 overrule the objection, the question may be answered or the exhibit received. If I
21 sustain the objection, the question cannot be answered and the exhibit cannot be
22 received.

23 Whenever I sustained an objection, ignore the question and do not
24 guess what the answer might have been. Sometimes I may order evidence stricken
25 from the record and tell you to disregard or ignore such evidence, this means that

1 you cannot consider this evidence when you are deciding the case.

2 It is the duty of a lawyer to object when they believe that admission of
3 the evidence would violate the rules. You should not be prejudiced in any way
4 against a lawyer who makes objections on behalf of the party the lawyer represents.
5 Also, I may find it necessary to admonish a lawyer. If I do, you should not be
6 prejudiced towards the lawyer or the client because I found it necessary to
7 admonish the lawyer.

8 Until this case is submitted to you do not talk to each other about the
9 case or anyone who has anything to do with it until the end of the case when you go
10 to the jury room to decide on your verdict.

11 Do -- do, excuse me, do not talk with anyone else either by phone,
12 e-mail, text, Internet, or other social media means about this case or anyone has
13 anything to do with it until the trial has ended and you have been discharged as
14 jurors. You may tell them that you are a juror in a criminal case, but that is all. Do
15 not let anyone talk to you about the case or about anyone who has anything to do
16 with it. If anyone tries to talk to you, please report it immediately to the marshal.

17 Do not read any news stories, listen to the radio broadcast, or watch
18 any television broadcast or watch any television reports about the case or about
19 anyone who is involved with it. Do not do any research such as consulting
20 dictionaries, using the Internet, or using reference materials, or make any
21 investigation about the case on your own.

22 You may be tempted to visit a particular location, please do not do so.
23 In view of the time that has elapsed since this case has come to trial, substantial
24 changes may have occurred at the location in question. Also, in making an
25 unauthorized visit without the benefit of explanation, you may get an erroneous

1 impression. Therefore, please avoid going near or past the location until after this
2 case has been completed.

3 In deciding the facts of this case you may decide which witnesses to
4 believe and which witnesses not to believe. You may believe everything a witness
5 says, only part of it, or none of it. In considering the weight or value of the testimony
6 of any witness you may consider the appearance, attitude and behavior of the
7 witness when testifying and a number of other things including the witness's ability
8 to see, hear, or know of the things the witness testifies to, the quality of the witness's
9 memory, the inclination of the witness to speak truthfully, whether or not the witness
10 has any interest in the outcome of the case, or any motive, bias, or prejudice;
11 whether the witness is contradicted by anything the witness said or wrote before
12 trial; and how reasonable is the witness's testimony when considered with other
13 evidence which you believe.

14 In deciding whether or not to believe a witness keep in mind that people
15 sometimes forget things. You need to consider whether the contradiction was due
16 to an innocent lapse in memory or intentional falsehood and that may depend on
17 whether it has to do with an important fact or only a small detail.

18 The weight and value of evidence does not necessarily depend on the
19 number of witnesses testifying for one side. You must consider all the evidence and
20 you may decide the testimony of a smaller number of witnesses on one side has
21 more weight or value than that presented by a larger number of witnesses on the
22 other side.

23 During this trial you will be given the opportunity to ask written
24 questions of any of the witnesses called to testify in this case. You are not
25 encouraged to ask a large number of questions because that is the primary

1 responsibility of counsel. Once the attorneys have finished their questions, I will ask
2 whether any of the jurors have questions. If you do, please write down your
3 question with your juror number on the sheet of paper, raise your hand, the marshal
4 will collect the question. Questions must be factual in nature, designed to clarify
5 information already presented, and addressed to the witness. Jurors must not place
6 undue weight on the responses to their questions. After I consult with the attorneys
7 I will determine whether your question is legally proper. No adverse inference
8 should be drawn if I determine -- if I decide not to ask a particular question.

9 It will be your duty to look at all the evidence to be presented and
10 determine whether the defendant is guilty or not guilty. You are the sole judges of
11 the facts. You will the decide the facts -- you will decide what the fact are from the
12 evidence that will be presented. The evidence consists of testimony of witnesses
13 and documents and other things received into evidence as exhibits. You must apply
14 the facts presented to law the court gives you and in that way reach your verdict.

15 It is important that you perform your duty of determining the facts
16 diligently and conscientiously. For ordinarily, there's no way of correcting an
17 erroneous determination of the fact -- facts by the jury.

18 During the trial do not take anything I say or do as indicating my opinion
19 how to decide the case or to influence you in any way in your determination of the
20 facts. At times I may even ask questions of witnesses, if I do, it is for the purpose of
21 bringing out matters which should be brought out and not in any way to indicate my
22 opinion about the facts or to indicate the weight or value you should give to the
23 testimony of a witness.

24 Do not make up your mind about what the verdict should be until after
25 you've gone to the jury room to decide the case and you and your fellow jurors have

1 discussed the evidence. It is important to keep an open mind throughout the trial.
2 At the end of the trial you will have to make your decision based upon what you
3 recall of the evidence.

4 You will not have a written transcript to consult. Please pay close
5 attention to the testimony as it is very difficult and time consuming for the court
6 recorder to play back lengthy testimony. If you wish, you may take notes to help you
7 remember what a witness said. If you do take notes, please keep them to yourself
8 until you and your fellow jurors go to the jury room to decide the case. Do not allow
9 note taking to distract you from what the witness is saying. You should rely upon
10 your own memory of what was said and not be overly influenced by the notes of
11 other jurors.

12 During the course of this trial the attorneys for both sides and all court
13 personnel, including myself, other than the marshal, are not permitted to converse
14 with members of the jury. These individuals are not being antisocial or rude. We
15 are bound by ethics and the law not to talk to you. To do so might contaminate your
16 verdict.

17 The trial will proceed in the following manner, the deputy district
18 attorney will make an opening statement which will outline what the State expects to
19 prove; then the defendant may make an opening statement, however this is not
20 required. Opening statements serve as an introduction to the evidence. The State
21 will then present its evidence and counsel for defendant may cross-examine the
22 witnesses. Following the State's case, the defense may present evidence and the
23 deputy district attorney may cross-examine the witnesses. However, as I have said,
24 the defendant is not obligated to present any evidence.

25 After all the evidence has been presented, I will instruct you on the law.

1 After the instructions on the law have been read to you, each side has the
2 opportunity to present oral argument. What is said in closing argument is not
3 evidence. The arguments are designed to summarize and interpret the evidence.
4 Since the State has the burden of proving the defendant guilty beyond a reasonable
5 doubt, the State has the right to open and close the arguments. After the arguments
6 have been completed, you will retire to consider your verdict.

7 State, are you ready for your opening?

8 MR. SCARBOROUGH: Yes, I am, Judge, thank you.

9 THE COURT: All right.

10 MR. SCARBOROUGH: Is there a little delay?

11 MR. DIGIACOMO: Click in and click out.

12 MR. SCARBOROUGH: Okay. Ladies and gentlemen, the events of this case
13 largely transpire over on 6555 Boulder Highway, Building 11, Apartment 309. Now,
14 you're going to see the layout. You can see the orientation. This is a Siena Suites
15 complex and Building 11, as you can see, is over here on the top of the screen.
16 When you see Apartment 309, it indicates a third level. So these buildings each are
17 three-level buildings and the apartment, again, is Building 11, 309.

18 Now, when you see the interior of that apartment, Apartment 309, is
19 relatively smaller. There's a living room and then there's one back bedroom. And
20 then there's just the kitchen outside, right out of the frame of that living room picture
21 with the couch. And through this apartment is where you're going to come and be
22 introduced to all of the people involved in this event that takes place at this
23 apartment. Okay.

24 Davon Hickman, and these quotes are what they go by, so Davon
25 Hickman is known as Little or Payso. Our defendant, Je'cory Kemp, known as

1 Smoob with a B. Arleo Davis is known as Sayso. So we have Payso and Sayso.
2 Then we have his brother, Anthony Woods. We have Preston Huteson, known as
3 Flacco; Tyeshia James, which is the defendant's girlfriend; and Mackeisha Murphy,
4 which is Hickman's girlfriend. Now, again, we're going to keep track of these, don't
5 worry. I know there's a lot of people that you just came into contact with here, but
6 we're going to keep them, you know, track of them.

7 So in that apartment that I just showed you, Davon Hickman and
8 Je'cory Kemp, you know, they sell weed out of that apartment, okay. So Davon
9 Hickman, Payso, is kind of the guy who gets the weed and Je'cory Kemp is going to
10 be the door guy. He's the guy who opens up the door, he's the one who people
11 regularly expect to interact with when they go and purchase marijuana from the
12 residence. In other words, Je'cory Kemp's going to be the guy handing them the
13 weed and taking the money.

14 So at the time of this incident, Payso, Je'cory Kemp, Tyeshia James,
15 and Mackeisha Murphy are living in that apartment. Okay. So Tyeshia James and
16 Je'cory Kemp, they kind stay on that couch that you saw in the first slide. Payso and
17 his girlfriend, Mackeisha Murphy stay in the back.

18 So through that dealing enterprise is where they're going to come into
19 contact and where you're going to be introduced to the victim in this case, Marion
20 Anderson, who goes by A.J. Now, what happens is Payso, Davon Hickman, and all
21 those people up there come up with a plan to rob A.J. for marijuana. So this is the
22 plan, Marion Anderson is known by A.J. and he sells -- or known as A.J. and he
23 sells weed. So Payso, he negotiates a two-pound purchase from A.J., this is going
24 to be the plan. He's going to tell A.J. to go to Apartment 309 where Kemp, Payso,
25 Sayso, and Woods -- so Kemp, Payso, Sayso, and Woods -- are going to remain in

1 that apartment, okay. And you'll be introduced to Flacco in a little bit. And Tyeshia
2 and Mackeisha are going to leave the apartment while the robbery goes down.

3 So as I said before, Kemp is the regular doorman at the apartment and
4 that's going to play an important part in his role in this event. He's supposed to
5 answer the door, act like everything's smooth. Because if someone doesn't go --
6 someone goes there and they open the door and it's not Kemp, they might think
7 something's up, so the defendant, Kemp, is supposed to open the door and act like
8 nothing's wrong, just the typical transaction.

9 Now, Payso is going to be in the front room too. He's going to be there
10 because he's the guy that negotiated the deal and brought the victim, A.J., to the
11 house. Now, Sayso and his brother, Mr. Woods, they're supposed to hide in that
12 back room that you saw. And at some point what they're going to do in that confined
13 area, once they lure him there, under that weed transaction deal, is they're going to
14 come out of that room, they're going to ambush him, and they're going to steal the
15 weed. So that's the plan.

16 So come December 30th, 2019, at roughly 12:30 p.m., A.J. comes over
17 with the weed. Kemp, of course, the defendant, answers the door. That's his role.
18 He's got to be cool, calm, and collected like nothing else is going on. But come to
19 find out, it looks like A.J. only brings one pound in the backpack that he brings and
20 so that causes a confrontation and a dispute. They realize that he only brought one
21 pound. He was -- he had a plan of I'm going to bring one pound but then we they
22 ask me, I'll bring the other pound or a pound of weed when it's presented to me,
23 when the money is presented to me. So he only brought a little bit at once. So that
24 confrontation happens.

25 Now, Sayso and his brother, Anthony Woods, come out of the room.

1 But at this point now everyone's in the living room. Davon Hickman, that's Payso,
2 and Kemp they're all in the living room. But A.J.'s armed and at this point he's
3 aware that something's up and he thinks something's wrong. So he takes out his
4 gun but he leaves it by his side. But he knows something's going up -- something's
5 going wrong and that's when the robbery goes wrong.

6 So when he draws the gun and he keeps it to his side, Kemp trying to
7 act like everything is all okay, hey, man, put it away, it's not like that, it's not like that,
8 everything's okay; don't worry, playing his role in the event. Things escalate very
9 quickly and Payso shoots A.J. A.J. gets shot in his right shoulder and ultimately
10 dies of the gunshot wound in the apartment. Now someone's dead as a result of
11 this robbery.

12 So now a new plan has to be made. They've got to clean up the body,
13 they've got to clean up the evidence, they've got to get rid of the body. So they all
14 start doing that and what happens is in this whole event tasks start getting divided
15 up. So right now Davon Hickman, so Payso, Kemp, Tyeshia James, and Mackeisha
16 Murphy, they start -- they start cleaning up. You're going to hear that Je'cory Kemp
17 and Tyeshia James and Mackeisha Murphy all, they try to wipe up the blood, they
18 try to move the body, they try to get every little spot that they can get.

19 Well, you're going to see that they missed spots. There's stuff on the --
20 the dishwasher, below. There's stuff on the ceiling, on different articles or items in
21 the apartment because it was gunshot wound. There's going to be blood spatter.
22 We live in a 360 degree world, it's not going to just be on the floor.

23 So after or while they try to clean everything up and get the apartment
24 spic and span, the body is still in the apartment. So what they do, is Kemp and
25 Tyeshia take that body, and remember how I said it was a three-story apartment

1 building, down each flight of steps, leaving that trail all the way down to the parking
2 lot, dragging the victim, A.J., down to the car.

3 Now what you're going to see is the blood spatter, everything in the
4 parking lot and that vehicle, that white Dodge, that wasn't there before. What you're
5 going to learn is where -- that's where A.J. parked his vehicle. So the victim drives a
6 four-door sedan, a Lexus, and that vehicle was parked there at the time. And that
7 red at the bottom right, as you can kind of see and orient it to the picture above,
8 that's where Je'cory Kemp and Tyeshia lifted the victim, his lifeless body, into the
9 trunk of his own vehicle to get rid of the body.

10 Now, once they do that, that's where there's a shift in scene. Now, we
11 go to south Interstate 15 and Field Road in San Bernardino County, California. So
12 at this point, you're going to learn that Je'cory Kemp is the one who gets into the
13 driver's seat of that vehicle, of the victim's vehicle with the victim in his own trunk,
14 and drives that car off to San Bernardino. Davon Hickman eventually goes out there
15 and that's where Preston Huteson comes in, Flacco comes in. He follows Kemp out
16 there in another vehicle because as a part of the plan, as you can see, here's the
17 desert scene where the car is placed, because they take it out there and they torch
18 the vehicle. Je'cory Kemp admits to that.

19 And along with burning the vehicle, they burn the body. The body is
20 outside of the vehicle separately ignited along with the vehicle as well trying to
21 conceal the scene and trying to conceal the murder. So now officers and fire
22 department respond out to this scene. They suppress the fire. But then they
23 ultimately determine this death didn't happen out here. This homicide happened
24 somewhere else.

25 Ultimately at the autopsy, it's determined that the cause of death is a

1 gunshot wound to his right shoulder. There is no evidence of soot. In other words,
2 there's no evidence of smoke inhalation. The fire didn't kill him. It was the gunshot.
3 So that right there is a strong indication to the detectives from San Bernardino and
4 the homicide detectives that the homicide didn't take place there.

5 So they begin to investigate the source of the homicide. What they do
6 is they learn information from the car and the victim and they collect a plethora of
7 information. So they run the VIN, they run the plate. They get information from the
8 victim and it turns out that this car and the victim is tied back to Las Vegas, Nevada.

9 At the time the victim's sister, Rolanda, reported A.J. missing around
10 December 30th because she hadn't seen him since the afternoon of the 30th. She
11 was in town, in Las Vegas, visiting A.J. for the holidays and she hadn't seen him.
12 So she calls Henderson police, she reports him missing. That information was
13 available to the detectives which led them to the Siena Suites. Because what they
14 also learned is that A.J. worked there.

15 A.J. was a porter. So what he did amongst other duties was go around
16 the complex, tidy up, and that was one of his maintenance tools that he used. So
17 after developing that information Santa Barbara, or sorry, San Bernardino detectives
18 correspond with Las Vegas Metro Homicide, they go out to the scene, and they see
19 and they find and discover that that maintenance tool around that Building 11 area
20 was tossed in the trash.

21 What they also learn is that the victim didn't show up to work on
22 December 31st and was last seen on December 30th. He was supposed to come in
23 but he didn't show up. So now the investigation starts to heat up. The victim
24 reported missing, his tools in the Dumpster, that's when they start to really canvass
25 the scene. And what do you think they find when they canvass the scene? Well,

1 they find that blood trail. They trace up each flight of stairs, and that leads them
2 right to the front door of Apartment 11-309.

3 So now Vegas homicide detectives get heavily involved in the case,
4 obviously because now it's very apparent there was a homicide in Las Vegas,
5 Nevada. So what they do is they contact different employees from the Siena Suites
6 and what they do is they get renting information and IDs on file from that apartment
7 and other apartments in the area. Tyeshia James on that apartment. They learn
8 that Je'cory Kemp was staying with her in that apartment and that Davon Hickman
9 was affiliated with that group.

10 So now all the pieces start to fall into place. They start getting
11 individuals that were involved. They start understanding all the players in this game.
12 They understand who else was involved in this event. They start collecting cell
13 phone evidence. They start collecting other cell tower evidence to correlate
14 everyone to the scene.

15 Now ultimately, Je'cory Kemp and Tyeshia are arrested some days later
16 and they're arrested at another location. You're going to hear from Tyeshia James.
17 She's going to take the stand and she's going to talk about the events that
18 transpired. She's going to tell you that she overheard the plan to rob A.J. She
19 knows the details of the robbery. She knows who played which role. She is going
20 to tell you that she helped clean up and move the body.

21 What's also more important is you're going to hear those same similar
22 details through Je'cory Kemp's confession to Metro Homicide. In that confession he
23 admits to the plan to rob A.J., he admits to his role in the robbery, he admits that he
24 was the guy who was supposed to keep everything calm, and answer the door. He
25 admits to moving the body and he admits to lighting that fire to the vehicle and the

1 victim's body.

2 So not only are those statements going to come into evidence to
3 support the conviction, they're going to be backed up by forensic evidence too.
4 C.S.A. is responded to the scene, they processed it, they found fingerprints linking
5 people there, and on top of that we have the cell tower evidence to show people's
6 presence during and at the apartment during that homicide and you're going to learn
7 a little bit more than that along the way too.

8 So as a result of this event, and the clerk just read it to you, Je'cory
9 Kemp is charged with conspiracy to commit robbery, robbery with use of deadly
10 weapon, first degree kidnapping with use of a deadly weapon resulting in substantial
11 bodily harm, and absolutely he is charged with murder with use of a deadly weapon
12 for conspiring with that robbery and A.J. dying as a result of that robbery.

13 So the Judge going to give you the law and he's going to instruct you on
14 the law at the close of all evidence. And after that I'm going to get right up back
15 here and ask you that under those laws you find Je'cory Kemp guilty on all counts.
16 Thank you.

17 THE COURT: Thank you, counsel.

18 Mr. Sanft, do you wish to have an opening at this time?

19 MR. SANFT: Yes, Your Honor.

20 THE COURT: All right. Go ahead, sir.

21 MR. SANFT: Good morning everyone. Couple things real quick, first and
22 foremost is is that this courtroom and what we're doing today is unusual for me.
23 Typically we don't have this kind of space and as a result some things are going to
24 happen during the course of time we spend together. One of those things is there
25 may be technical difficulties. We're just asking for your patience while we're going

1 through the process of learning about this material.

2 You've been selected because we believe, on behalf of myself,
3 Mr. Kemp, as well as the State of Nevada, that you will be fair and impartial and not
4 make your mind up based upon what you just saw in terms opening arguments from
5 the State of Nevada. That was a question that was posed yesterday and that was a
6 question that was answered correctly and that was you have to now see if the State
7 of Nevada has proven its case beyond a reasonable doubt that Je'cory Kemp knew
8 that this robbery was going to turn -- or actually there wasn't even a robbery and that
9 it was actually going to turn into a murder. That's it. That's the only thing you need
10 to know.

11 I have learned over the years that, quite honestly, juries just want to get
12 to the point. You want to get to the evidence that's going to mean something to you.
13 The problem is what you're going to find as we go through this process is that the
14 State of Nevada has to show you the evidence and sometimes it's going to feel a
15 little repetitive. There's going to be a lot of people that are going to come here and
16 they're going to repeat things to you. It's not necessarily for emphasis as much as it
17 is to make sure that they check off their boxes and they do their job, which is fine.

18 But the evidence that you must be concerned about is whether or not
19 Je'cory Kemp knew that there was going to be a robbery. Because if he knew or
20 didn't know there was going to be a robbery, then everything that happens after that
21 fact is him just standing there watching it unfold. That's it.

22 So as a result pictures of the crime scene really don't matter, at least to
23 the intent of Mr. Kemp. Pictures of the burned car and all these other pictures really,
24 sort of, don't matter in terms of his intent at the time of the actual incident that
25 occurred. His events -- his actions after the fact, absolutely, he'll tell you, he told

1 you -- he told the detectives, yeah, he participated in that. But leading up to the time
2 that A.J. walked into that apartment, that is the only question you need to answer,
3 did he know that there was going to be a robbery and a murder.

4 Now, at the end of the time that we spend together what you're going to
5 find is is that you're going to have the law and what the law will be in is what are
6 called jury instructions and the Judge will tell you what those instructions are and
7 he'll read them to you and you'll get a copy of them. But one of the instructions will
8 deal specifically your responsibility as jurors to weigh each charge in and of itself,
9 which means just because you may believe that somebody may be guilty beyond a
10 reasonable doubt of one charge, doesn't necessarily make them guilty of the other
11 charges and each charge has an element that has to be proven.

12 So even though there may be three elements proved, if the fourth
13 element is not proved beyond a reasonable doubt, then that's -- then the State
14 hasn't met their burden. And as a result, what you're going to find is is that -- one of
15 the questions I asked yesterday is was this idea of being squeamish about things
16 like photographs of a murder scene or potentially of a body. It's because there's
17 sometimes a danger that we are have a emotional response to something and that
18 we cloud our ability to think rationally.

19 You've been selected because we believe that you will not have
20 clouded rationality, that you will be able to look through this evidence and make
21 decisions on your own.

22 In addition to that, at the very end of the time that we spend together,
23 what you're going to find is one -- the last jury instruction and then the very last jury
24 instruction, the State will ask you or the instruction will tell you to give equal and
25 exact justice to both of State of Nevada as well as to the defendant. That's all we're

1 asking for here. Focus on the important parts of this trial. Focus on whether or not
2 Mr. Kemp knew that this thing was going to happen and what you're going to find is
3 is that the State has not proven its case beyond a reasonable doubt that Mr. Kemp
4 knew that there was either going to be a robbery or murder that took place on this
5 particular night. Thank you.

6 THE COURT: Thank you, Mr. Sanft.

7 State, are you ready to call your first witness?

8 MR. DIGIACOMO: We are. Firefighter Keck.

9 Madam Clerk, can I have you put it on my computer for me please?

10 THE RECORDER: Yes.

11 MR. DIGIACOMO: Madam Clerk, can I grab the exhibits from you? Can I
12 grab the exhibits?

13 THE CLERK: Yeah. All of them?

14 MR. DIGIACOMO: I'll just keep them.

15 **ERIC KECK,**

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

17 THE CLERK: Please have a seat and state your first and last name for the
18 record.

19 THE WITNESS: First name is Eric. Last name is Keck, K-E-C-K.

20 THE COURT: Go ahead, counsel.

21 **DIRECT EXAMINATION OF ERIC KECK**

22 BY MR. DIGIACOMO:

23 Q Sir, how are you employed?

24 A I'm employed as a firefighter/paramedic with the M.C.L.B. Barstow Fire
25 Department.

1 Q Okay. So firefighter/paramedic with the what?

2 A The M.C.L.B., that is the Marine Corps Logistics Base Barstow Fire
3 Department. It's the military installation outside of city of Barstow.

4 Q Hold on just one second he's going to get the get that microphone just a
5 little closer for you?

6 A I'm sorry, can you repeat?

7 Q He's just moving you closer to the microphone.

8 A Yes, sir.

9 Q So COVID protocols between the mask, the glass, everything else, we
10 all got to talk real loud, all right?

11 A Yes, sir.

12 Q Thank you, sir. How long have you been a firefighter?

13 A 21 years.

14 Q And you also indicated you're a paramedic?

15 A Yes, sir.

16 Q What's the difference?

17 A So a firefighter is employed as suppression personnel rescue mitigating
18 emergencies. A paramedic assists that in advanced lifesaving procedures,
19 procedures such as IV, medication administrations, cardioversion, complex medical
20 procedures like thoracotomies and whatnot, all under the direction of a doctor.
21 Firefighter/paramedic is a combined array that started in the 70s and has been very
22 effective in the prehospital-care-setting in the 9-1-1 settings.

23 Q Now, direct your attention to approximately 4:30 in the morning on
24 December 31st of 2019, were you on duty?

25 A Yes, sir, I was.

1 Q And did you get a -- did you get dispatched to a vehicle fire in the
2 desert?

3 A Yes, sir. We received a call for -- to assist County Fire in a vehicle fire
4 off Field Road.

5 Q So let's start first with where generally in, well, America I guess, is the
6 Marine Corps Logistics Base that you work at?

7 A It's approximately two to four miles to the east of the city of Barstow.

8 Q And this location of I-15 and Field Road, about how far from the station
9 is it?

10 A About 15 to 20 miles.

11 Q So you have to drive North on I-15?

12 A Yes, sir.

13 Q And when you responded to this location, do you respond by yourself or
14 is there other people?

15 A No, we respond four-man engine companies, a captain, a
16 driver/operator, a firefighter/paramedic, and a firefighter.

17 Q And are you on a regular fire truck?

18 A We are in a fire engine, yes, sir.

19 Q Fire engine. Okay. Do you have a specific responsibility when you
20 arrive at the scene?

21 A I do.

22 Q What is that?

23 A My first and foremost is to attend to any patients that my need lifesaving
24 care, that is my first and foremost priority. Secondary would be to assist in
25 suppression detail.

1 MR. DIGIACOMO: Judge, may I approach?

2 THE COURT: Yes.

3 BY MR. DIGIACOMO:

4 Q Sir, I'm going to show you what's been marked as State's Proposed
5 Exhibit Number 9. I think I'll put it through the hole here. You can keep that up
6 there because I'm going to put it up for you. Do you generally recognize the aerial
7 location of Field Road and I-15?

8 A Yes. And our general response area from the Marine Corps Logistics
9 Base, we respond from our -- from the city of Barstow as far as up to Baker on our
10 chief's approval.

11 Q Okay.

12 A We use these different roads and off-ramps, Field Road, Rasor, Basin
13 as geographical points to know how far we will need to drive and/or turn around.

14 Q And on that State's Exhibit Number 9 there's a yellow pin that says "fire
15 scene," does that generally accurately reflect the location of where that vehicle was?

16 A Yes, sir, it does.

17 MR. DIGIACOMO: Move to admit 9, Judge.

18 THE COURT: Any objection to 9?

19 MR. SANFT: No, Your Honor, and just for housekeeping purposes, I've
20 reviewed all of the exhibits at this point, we don't have any objection to the overall
21 admission.

22 THE COURT: All right. 9 is admitted.

23 **[STATE'S EXHIBIT 9 ADMITTED]**

24 MR. DIGIACOMO: Thank you.

25 THE COURT: Thank you.

1 BY MR. DIGIACOMO:

2 Q So I've now put up 9 on the aerial, can you sort of orient us which way
3 you would have come from?

4 A So from responding from the Marine Corps Logistics Base, the Yermo
5 Annex, we came up I-15 north, got off on Field Road, made an abrupt left turn at the
6 stop sign, and then proceeded to where we saw flames, approximately to the point
7 to which you have marked.

8 Q So the fire was still ongoing when you arrived?

9 A Yes. Once the -- we're facing backwards in the fire truck, myself and
10 the fellow firefighter, once we know that we have smoke and fire, we start to put on
11 our breathing apparatus and our masks so as soon as we exit the fire truck we can
12 go into suppression detail.

13 Q When you arrive at this location, describe what you do.

14 A So what I did on the scene or what we would do at a scene?

15 Q Well, how about at this scene?

16 A At this particular scene we saw smoke and fire, we pulled the engine
17 perpendicular about maybe 50 to 60 feet from the vehicle. I stretched out a 200-foot
18 hose line from the right side of the engine, right or left side, left side I believe. It was
19 very dark, so we only have the lighting from the engine. The driver/operator put the
20 vehicle into pump and started activating the emergency lighting to illuminate the
21 scene so we could see what we're doing.

22 I pulled the 200-foot attack line from the engine parallel to the vehicle,
23 called for water, and then came back to fight the fire to when I saw a body lying
24 outside of the fire.

25 Q As a paramedic, when you see a body does that change, sort of, the

1 course of how you're going to fight a fire?

2 A Yes, it does. So the first thing that we have to do is determine whether
3 or not there is a viable patient there. In this particular case having a charred body
4 outside of a fire that had obviously been burning for a while, the chances of viability
5 are very, very low.

6 Q So what do you do?

7 A So I put the hose line down, approached the body, I saw that he was in
8 various stages of incineration. We have a protocol in San Bernardino County that
9 gives us the determination of death. I ruled that he -- the patient in this case was
10 already deceased. I radioed to the captain that we have a deceased body outside of
11 the -- of the vehicle fire and that we need to notify sheriff and a coroner to respond
12 to our location.

13 Q After you do that do you then go about suppressing the fire?

14 A Yes, sir. So once I rule that the patient was deceased, I -- with water
15 on the nozzle, I put out of body first in a low fog pattern and then proceeded to
16 attack the vehicle fire with my fellow firefighter coming to assist me with the hose
17 line and tools to open the vehicle up in order to suppress the fire.

18 Q While you're putting out the car fire do you realize there's a problem
19 with the body again?

20 A Yes. After the putting the body out, the body kept rekindling. It kept
21 burning pretty much from underneath the body. It looked like most of the body was
22 in third degree burns, approximately 80 percent to the patient's body. It was in the
23 prone position. I don't know what's on underneath, but being the fire was coming
24 out from all around, I'm going to assume that it was a lot more than almost full -- full
25 body, put the fire out and attacked the car fire and had to go back to the body

1 multiple times in order to put the -- the fire out. And when we go to put the fire out
2 on the body we use a fog pattern so not to disturb too much of the evidence.

3 Q Once you are able to fully suppress the fire -- well, you already said you
4 told your captain to notify law enforcement, does law enforcement arrive on scene?

5 A Not immediately, no.

6 Q Okay. Do you remain there until law enforcement arrives?

7 A Yes, sir. Once we had the fire out and that it was no longer needed of
8 our services, we just pulled our equipment out into a area to secure the scene for
9 law enforcement. I believe it was Highway Patrol was first to be on scene.

10 Q First the California Highway Patrol shows up and eventually does the
11 San Bernardino Sheriff's Office show up as well?

12 A Yes, sir.

13 Q And at that point they take over responsibility for that scene?

14 A Yes, sir.

15 Q Thank you very much, sir?

16 MR. DIGIACOMO: I pass the witness.

17 THE COURT: Any cross-examination?

18 MR. SANFT: No, Your Honor.

19 THE COURT: All right. Thank you, sir, for your testimony --

20 Or any questions by our jurors for Firefighter Keck? No questions.

21 Thank you, sir. Thank you for your testimony.

22 Next witness for the State.

23 MR. DIGIACOMO: Firefighter Hammett.

24 **GABRIEL HAMMETT,**

25 [having been called as a witness and being first duly sworn testified as follows:]

1 THE CLERK: Thank you. Please have a seat and spell -- state and spell
2 your first and last name for the record.

3 THE WITNESS: Gabriel Hammett, G-A-B-R-I-E-L; H-A-M-M-E-T-T.

4 THE COURT: All right, counsel.

5 **DIRECT EXAMINATION OF GABRIEL HAMMETT**

6 BY MR. DIGIACOMO:

7 Q Sir, how are you employed?

8 A I'm sorry, say that again.

9 Q How are you employed?

10 A I am a full-time firefighter on the Marine Corps Logistics Base Fire
11 Department in California.

12 Q How long have you been with them?

13 A Total of 15 years.

14 Q We just heard from Firefighter Keck about his responsibilities. How are
15 your responsibilities different than his at a fire scene?

16 A I'm firefighter/E.M.T. So I, as an E.M.T. I'm one level below a
17 paramedic. So I assist him in medical. When it comes to firefighting, it's a team
18 effort. So he was the nozzleman on this call. I was the toolman. So I grabbed tools
19 to help make access to the vehicle, if needed, and helped him with the hose.

20 Q Okay. Now, as you were arriving at this fire scene, I'm going to put up
21 for you State's Exhibit Number 9, as you were -- were you -- I guess I should back
22 up.

23 About 4:30 in the morning were you dispatched along with fellow
24 firefighters to a fire scene out at Field Road and I-15 in San Bernardino County?

25 A Yes.

1 Q As you were approaching that scene did you make a decision to try and
2 document the fire in progress?

3 A Yes.

4 Q And ultimately did you take a short video showing the fire scene?

5 A I did.

6 Q And have you provided that to the State?

7 A I have.

8 MR. DIGIACOMO: Judge, I've had marked State's Exhibit Number 136. I
9 know Mr. Sanft doesn't have an objection. I'd offer it at this time.

10 THE COURT: Is that correct, Mr. Sanft, no objection?

11 MR. SANFT: Yes, Your Honor, that's correct.

12 THE COURT: All right, 136 will be admitted.

13 **[STATE'S EXHIBIT 136 ADMITTED]**

14 THE COURT: You can publish if you'd like.

15 BY MR. DIGIACOMO:

16 Q Sir, I know it's three seconds, so I'm probably going to have to play it
17 twice, but it's going to come up on that screen next to you.

18 [State's Exhibit Number 136 Published]

19 BY MR. DIGIACOMO:

20 Q So could you orient us on this particular fire scene, is that the front or
21 the back of the vehicle that's closest to your camera?

22 A The front.

23 Q So that's the front of the vehicle that's on fire that we see there?

24 A Correct.

25 Q And, obviously, you can kind of see the shape of the fire. Once you

1 guys arrived on scene, obviously, you're no longer videoing because your
2 responsibility is to suppress this fire?

3 A Correct.

4 Q And do you assist Firefighter Keck in doing so?

5 A I do.

6 Q Thank you very much, sir?

7 MR. DIGIACOMO: I pass the witness.

8 THE COURT: Any cross-examination?

9 MR. SANFT: No, Your Honor.

10 THE COURT: Any questions by our jurors? No questions.

11 Sir, thank you very much for your testimony. You are excused.

12 Next witness.

13 MR. SCARBOROUGH: Officer Locke.

14 **DEPUTY STEVEN LOCKE,**

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

16 THE CLERK: Please have a seat and state and spell your first and last name
17 for the record.

18 THE WITNESS: Deputy Steven Locke, S-T-E-V-E-N, L-O-C-K-E.

19 THE COURT: Go ahead, counsel.

20 MR. SCARBOROUGH: Thank you Your Honor.

21 **DIRECT EXAMINATION OF DEPUTY STEVEN LOCKE**

22 BY MR. SCARBOROUGH:

23 Q Sir, how are you currently employed?

24 A I am employed San Bernardino Sheriff's Department and I'm currently
25 working at the Barstow Sheriff's Station.

1 Q In what capacity are you employed in terms of, like, uniform patrol,
2 detective, what are you at?

3 A I'm assigned to uniform patrol in the County of Barstow and I've been
4 there for approximately two and a half years.

5 Q So just briefly walk the ladies and gentlemen of the jury through what
6 your basic duties are as a uniformed patrol officer.

7 A I patrol the County of Barstow which is a rural area within the County.
8 I've completed approximately six months of POST-certified training which includes
9 investigation into this particular matter as well as many others.

10 Q Okay. So I want to take you back to December 31st, around -- in 2019,
11 were you employed in this capacity?

12 A Yes, I was.

13 Q And were you on duty at approximately 4:00 a.m. on that day?

14 A Yes, sir.

15 Q And at that date and time did you have occasion to respond to the
16 desert because there was a vehicle fire call?

17 A Yes.

18 Q Okay. When you respond to scenes are you kind of briefed as to the
19 nature of the call?

20 A Sometimes. In this particular case, yes.

21 Q Okay. What's the purpose of you getting briefed as to the nature of the
22 call?

23 A It was a -- it came out as a aid to another department, particularly
24 California Highway Patrol, and they relayed the information to us that there was a
25 deceased body behind the vehicle which was on fire and requested us for the

1 investigation.

2 Q Okay. So the area that you responded to, do you recall it being on -- on
3 the 15 called South Field Road?

4 A It was on Field Road just to the north side of the 15 freeway.

5 Q Okay. Showing you what's already been admitted as State's 9.

6 THE COURT: It should be on your monitor to your right, sir.

7 THE WITNESS: Yes.

8 BY MR. SCARBOROUGH:

9 Q So that aerial photograph, do you recognize that as the general area
10 that you actually responded to?

11 A Yes.

12 Q And is that little yellow dot on the picture indicative of the area that you
13 responded to the fire scene?

14 A Yes.

15 Q Okay. What time do you recall arriving at that scene that early
16 morning?

17 A My partner and I arrived at approximately 4:51 in the morning.

18 Q Okay. Now, when you arrive at a scene like that, can you tell the ladies
19 and gentlemen of the jury what you kind of do as you're approaching and what your
20 duties really are?

21 A So initially our approach, due to the circumstances, it's very careful.
22 We typically fall in line one after another to avoid contamination of the scene in any
23 way and we were also briefed again by C.H.P. as well as fire personnel that were on
24 scene.

25 Q Now, when you say C.H.P., is that California Highway Patrol?

1 A California Highway Patrol, yes, sir.

2 Q Okay. Thank you. So you're briefed as to the firefighters that are
3 already on the scene?

4 A Yes.

5 Q Okay. When you arrived was the fire still going or had it already been
6 suppressed?

7 A It was smoldering.

8 Q Okay. So in other words, open flames weren't, you know, blazing?

9 A Correct.

10 Q Okay. Did you, when you arrived, end up documenting the scene via
11 photographs?

12 A Yes, I did.

13 Q Okay.

14 MR. SCARBOROUGH: May I approach the witness, Judge?

15 THE COURT: Yes.

16 MR. SCARBOROUGH: So it looks like Mr. Sanft wouldn't have an objection
17 to State's Proposed 1 through 8 so I'd offer them now.

18 THE COURT: All right. Is that correct, Mr. Sanft?

19 MR. SANFT: Your Honor, once again, as a matter of housekeeping, I've
20 already seen the exhibits. We have no objection to any of their admission.

21 THE COURT: All right. Exhibits 1 through 8 will be admitted.

22 **[STATE'S EXHIBITS 1 THROUGH 8 ADMITTED]**

23 MR. SCARBOROUGH: Thank you. May I approach?

24 THE COURT: Yes.

25 ///

1 BY MR. SCARBOROUGH:

2 Q So I'm going to hand -- okay, I'm going to hand you State's 1 through 8,
3 that's already been admitted, I just want you to look through them and look up at me
4 when you're done.

5 Thank you, sir. And do you recognize State's 1 through 8?

6 A I do.

7 Q Are those fair and accurate depictions of the scene that you
8 photographed that you responded to on December 31st, 2019?

9 A Yes.

10 Q And just before we --

11 MR. SCARBOROUGH: And permission to publish 1 through 8 accordingly.

12 THE COURT: Yes.

13 MR. SCARBOROUGH: Thank you, Judge.

14 BY MR. SCARBOROUGH:

15 Q And before we publish those, are those pictures of the vehicle that had
16 been burned at the scene and also the deceased body?

17 A Yes.

18 Q Okay. Showing you or publishing for the jury State's 1, just walk the
19 members of the jury, what are we looking at here?

20 A So this is the initial arrival to the scene. The car is completely burned
21 out. And at this time it was still hot, so we did not conduct further investigation into
22 getting VIN numbers or license plates due to the current state of the car.

23 Q Okay. And then it's safe to say that ultimately because of the deceased
24 body you contact homicide detectives to conduct those --

25 A Absolutely.

1 Q -- supplemental steps?

2 A Yes.

3 Q Okay. So showing you State's 2, again just is that just another angle of
4 the vehicle?

5 A Correct. There will be multiple of the same likeness.

6 Q Okay. State's 3. Just to show different sides of the vehicle burned at
7 all ends, correct?

8 A Correct.

9 Q Okay. And we'll skip State's 4. We're going to go to State's 5. What
10 are we looking at in this photograph here?

11 A So that is the deceased body which was located just behind the vehicle,
12 lying face down, and you could tell from the picture the -- the severity of the burns as
13 muscle tissue and ligaments are exposed, even bone.

14 Q Okay. Going to State's 6, is that a closer, different angle of that
15 deceased individual?

16 A Correct.

17 Q Okay. Now, again, you had indicated before that because of the
18 recency of the fire you hadn't conducted any identifying investigation on this
19 deceased body, correct?

20 A Correct. Due to the circumstances, we call our on-call homicide team.

21 Q Okay. And then going to State's 7, it's a pretty graphic photograph, and
22 what are we looking at here?

23 A This is a closer photo to depict the blood to what was the upper torso
24 area. Again, due to the circumstances we do not roll the body, we do not touch the
25 decedent whatsoever in order to let homicide further the investigation.

1 Q Okay. And just to get briefly into that, when you say "roll the body," do
2 you just generally mean even touching or --

3 A We do not manipulate it. In this circumstance, we do not manipulate
4 the body from a patrol standpoint at all to not contaminate the scene.

5 Q Okay. And then lastly, going to State's 8, is that more of a full-oriented
6 photograph of that deceased body at the scene?

7 A Correct.

8 Q Okay. Now at this point you had photographed and documented the
9 scene, did you then relay to homicide detectives to come out?

10 A Correct.

11 Q Is that just because there was a deceased body at the scene?

12 A I notified my chain of command and they're the ones who directly
13 contact homicide and that is standard protocol for our department.

14 MR. SCARBOROUGH: Brief indulgence, Your Honor.

15 I will pass the witness. Thank you.

16 THE COURT: Any cross-examination?

17 MR. SANFT: No, Your Honor.

18 THE COURT: All right. Thank you, sir, for your testimony.

19 Or any questions by our jurors? Any questions for the officer? No
20 questions.

21 Thank you, sir, for your testimony. You are excused.

22 THE WITNESS: Thank you, sir. Have a good day.

23 THE COURT: Next witness for the State.

24 MR. DIGIACOMO: Should be Dr. Brian Hutchins. I haven't checked to see if
25 he's out there yet, Judge.

1 **BRIAN HUTCHINS,**

2 [having been called as a witness and being first duly sworn testified as follows:]

3 THE CLERK: Please have a seat and state and spell your first and last name
4 for the record.

5 THE WITNESS: Brian Hutchins, B-R-I-A-N, H-U-T-C-H-I-N-S.

6 THE COURT: Go ahead, counsel.

7 **DIRECT EXAMINATION OF BRIAN HUTCHINS**

8 BY MR. DIGIACOMO:

9 Q Doctor, how are you employed?

10 A I am a forensic pathologist for the San Bernardino County Sheriff
11 Department, Coroner's Division.

12 Q What does that mean you do for a living?

13 A I am a physician who conducts autopsies. I do or give cause and
14 manner of death and then I testify when needed.

15 Q I assume you have certain training, education, and background to do
16 this job?

17 A I do.

18 Q Can you describe for us what kind of education, training, and
19 background you have.

20 A Yes. I graduated medical school in Loma Linda University School of
21 Medicine. Then I completed a four-year residency program in anatomic and clinical
22 pathology and that was at the Loma Linda University Hospital. I did completed a
23 one-year fellowship in forensic pathology and that was at the Los Angeles Coroner
24 Division. I'm board certified in anatomic pathology, board certified in clinical
25 pathology, board certified in forensic pathology and I currently hold license to

1 practice medicine in the State of California.

2 Q How many autopsies do you think that you've conducted over -- in your
3 career?

4 A Just over 4,000.

5 Q And generally speaking does an autopsy kind of have a usual course
6 that it goes through?

7 A It does.

8 Q And can you describe that for the ladies and gentlemen of the jury?

9 A Yes. The body is taken from the scene and placed in our refrigerator.
10 It's placed inside a yellow body bag with a plastic lock on it. The day of the autopsy
11 that decedent's body is then taken out of the refrigerator, placed in the autopsy
12 suite, and then the lock is broken, the bag is opened, and then we take photographs
13 or if law enforcement's there they'll take their evidence. Then we'll take out the
14 clothes, examine the clothes. We'll look at the body from the outside, see if there's
15 any type of injuries. And then we will do the internal examination, looking for any
16 type of injuries or trauma.

17 Q Now, were you the medical examiner that was assigned to conduct an
18 autopsy on someone that was ultimately identified as Marion Jabbar Anderson?

19 A That's correct.

20 Q And approximately how long after his death did you conduct the
21 autopsy?

22 A It was about 21, 20, about 21 days.

23 Q By that point were Las Vegas Metropolitan Police Department
24 personnel present during the autopsy as well?

25 A They were.

1 Q And what is the purpose of having law enforcement at the autopsy?

2 A Yeah, law enforcement, if there is some type of question we can ask
3 them. They're also there to collect any type of evidence from the body.

4 Q Now, Doctor, we have some photographs from the Las Vegas
5 Metropolitan Police Department from your autopsy.

6 MR. DIGIACOMO: And they've been marked as 27 through 31. Mr. Sanft
7 has seen them, he doesn't object. I offer them at this point, Judge.

8 THE COURT: They will be admitted and published.

9 **[STATE'S EXHIBITS 27 THROUGH 31 ADMITTED]**

10 BY MR. DIGIACOMO:

11 Q So I'm going to start with -- I'm actually going to start with 28. Doctor,
12 can you describe what we're looking at here?

13 A Yeah. This is a photograph of the decedent is laying on his back and is
14 on top of the autopsy table and the head is noted on the right side of the photograph
15 and the feet are noted on the left side.

16 Q And this photograph is taken before anything is done in relation to
17 processing this body; is that fair?

18 A Yes.

19 Q And then I'm going to go back to 27 now, 27 is an identifying
20 photograph of Mr. Anderson?

21 A That's correct.

22 Q So I know some of this might seem obvious, but upon your external --
23 well, let me ask you this, at some point is the body then, the clothes taken off and
24 the body's cleaned?

25 A That's correct.

1 Q Okay. Did you do the external examination?

2 A I did.

3 Q And can you describe for me what you found in the external
4 examination of this body?

5 A Yes. Noted in the upper chest, kind of lower neck area on the left side,
6 there was a circular gunshot wound. And then the rest of the body had thermal
7 injuries to it.

8 Q And what is a thermal injury?

9 A Thermal injury is a fancy word for burns.

10 Q About what percentage of the body would you say wound up being
11 burned?

12 A Approximately 50 to about 60 percent.

13 Q Now, you indicated that there was a round injury in the
14 upper-neck-slash-chest-area, somewhere up there. I'm going to put up for you
15 State's Exhibit Number 29. Can you generally describe, and I have some closer-up
16 photographs, but can you generally describe where on the body we're going to find
17 this round injury?

18 A Yes. Here in the photograph we're looking at decedent and the
19 photograph's taken from the top portion of the head looking down towards the feet
20 and we can see in the mid-portion of the photograph, his shoulder area, and right in
21 the middle there there's a little circular defect with a little bit of reddening, that would
22 be your entry gunshot wound.

23 Q I think if you touch that screen it's going to make a mark on there for us.
24 Can you just put your finger there and see if it makes a mark for us or a little circle?

25 A Oh, went over it.

1 Q Yeah. It's not the -- it's not oriented the best, but generally in that area?

2 A Yes.

3 Q Okay. So I'm going to move in closer on that defect. I'm going to show
4 you State's 30. I'll clear your screen for you. Can we see that defect again now a
5 little bit closer up?

6 A Yes, we do.

7 Q And can you try and circle that as well.

8 A [Witness complies]

9 Q And then lastly I'm going to give you a close-up of that, State's 31.
10 Now, what about the features of this particular wound suggested to you it was a
11 gunshot wound?

12 A It has a circular to oval shape to it. And also you look at it to see if
13 there is any type of soot or stippling to it. In this case there was not.

14 Q And why would soot or stippling be important to you as a medical
15 examiner?

16 A The soot and/or the stippling help me decide what range the gun was or
17 how far the gun was from the body.

18 Q And when you don't find it do you draw a conclusion about the likely
19 range of the gun from the body at the time it was fired?

20 A I do.

21 Q And what is that?

22 A Yeah, since there was no soot or stippling, there is a range of a few feet
23 away to the limit of that -- that gun or to that weapon.

24 Q So the gun is likely a few feet away, assuming there's no object
25 between the body and the gun?

1 A That's correct.

2 Q Once you've sort of done your external examination of the body do you
3 do an internal examination?

4 A I do.

5 Q Back up one more time on the external, other than the gunshot wound
6 and the thermal injuries, did you find any other external evidence of injury?

7 A No, I did not.

8 Q When you did the internal examination can you describe for us your
9 findings?

10 A Yes. When we do the internal examination we take out the organs in a
11 systematic way and then when I looked in the chest cavity I found that there was a
12 trajectory or where the bullet went through the body. I saw that it hit the anterior
13 second rib. It hit the top portion of the -- sorry -- anterior, left second rib, the top
14 portion of the left lung. It hit the aorta, it hit the right portion or the right top portion of
15 the right lung, and then it exited the right chest cavity and I saw injuries where the
16 bullet was at and which was in the back portion of his shoulder or his right shoulder.

17 Q So basically it came in up here somewhere and it was found in his
18 shoulder somewhere back there?

19 A That's correct.

20 Q And it traversed both lungs and the aorta?

21 A That's correct.

22 Q When a bullet does that, what are the likelihood of someone surviving a
23 transection of their aorta?

24 A It's pretty low.

25 Q Did you do any estimation or do you have an opinion as to how long

1 someone would survive with a gunshot wound like this without medical treatment?

2 A Yeah, it's -- I can't tell you the exact time, so I'll give you a range of time
3 and it's -- and this time to clarify, it's once he sustains the injury, the fatal injury, the
4 clock starts. So we do a little stopwatch or a pretend stopwatch, and then we see
5 how long he would last with those injuries. In this case my interval would be
6 minutes.

7 Q You said that during the course of your internal examination you were
8 able to recover a projectile from the right shoulder of Mr. Anderson?

9 A That's correct.

10 Q And then what do you do with that projectile once it's recovered?

11 A Yeah. I'll grab that projectile, hand it to my autopsy assistant. They will
12 clean it up and then they will place it on a blue board and take a photograph of it.

13 Q And I'm going to --

14 MR. DIGIACOMO: Judge, I offer 32 as well.

15 THE COURT: All right. 32 will be admitted.

16 **[STATE'S EXHIBIT 32 ADMITTED]**

17 BY MR. DIGIACOMO:

18 Q And I'm going to publish for you 32. Ultimately that would then be
19 turned over in this case to the Las Vegas Metropolitan Police Department for them
20 to do later testing if necessary?

21 A That's correct.

22 Q At the conclusion of your autopsy did you form an opinion as to the
23 cause of death?

24 A I did.

25 Q And what was that?

1 A That was gunshot wound to the chest.

2 Q And did you also form an opinion as to the manner of death?

3 A I did.

4 Q And what was that?

5 A Homicide.

6 Q When a medical examiner uses a term like "homicide," what does that
7 mean to the lay person?

8 A Yeah, well, the manner is the circumstances in which the events that
9 killed them happen and then when I say homicide, it means that the death happened
10 at the hands of another person.

11 Q Thank you.

12 MR. DIGIACOMO: That completes my witness -- my questions.

13 THE COURT: All right. Thank you.

14 Any cross-examination?

15 MR. SANFT: Yes, Your Honor.

16 **CROSS-EXAMINATION OF BRIAN HUTCHINS**

17 BY MR. SANFT:

18 Q Doctor, your testimony about the stippling or stippling, you said it had to
19 have been at least a few feet away; is that correct?

20 A That's correct.

21 Q And the reason why you're saying that is because you don't know,
22 based upon your autopsy, what kind of weapon was actually used, right? It's a
23 firearm but you don't know if it's a rifle, you don't know if a semiautomatic, you don't
24 know if it's a resolver.

25 A Yeah, that's correct. From autopsy I don't know what weapon was

1 used.

2 Q Right. And so the last exhibit that we saw here, which was exhibit that
3 said that the piece that you've taken out of the body was located from the right
4 shoulder, could you tell us, for instance, what caliber of ammunition that was?

5 A No. I don't know what caliber it is.

6 Q Okay. That would be somebody else's job and somebody else's
7 opinion; would that be fair to say?

8 A That's correct.

9 Q Okay. And with regards to how you saw the entrance wound of -- into
10 that body, can you describe for the jury potentially how the person was positioned at
11 the time that the bullet went into the body and where it eventually went out of the
12 body or where it was, you know, where the object was found in the body?

13 A Yeah. I can't, from autopsy I can't tell the exact position of the person
14 or the decedent or the position of the person that shot him. I can tell you how that
15 bullet traveled through that body and the trajectory found of that. So then in this
16 case, once a bullet entered the decedent's body it traveled from the front portion of
17 the body towards the back, so that would be front to back. It travelled from his left
18 side to his right side, so from left to right. And it was actually going downward, so
19 from top portion of his head down to the bottom.

20 But if you give me a scenario of -- possible scenario of a fixed body and
21 a fixed person shooting him, I can see if that correlates or matches with what I see
22 when it goes into the body.

23 Q Did you -- did you determine the person's height?

24 A Yes, I did.

25 Q And how tall was he?

1 A He's 70 inches which is about 5'10".

2 Q 5'10". Okay. So potentially anybody that could have been involved in
3 pulling the trigger on the firearm may have been, for instance, a little bit taller than
4 that person would be one explanation as to why the trajectory seems to be going
5 downwards in terms of where it ends up, where the bullet ends up eventually, right?

6 A Yeah. I can't tell the -- from autopsy, I can't tell the height of the person
7 who shot him. All I know is if you put the decedent in a standing position, the gun
8 would have to have been -- been higher.

9 Q Right.

10 A Than the actual defect.

11 Q Thank you.

12 MR. SANFT: No further questions.

13 THE COURT: Any redirect?

14 **REDIRECT EXAMINATION OF BRIAN HUTCHINS**

15 BY MR. DIGIACOMO:

16 Q And if it's in a sitting position and he's shot, that would be consistent as
17 well to somebody above him shooting down at him?

18 A Yeah. Yeah. At whatever the position the decedent's at, if the gun is
19 above the defect then it would have a downward trajectory to it.

20 Q Thank you.

21 MR. DIGIACOMO: Nothing further.

22 THE COURT: Any recross?

23 MR. SANFT: No, Your Honor. Thank you.

24 THE COURT: Any questions by our jurors? No questions.

25 Thank you, Doctor, for your testimony.

1 THE WITNESS: Thank you, Your Honor.

2 THE COURT: You are excused.

3 Next witness for the State.

4 MR. SCARBOROUGH: I guess I should announce the witness, Judge. I
5 didn't. I thought we both did. It's Detective Eric Ogaz.

6 THE COURT: All right. Thank you.

7 **ERIC OGAZ,**

8 [having been called as a witness and being first duly sworn testified as follows:]

9 THE CLERK: Please have a seat and state and spell your first and last name
10 for the record.

11 THE WITNESS: It's going to be Eric Ogaz, that's E-R-I-C, O-G-A-Z.

12 THE COURT: Go ahead, counsel.

13 MR. SCARBOROUGH: Thank you, Judge.

14 **DIRECT EXAMINATION OF ERIC OGAZ**

15 BY MR. SCARBOROUGH:

16 Q Hello, sir. How are you currently employed?

17 A I'm currently employed for San Bernardino County Sheriff, Homicide
18 Division.

19 Q Okay. And how long have you been employed at the San Bernardino
20 Sheriff's, Homicide Division?

21 A I've been in Homicide for approximately two years.

22 Q Can you tell the ladies and gentlemen of the jury kind of your training
23 and experience that you have to achieve such a position?

24 A This basic academy, went to homicide school, which is a two week
25 school, lot of on-the-job training through patrol, was a detective also up in Big Bear.

1 Q Okay. So what generally differentiates a homicide detective from any
2 patrol detective?

3 A In homicide we basically investigate suspicious deaths, homicides, also
4 death investigations, like I said if they're suspicious. We also do all officer-involved
5 shooting and in-custody deaths.

6 Q Now, I want to take you back to December 31st of 2019, in your
7 capacity as a homicide detective, did you become involved in what seemed to be a
8 homicide that took place at Field Road over in the desert from a vehicle fire?

9 A Yes.

10 Q Okay. Now, when you respond to those type of scenes is it typically the
11 course of events where the detectives divvy up tasks?

12 A Yes.

13 Q Okay. When you responded to that scene what did you do?

14 A I processed the scene.

15 Q And what is that?

16 A Basically my main focus at that time was just processing the scene for
17 evidence and documentation.

18 Q So when you had arrived at that scene was the vehicle fire, was it still
19 flaming or was the vehicle fire extinguished.

20 A It was extinguished.

21 Q Okay. And then when you arrived at the scene as well you had noticed
22 the deceased body; is that correct?

23 A Yes, I do.

24 Q Okay. And walk the ladies and gentlemen of the jury through kind of
25 what you learned and oriented yourself to as you came upon the scene and the

1 deceased individual?

2 A Okay. We located a burnt-out Mercedes. The hood was up. By the
3 trunk, laying face down we found a deceased black male adult who was extremely
4 burnt with all his clothing basically burned off and kind of melted to his skin and his
5 shoes burnt off and melted to the soles of his feet.

6 Q So at that point when you see the victim or the deceased body what's
7 kind of your trajectory of the investigation as you respond and see that; what's your
8 next step?

9 A Basically document any type of evidence. We looked for, before we
10 started kind of moving around, we were looking for shoe impressions, F.C.C.s which
11 is fired cartridge casings, anything that would give us any type of idea what
12 happened, drag marks, if the body was dragged there or not, and it appeared body
13 just came -- basically came out of trunk is what it appeared to be.

14 MR. SCARBOROUGH: So I have in my hand, Judge, State's 10 through 26
15 which been admitted by stipulation of Mr. Sanft and the State. May I approach the
16 witness?

17 THE COURT: Yes, please.

18 MR. SCARBOROUGH: May I have permission to publish?

19 THE COURT: 10 through 26 will be admitted.

20 **[STATE'S EXHIBITS 10 THROUGH 26 ADMITTED]**

21 MR. SCARBOROUGH: Thank you, Judge, sorry.

22 BY MR. SCARBOROUGH:

23 Q Detective, I want you to flip through these. It's 10 through 26, you can
24 quickly flip through them and then look up at me when you're done.

25 Thank you, sir. Okay. So State's 10 through 26, do you recognize the

1 scene and the items in the photographs depicted in those photographs you just went
2 through?

3 A Yes, I do.

4 Q Okay. Are those fair and accurate depictions of the scene that you
5 became assigned to to work as a part of your capacity as a homicide detective on
6 December 31st, 2019?

7 A Yes.

8 Q Okay. So I want to publish --

9 MR. SCARBOROUGH: Permission to publish State's 10.

10 THE COURT: Yes.

11 MR. SCARBOROUGH: Okay. Thank you.

12 BY MR. SCARBOROUGH:

13 Q Showing you State's 10. Okay, just to orient the members of the jury,
14 what are we looking at there?

15 A That's Interstate 15 and the on-ramp and off-ramp for Fields, I think it's
16 Fields Road.

17 Q Is that the location that you responded to as a result of this
18 investigation?

19 A Yes.

20 Q Okay. Showing you State's 11. Just a panned-in view of the same
21 scene, but getting closer to the relevant areas; is that correct?

22 A Yes.

23 Q Okay. Now let's go to State's 14. All right. What's relevant in that
24 photograph at the scene that you responded to there?

25 A Just a photograph of the roundabout once you pull off there, and then

1 Jabbar Anderson's vehicle.

2 Q Okay. So let's go to State's 17. Now, ultimately, as you had just
3 named, you come to learn the identity of the deceased individual in this photograph,
4 correct?

5 A That's correct.

6 Q Okay. And you identified him as Jabbar Anderson?

7 A That is correct.

8 Q Is that correct? Now, did any significant clues in terms of the vehicle
9 and maybe items on the victim change the trajectory of your investigation from San
10 Bernardino to another location?

11 A Yes.

12 Q What -- what were those details that changed your investigation?

13 A When we -- the license plates were burned off but we ran the VIN
14 number which ultimately gave us the license plate. We put it through an automatic
15 license plate reader and we show that the vehicle was showing parked a lot at, I
16 think it's like an apartment complex or extended stay location out in Las Vegas, that
17 it was there a lot. Additionally, there was a lanyard that was on his neck that had a
18 key card on it and it said, like, welcome but in, like, a bunch of different languages
19 and then we ended up contacting Metro, Las Vegas Metro to go out there or at least
20 investigate this location, this apartment complex or extended stay.

21 Q Okay. So based on the information from the VIN and from the victim
22 you had learned of a location in Las Vegas, Nevada, correct?

23 A Correct.

24 Q Okay. Showing you State's 23, as we look there, it might be a little
25 charred, but is that the vehicle VIN that you had referenced that helped aid in your

1 investigation to Las Vegas, Nevada?

2 A Yes, sir.

3 Q Okay. Now showing you State's 26, it's pretty graphic of the victim
4 here, but if we look by the victim's face on this, is that the lanyard or at least the
5 string to the lanyard that you're talking about that aided in your investigation?

6 A Yes.

7 Q Okay. Now remind the ladies and gentlemen of the jury, so you found
8 -- thank you for zooming -- so we zoomed in on that photograph, close to the face,
9 and we see the purple lanyard string; is that correct?

10 A That's correct.

11 Q Okay. Now, that location that you had learned about in Las Vegas, you
12 had said to the members of the jury it's an extended stay. Was it a Siegel -- or sorry
13 -- a suites located at 6555 Boulder Highway?

14 A Yes.

15 Q Las Vegas, Nevada?

16 A Yes.

17 Q Okay. Did you ultimately contact Las Vegas Metro detectives and then
18 ultimately respond to that location in Las Vegas, Nevada?

19 A That is correct.

20 MR. SCARBOROUGH: Okay. Again, I have in my hand State's 43 and 44
21 which have been admitted by stipulation of the parties. I'd offer for admission.

22 THE COURT: They're -- be admitted.

23 **[STATE'S EXHIBITS 43 AND 44 ADMITTED]**

24 MR. SCARBOROUGH: May I approach the witness?

25 THE COURT: Yes.

1 BY MR. SCARBOROUGH:

2 Q Showing you State's 43 and 44. Okay. You recognize what's depicted
3 in those, correct?

4 A Yes, sir.

5 Q So one being an aerial photographer and the other one being kind of
6 the general layout of this -- of the Siena Suites complex that you responded to,
7 correct?

8 A Yes, sir.

9 Q Showing --

10 MR. SCARBOROUGH: May I have permission to publish --

11 THE COURT: Yes.

12 MR. SCARBOROUGH: -- 43 and 44 please?

13 THE COURT: Yes.

14 BY MR. SCARBOROUGH:

15 Q Showing State's 43, okay, do you recognize that as the aerial map
16 depicting the Siena Suites complex that you responded to?

17 A Yes.

18 Q Okay. And what's the timeline of that response? When do you end up
19 in Vegas at the Siena Suites complex?

20 A It was hours. I couldn't tell you. I think it was probably, like, eight hours
21 between, yeah, because I stayed at the scene and processed the scene. The rest
22 of my team, while I was processing the scene, started heading out that direction. So
23 it was actually like -- basically the next day.

24 Q So around New Year's Day?

25 A Yeah.

1 Q On 2020?

2 A Yes.

3 Q Is when you end up in Las Vegas, Nevada, at this scene?

4 A Yes.

5 Q Okay. And then showing State's 44, did you obtain kind of just the
6 general layout of the Siena Suites?

7 A Yes.

8 Q That kind of a layout?

9 A Yes, I saw that.

10 Q All right. So now through your investigation and information that you
11 learned, can you walk the ladies and gentlemen of the jury, what became
12 abundantly relevant when you responded to this location in terms of the identity and
13 circumstances surrounding the victim in this case?

14 A When we contacted Las Vegas Metro they informed us that Jabbar or
15 Mr. Anderson was a maintenance worker there and was reported missing, I believe
16 the day prior to by his employers. So we went out there and just started talking to
17 people, see if we could figure out where he was at and what happened to him. We
18 learned that he checked in in the morning time, according to his key code, and at
19 lunch I believe he checked out and that he was never seen after that. That was
20 suspicious to the manager because he was a good employee. So he -- for him to
21 just disappear, he thought that was unusual. He thought maybe he just walked off
22 and quit but he would expect that he would come and tell him at least.

23 Additionally, his -- he was assigned, like, a trash can he pushed around
24 with his equipment and tools, that was located by a landscaper in the Dumpster, so
25 it was thrown away, so which added to the suspicion something was wrong.

1 Q Okay. Now I want to walk you through kind of that relevant piece of
2 evidence that you came upon.

3 MR. SCARBOROUGH: I have in my hands, Judge, State's 48 through 51,
4 admitted by stipulation. I'd offer them for admission.

5 THE COURT: They will be admitted.

6 **[STATE'S EXHIBITS 48 THROUGH 51 ADMITTED]**

7 MR. SCARBOROUGH: May I approach the witness?

8 THE COURT: Yes.

9 BY MR. SCARBOROUGH:

10 Q Showing you State's 48 through 51, sir. If you could look up at those or
11 if you could look at those and then look up at me when you're done.

12 Thank you, sir. So you do you recognize what's depicted in those
13 photographs?

14 A Yes. That was the trash can and the tools that were thrown away into a
15 Dumpster.

16 Q Okay. And did you recognize one of the photographs as
17 correspondence that you had received orienting you to the location of that Dumpster
18 and the victim's tools that were thrown in that Dumpster?

19 A Yes.

20 Q Okay. Showing you State's 48. Okay, now in that, looks like a
21 screenshot of a text message and we can see the text message in the middle of it.
22 Is that the picture that you had received or one of your colleagues received to orient
23 you to that location of that trash bin?

24 A Yeah. It was one of my colleagues. He took a picture of the person's
25 phone, I think Jose's the groundskeeper there. From my understanding, that picture

1 was taken and sent by the groundskeeper to the manager.

2 Q Okay. And then looking below it says, Inside the Building 12 container,
3 correct?

4 A Yes, sir.

5 Q Meaning the Dumpster?

6 A Yes, sir.

7 Q Okay. Now putting back up State's 44, orienting everyone to the
8 location, so we see Building 11, now 12 obviously is adjacent to 11, correct?

9 A That's correct.

10 Q Okay. So that becomes abundantly relevant in terms of location of
11 maybe the victim or something along those lines; is that right?

12 A Yes.

13 Q Okay. Now showing State's 49, so is that the actual photograph of the
14 bin in the near Building 12 Dumpster?

15 A Yes.

16 Q Okay. Now, when you had talked to management you had learned that
17 he was missing or reported missing, correct?

18 A Correct.

19 Q Okay. Now, what did you do in terms of when you went to the scene?
20 Did you discover anything other than that evidence that led you to a certain room?

21 A Yes.

22 Q And what was that?

23 A Basically, like I said, by talking to people, I talked to a guy by the name,
24 I think it was Gary Magness.

25 Q And without getting into what he said, did you just get information that

1 led you to a certain room?

2 A Correct.

3 Q We just don't want to get into what he said, that's all.

4 A Sure. Sure. Sure. So led us to an area where I saw what appeared to
5 be blood on the concrete. We got some subjects over there to kind of test it to make
6 sure it was blood and it was. And then we followed the blood trail.

7 MR. SCARBOROUGH: May I continue, Judge, or do you want to --

8 THE COURT: I'm sorry?

9 MR. SCARBOROUGH: Some wit -- some people just came into the
10 courtroom, so may I continue?

11 THE COURT: Yes.

12 MR. SCARBOROUGH: Okay.

13 BY MR. SCARBOROUGH:

14 Q Sorry, sir. So I kind of lost track of where you were at so just continue.

15 A You asked me if I saw anything that led to us a location where possibly,
16 maybe a scene.

17 Q Okay. And you had indicated that there was some trail that you had
18 individuals test or to see if there was maybe a blood trail?

19 A Yes. We tested blood and it came back to positive as blood and then
20 we basically started looking around and found a trail, for lack of better words, of
21 blood that led to an apartment.

22 Q Okay. Was that apartment in the -- in Building 11?

23 A I believe so.

24 Q And was that Apartment 309 in Building 11?

25 A I'd have to look at my report to remember. I believe so.

IN THE SUPREME COURT OF THE STATE OF NEVADA

JECORY KEMP,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Docket No. 83383

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Michael Villani, District Judge
District Court No. C-20-346920-1

APPELLANT'S APPENDIX
VOL. 2 OF 3

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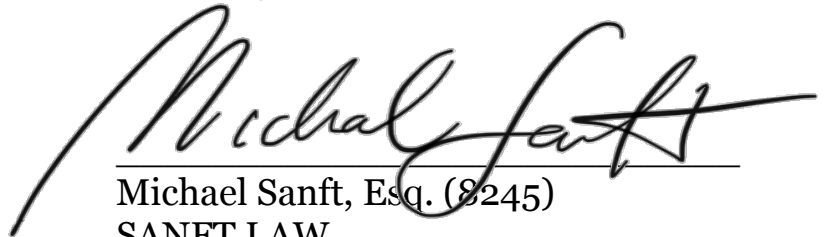
CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 29th day of December, 2021, a copy of the foregoing Appendix was served by electronic filing as follows:

District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155

Nevada Attorney General
100 N. Carson St.
Carson City NV 89701

DATED this 29th day of December, 2021.

A handwritten signature in black ink, appearing to read "Michael Sanft", is written over a horizontal line.

Michael Sanft, Esq. (8245)
SANFT LAW

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(702) 497-8008

Attorney for Appellant JeCory Kemp

1 Q Okay.

2 A I'm not -- I'm not -- I don't remember the exact number.

3 Q Okay. So that building was -- how many stories were in that building;
4 do you recall?

5 A Two.

6 Q Do you recall it being a three-story building?

7 A It's possible. I forget. Sorry.

8 Q So basically now that you get to that room and you start to investigate
9 the blood trail that leads to that room, what do you do in terms of information from
10 that room that guides your investigation? What do you do?

11 A Basically at that time we gave it over to Las Vegas Metro for them to
12 continue knowing that we possibly had a crime scene there and that it was their
13 jurisdiction.

14 Q Did you contact any representatives from the Siena Suites in terms of
15 maybe who rented the room and did you obtain any IDs?

16 A Yes.

17 MR. SCARBOROUGH: Okay. I have in my hand, Judge, State's 45, 46, and
18 47, that have been admission -- admitted by stipulation. I'm offering them now.

19 THE COURT: All right. They will be admitted.

20 **[STATE'S EXHIBITS 45, 46, AND 47 ADMITTED]**

21 MR. SCARBOROUGH: Can I approach the witness please?

22 THE COURT: Yes.

23 And, Mr. Sanft, at any time if there's any issue with these exhibits
24 please chime in.

25 MR. SANFT: Yes, Your Honor.

1 THE COURT: Thank you.

2 BY MR. SCARBOROUGH:

3 Q Showing you 45 through 47.

4 Okay. Do you recognize what's depicted in State's 45 through 47?

5 A Yes.

6 Q Are those identification of individuals correlated to 11-309?

7 A Yes.

8 Q And showing State's 45. Is that the ID, the identification on file that you
9 received of Tyeshia James?

10 A Yes, sir.

11 Q And that's one of the individuals who was renting that room 11-309?

12 A Yes, sir.

13 Q And then showing State's 46. Okay. Is that Je'cory Kemp?

14 A Yes, sir.

15 Q Okay. And did you learn that he was correlated to that room as well?

16 A Yes, sir.

17 Q Okay. And then State's 47, as we rotate that, is that Davon Hickman in
18 the identification?

19 A Yes.

20 Q And did you learn that he was correlated to that room as well?

21 A Yes, sir.

22 Q Okay. And after the conclusion of this investigation you had indicated
23 that at this point you had turned it over to Las Vegas Homicide; is that correct?

24 A Yes, sir.

25 Q And why did do you that?

1 A Jurisdiction. We believed that to be a crime scene there and the crime
2 was committed in the state of Nevada and the scene was theirs.

3 MR. SCARBOROUGH: Okay. Brief indulgence.

4 I'll pass the witness, Judge. Thank you.

5 THE COURT: Any cross-examination?

6 MR. SANFT: One moment, Your Honor.

7 No, Your Honor. No cross-examination.

8 THE COURT: All right. Any questions by our jurors? No questions.

9 Detective, thank very much for your time. You are excused.

10 THE WITNESS: Thank you, sir.

11 THE COURT: Next witness for the State.

12 MR. DIGIACOMO: May we approach, Judge?

13 THE COURT: Sure.

14 THE RECORDER: No white noise?

15 THE COURT: Is this on a scheduling issue?

16 THE RECORDER: Livestream is off though.

17 MR. DIGIACOMO: That's okay.

18 [Bench conference -- not recorded]

19 THE COURT: All right. Ladies and gentlemen, we've been sitting for a while.
20 Let's take our morning break.

21 So during this recess you must not discuss or communicate with
22 anyone including fellow jurors in any way regarding the case or its merits either by
23 voice, phone, e-mail, text, Internet, or other means of communication or social
24 media.

25 You're not to read watch or listen to any news or media accounts or

1 commentary about the case. You're not to do any research such as consulting
2 dictionaries, using the Internet, or using reference materials. You're not to make any
3 investigation, test a theory of the case, re-create any aspect of the case, or in any
4 other way investigate or learn about the case on your own.

5 You're not to form or express an opinion on any subject connected with
6 this case until the matter is finally submitted to you.

7 We'll see you back in about ten minutes. Again, leave your notepads
8 on your -- on your desk and wait until the marshal escorts you into the courtroom.

9 THE MARSHAL: All rise for the exit of the jury.

10 [Recess at 11:03 a.m.; resumed at 11:17 a.m.]

11 THE MARSHAL: All rise for the entry of the jury.

12 [In the presence of the jury panel]

13 THE COURT: All right. Welcome back, ladies and gentlemen.

14 Who is our next witness?

15 MR. DIGIACOMO: Fire Investigator Lukacs.

16 THE COURT: Thank you.

17 **BELA LUKACS,**

18 [having been called as a witness and being first duly sworn testified as follows:]

19 THE CLERK: Will you please have a seat and state and spell your first and
20 last name for the record.

21 THE WITNESS: First name Bela, B-E-L-A, last name L-U-K-A-C-S.

22 THE COURT: Go ahead, counsel.

23 **DIRECT EXAMINATION OF BELA LUKACS**

24 BY MR. DIGIACOMO:

25 Q Sir, you have somewhat of a soft voice and this room is terrible on

1 acoustics, particularly with all the glass, the masks, and all the other stuff. So keep
2 your voice up for me, okay?

3 A Okay.

4 Q Sir, how are you employed?

5 A With the San Bernardino County Sheriff's Department.

6 Q In what capacity?

7 A I am currently assigned to the Arson/Bomb Unit.

8 Q And in the Arson and Bomb Unit what are your responsibilities?

9 A To investigate fires ranging from wild land, trash, vehicle, causes of
10 those fires.

11 Q Do you have certain training, education, and background in order to do
12 fire investigations?

13 A Yes. I'm certified through the California State Board of Fire
14 Investigators. It's a mandated 120 hour course specifically for fire investigations.

15 Q Did you become involved in the investigation of a fire that was at Field
16 Road and I-15 on April -- or sorry -- December 31st of 2019?

17 A Yes, sir.

18 Q And do you respond to that scene?

19 A Yes.

20 Q And what is your responsibility?

21 A To conduct scene investigation and determine an origin and cause for
22 the fire.

23 Q Now, the jury's seen some of these photographs, but I'm going to put up
24 a couple of these for you. I'm going to start with 16. Do you recognize what's
25 depicted in 16?

1 A Yes.

2 Q When you arrive on scene is the body still present or has it been taken
3 away?

4 A It was still present.

5 Q What do you do to determine cause or origin of a fire?

6 A We first conduct an examination, normally starting from the least
7 damaged to most damaged. In this case the fire's -- the vehicle's heavily damaged
8 by fire. The least damaged portion of this vehicle was, however, the engine
9 compartment. So I began my investigation at the engine and made my way in a
10 counterclock -- or a clockwise direction to the driver's side.

11 Q And what is it specifically you're looking for?

12 A Things I look for is heat patterns, the way the fire moves throughout the
13 vehicle and consumes the fuel of the vehicle. We also consider rate of burn,
14 depending on any unusual arcing or annealing to the metals. A lot of the metal in
15 this case pointed my focus to the interior of the vehicle as the origin.

16 Q Now I'm going to put up for you, well, I have a couple photographs of
17 the interior. Let's start with 24. That is the front, passenger area of the vehicle; is
18 that correct?

19 A Yes.

20 Q Okay. Obviously there is significant fire damage within the interior of
21 this vehicle, correct?

22 A Right.

23 Q And is there something about the nature of the damage in the interior of
24 the vehicle that suggested to you that you should be focusing there?

25 A Yes. Mainly the -- it -- most of the foam rubber components, electrical

1 components are all consumed leaving just bare metal, mostly rust. And the rust is a
2 common occurrence in a -- when the fire department comes in and conducts fire
3 suppression efforts, they'll -- the heat, the exchange of the gases from the fuel being
4 burned will leave a rust across the metal.

5 Q I also have one of the back of the vehicle and this is State's Exhibit 25.
6 The entire passenger compartment appears to have, at least the combustible
7 materials consumed and basically just metal left behind; is that correct?

8 A Correct.

9 Q Is that -- the nature of the fire that you saw on the vehicle, suggest to
10 you anything about the origin of this particular fire?

11 A The origin of the fire specifically, the in-flight indicator suggested that it
12 was on the interior of the vehicle.

13 Q And what about do you have any ability to determine or an opinion as to
14 whether or not an accelerant would be -- was used or could be used?

15 A Yes. We have an accelerant detector. It's a model TIF 8900. It's
16 calibrated yearly. It checks for the presence of accelerants. We don't know what
17 the accelerant is. It just gives an audible alert to the presence of an accelerant. In
18 this case there wasn't an indication of an audible alert to the front driver's area of the
19 vehicle and also the victim on the outside near the trunk.

20 Q So there was an audible? Or there was not an audible?

21 A There was an audible alert. Yes.

22 Q You mentioned the victim, so you also do a fire investigation on -- as to
23 cause and origin on the victim as well; is that correct?

24 A Yes.

25 Q I'm going to put up for you State's Exhibit Number 17. You said you

1 received an audible alert from the victim as well?

2 A Yes.

3 Q Based on your investigation did you form an opinion as to whether or
4 not an accelerant was used?

5 A Yes, I believe that an accelerant was used in this fire.

6 Q And because there is an accelerant used, I assume that means you
7 have an opinion that this was an act of arson not some sort of vehicle fire that
8 occurred?

9 A Yeah. If you're -- if you're -- the cause that I determined was that it was
10 incendiary by means of an intentional act, in this case arson.

11 Q Thank you, sir

12 MR. DIGIACOMO: I pass the witness.

13 THE COURT: Any cross-examination?

14 MR. SANFT: No cross, Your Honor.

15 THE COURT: Any questions from our jurors? No questions.

16 Sir, thank you very much for your testimony.

17 THE WITNESS: Yes, sir.

18 THE COURT: You are excused.

19 THE WITNESS: Thank you.

20 THE COURT: Do we have another witness before the lunch hour?

21 MR. DIGIACOMO: We do not.

22 THE COURT: All right. Is 12:30 a good time for your witnesses to come back
23 or 1:00 o'clock?

24 MR. DIGIACOMO: I think our next witness is 1:00, Judge. And don't worry
25 we'll finish early. Mr. Sanft is speeding us up.

1 THE COURT: All right. Ladies and gentlemen, we're going to take a little
2 long -- we've gone through witnesses a little quicker than anticipated. So we're
3 going to take an earlier lunch break. We're going to come back at 1:00 o'clock.
4 Okay. Again, please leave your notepads on your chair and just wait outside for the
5 marshal to escort you in.

6 During this lunch recess you must not discuss or communicate with
7 anyone, including fellow jurors, in any way regarding the case or its merits either by
8 voice, phone, e-mail, text, Internet, or other means of communication or social
9 media.

10 You're not to read watch or listen to any news or media accounts or
11 commentary about the case. You're not to do any research such as consulting
12 dictionaries, using the Internet, or using reference materials. You're not to make any
13 investigation, test a theory of the case, re-create any aspect of the case, or in any
14 other way to investigate or learn about the case on your own.

15 You're not to form or express an opinion regarding the case unless the
16 matter is submitted to you.

17 So we'll see you back at 1:00 o'clock. Just so you know, each and
18 every break I have to read that same as admonishment to you. Probably by the end
19 of trial you'll have it memorized as well. But I still have to read it to you. All right.
20 So have a great lunch. We'll see you back at 1:00 o'clock.

21 THE MARSHAL: All rise for the exit of the jury.

22 [Recess at 11:26 a.m.; resumed at 1:02 p.m.]

23 THE MARSHAL: All rise for the entering jury.

24 [In the presence of the jury panel]

25 THE COURT: All right. Good afternoon, ladies and gentlemen. Welcome

1 back.

2 Who is our next witness for the State?

3 MR. DIGIACOMO: Heather Ubbens.

4 THE COURT: All right.

5 **HEATHER UBBENS,**

6 [having been called as a witness and being first duly sworn testified as follows:]

7 THE CLERK: Please have a seat and state and spell your first and last name
8 for the record.

9 THE WITNESS: First name is Heather, H-E-A-T-H-E-R. Last name is
10 Ubbens, U-B-B-E-N-S.

11 THE COURT: Go ahead, counsel.

12 **DIRECT EXAMINATION OF HEATHER UBBENS**

13 BY MR. DIGIACOMO:

14 Q Good morning, ma'am, how are you employed?

15 A I'm employed as a senior crime scene analyst with the Las Vegas
16 Metropolitan Police Department.

17 Q How long have you been with Metro?

18 A Just over 7 years.

19 Q And what does a senior crime scene analyst do?

20 A A senior crime scene analyst is the most advanced stage of crime
21 scene analyst. I'm tasked with responding to crime scenes and documenting those
22 through photography, notes, and evidence collection.

23 Q And you're our first, sort of, crime scene analyst here in this case. So
24 I'm going you to ask you to kind of go through how is it you become a crime scene
25 analyst with the Las Vegas Metropolitan Police Department?

1 A Sure thing. I was actually an intern before I was a crime scene analyst
2 so I had a brief introduction to what a crime scene analyst is and what a crime scene
3 analyst does. Upon becoming employed I had to have the prerequisites of having a,
4 when I was employed, a degree. We now require a little bit of schooling and
5 equivalency of associate's degree in a hard science. We are considered scientists.

6 Upon becoming employed, I went through an academy where I was
7 taught the duties of my position. Also went through a field training exercise, excuse
8 me, appointment that involved going through with a field trainer, going through crime
9 scenes, and not just learning, but showing that I could adequately document scenes
10 and do the job as tasked.

11 Q And what do you do when you document a crime scene? What is your
12 responsibilities?

13 A My responsibilities documenting a crime scenic I can do through
14 numerous ways. Generally what I'm tasked with doing is writing down a set of notes
15 as to my observations, what I see, what I smell, what I hear, my direct observations
16 that I can -- I can observe. I also document the scene through photography, again,
17 what I see, how the scene is as I -- as I depict it. Also I do, on larger scenes, I may
18 do a diagram which is to scale. I do take measurements and so forth.

19 Q And then do you also do things like processing for trace evidence?

20 A I do.

21 Q And so have you been trained in all those types of fingerprints, looking
22 for blood, confirming blood, those type of things?

23 A I have.

24 Q Now as a crime scene analyst is it your responsibility to not only go to,
25 like, where maybe a crime occurred but at least in a homicide case, do you also

1 have responsibility of going to an autopsy?

2 A That's true. A crime scene may include, much like a noun, person,
3 place, or thing.

4 Q In this particular case were you the crime scene analyst that was a
5 assigned to attend the autopsy of an individual identified to you as Marion Jabbar
6 Anderson?

7 A That's correct.

8 Q Now, unlike the normal Las Vegas homicide case, where did this
9 autopsy take place?

10 A At the San Bernardino County Coroner's Office.

11 Q Now, when an autopsy takes place at the coroner's office, either here or
12 there, is there different documentation done by both agencies?

13 A For myself, there is not. The documentation is the same. I couldn't
14 speak for the actual doctor.

15 Q That was a very poor question.

16 When you're, let's say you're at the Clark County Coroner's Office, do
17 they document it with pictures and reports and then you also do pictures and
18 reports? Two separate things?

19 A Yes.

20 Q Okay. And is it the same way down in San Bernardino as well?

21 A Yes.

22 Q When you went to San Bernardino to document the autopsy, describe
23 what your responsibilities are at the autopsy.

24 A When I arrived at autopsy I take -- I take the same photos that they
25 would take. I take a picture of the sealed bag with the decedent inside. I take a

1 picture of that sealed documenting who I'm photographing or who should be in the
2 bag and also that individual identifier that's attached to, generally, the -- the zipper of
3 the bag. I then go ahead, after the seal is broken, I document the time that's done
4 and then what I see under direct observation as the cover is removed from the bag.

5 I then, layer by layer, document that through photography and also my
6 notes, my direct observations. We will flip the body -- flip the body, I document the
7 same, and then a cleaning is done of the body the best we can. Along that time
8 we'll remove evidence from the body. This may include clothes, artifacts, defects.

9 Q Do you remain there while the doctor then performs his examination?

10 A In a normal circumstance, if I'm asked to come into the actual autopsy
11 suite, then I will do that. In this instance the autopsy was done continuous use with
12 my documentation. So, yes, I was there for, if you will, the cutting of the body.

13 Q Were you present when the medical examiner removed a projectile
14 from the right shoulder of Mr. Anderson?

15 A I was.

16 Q And ultimately do you take custody of that projectile?

17 A I do.

18 Q And what happens to it?

19 A I take custody of that projectile. I immediately placed it into some kind
20 of secure holding. In this -- in this case it was my custody until I moved it into a
21 locked vehicle, locked department vehicle. That item is then transported with myself
22 in my direct custody back to our lab building where I would go ahead and impound it
23 into evidence. My documentation is completed. I drop it into a secure cage where
24 an evidence technician picks it up and brings it to the proper examination.

25 Q Now, despite the San Bernardino County detectives and crime scene

1 analysts processing the actual crime scene because it became a Las Vegas
2 Metropolitan Police Department case, did you in fact do go to the location where
3 the -- the vehicle was originally found burning?

4 A That's correct.

5 Q And did you document that with photography?

6 A I did.

7 Q I'm showing you what's been marked as State's Proposed Exhibit
8 Number 33. Do you recognize that?

9 A I do.

10 Q And what is at that?

11 A That is a photo that I took of a burned area off of, I believe, it was the
12 west side of I-15.

13 MR. DIGIACOMO: Move to admit 33, Judge.

14 MR. SANFT: No objection, Your Honor.

15 THE COURT: 33 will be admitted.

16 **[STATE'S EXHIBIT 33 ADMITTED]**

17 BY MR. DIGIACOMO:

18 Q Now, if San Bernardino has already processed this entire scene, and
19 this is some weeks later that you're down there; is that correct?

20 A That's correct.

21 Q Why do you go back and process the scene?

22 A I went back because a detective requested me, that could be for
23 numerous reasons.

24 Q To make sure nothing was missed now that they have more
25 information?

1 A Yes.

2 Q Likewise, did you -- did you find the car at an impound lot somewhere in
3 San Bernardino?

4 A I did.

5 Q Now, I'm going to show you what's been marked as State's Proposed
6 Exhibit Number 34. Do you recognize that?

7 A I do.

8 Q And what is that?

9 A That is a, excuse me, a picture of a vehicle at a tow lot. The vehicle
10 has extensive damage to it.

11 MR. DIGIACOMO: Move to admit 34.

12 MR. SANFT: No objection, Your Honor.

13 THE COURT: All right. 34 will be admitted.

14 **[STATE'S EXHIBIT 34 ADMITTED]**

15 BY MR. DIGIACOMO:

16 Q And like going over to the scene, you went back to make sure there
17 was nothing missed by San Bernardino when you went back to this vehicle as well?

18 A Correct.

19 Q Thank you.

20 MR. DIGIACOMO: That completes my questions for the witness.

21 THE COURT: Any questions, Mr. Sanft?

22 MR. SANFT: No, Your Honor. No cross.

23 THE COURT: All right. Thank you.

24 Any questions by any of other jurors? No questions.

25 Thank you very much for your testimony. You are excused.

1 Next witness for the State.

2 MR. SCARBOROUGH: Tonia Gulley.

3 MR. DIGIACOMO: Not yet? Then Rolanda Anderson.

4 **ROLANDA ANDERSON,**

5 [having been called as a witness and being first duly sworn testified as follows:]

6 THE CLERK: Please have a seat and state and spell your first name for the
7 record.

8 THE WITNESS: Rolanda, R-O-L-A-N-D-A, last name Anderson,
9 A-N-D-E-R-S-O-N.

10 THE COURT: All right, counsel.

11 MR. SCARBOROUGH: Thank you.

12 **DIRECT EXAMINATION OF ROLANDA ANDERSON**

13 BY MR. SCARBOROUGH:

14 Q Good afternoon, Ms. Anderson. How do you know a gentleman named
15 Marion Anderson?

16 A He is my brother.

17 Q Okay. And I want to take you back to December 31st of 2019, were
18 you here visiting your brother for the holidays?

19 A Yes.

20 Q Okay. And where were you -- where did you stay at when you came
21 into town to visit your brother?

22 A We stayed at my parents' house.

23 Q And where is that at?

24 A 235 Buena Adventura Lane, Henderson, Nevada.

25 Q When you came and visited Mr. Anderson, did you at some point lose

1 contact with him?

2 A Yes.

3 Q Okay. And how did you, kind of, lose contact with him, if you can
4 describe that to the members of the jury?

5 A As I said, we were staying with my brother for the holidays. My mother
6 had gotten sick and was in the hospital. My brother had called in and checked with
7 me to see how my mom was doing on December 30th, maybe around 11:00 or
8 12:00, around his lunchtime. He checked in to see how my mom was doing. And I
9 indicated to him that they hopefully would be releasing her and he says, okay, well,
10 call me and let me know as soon as you have her and she's out of the hospital.

11 So when I went to retrieve my mother from the hospital, she was at St.
12 Rose, I immediately called my brother and I got no answer. I didn't think it was
13 really strange. I figured just probably busy, just getting off work or something. And
14 as I was going to the car with my mom, my mom asked again, hey, did Jabbar call
15 back. We call him Jabbar. That's his middle name. And I said, no, not yet.

16 So when we got home, his car wasn't there. And, again, my mom was
17 kind of like, hmm, that's weird. He hasn't called back and I'm like, yeah, that's weird
18 kind of weird too. I've been texting and said, hey, where are you, call me back. No
19 response. Still probably didn't think too much of it, figured maybe he just, you know,
20 was out with friend or something or maybe working late.

21 It wasn't 'til the next day, which was the 31st, that I really got concerned
22 and got worried because no one -- he didn't come home that night and he hadn't
23 called anyone, myself, my mom, my sister, his son which was here at the time as
24 well, his girlfriend. No one had heard from him. So around, I'd say maybe around
25 11:00, 12:00, his girlfriend said, yeah, I haven't heard from him either since

1 yesterday afternoon. I said, okay, well, I'm going to contact his job and see if he
2 went to work and --

3 Q So let me -- let me stop you there. So it seems as though now there is
4 a significant time where you had not been in contact with your brother, correct?

5 A Correct.

6 Q And what made that time significant is due to the urgency of the
7 situation with regard to his mother?

8 A Right. With my mom, she being sick and in the hospital, he wouldn't
9 have not responded or contacted us knowing that she was supposed to be released
10 and didn't know what was going on with her.

11 Q Okay. You tried -- you had told members of the jury that you contacted
12 or were thinking something was up at work, were you aware of where he worked?

13 A I did know where he worked at.

14 Q And where did he work?

15 A Siena Suites on Boulder Highway.

16 Q Okay. And you had mentioned something, another clue or another, you
17 know, something that made you concerned was you didn't know where his car was,
18 right?

19 A Right. We didn't have any idea where he was or his vehicle. My sister,
20 which is his twin, she had drove by looking to try to find anything that we could find
21 to see where his car was that maybe would tell us where he was.

22 Q So what kind of car do you remember him driving?

23 A He drove a Lexus LS 400.

24 Q So you had indicated that all of that now, that you decided to -- did you
25 ultimately contact the authorities on December 31st to report your brother missing?

1 A Yes. After we exhausted all our resources and called friends and
2 everybody and no one knew where he was and his job didn't, I then contacted
3 Henderson Police Department.

4 Q Okay. Now, you have regular cell phone number that you have of his
5 that you contacted him by; is that correct?

6 A Yes.

7 Q Now, I don't -- did you just provide his cell phone number to the police
8 in efforts to relay as much information as you could about him?

9 A Yes. I gave his cell phone number and I also contacted our insurance
10 company to get the VIN number and the license plate number of his vehicle to give
11 to them as well.

12 Q Okay.

13 MR. SCARBOROUGH: Brief indulgence.

14 We have no further questions for this witness.

15 THE COURT: All right. Any cross-examination?

16 MR. SANFT: No, Your Honor.

17 THE COURT: Any questions by our jurors? No questions.

18 Ma'am, thank you for your testimony. You are excused.

19 Next witness for the State.

20 MR. DIGIACOMO: Can we check to see if Ms. Gulley arrived?

21 THE COURT: Sure.

22 MR. DIGIACOMO: Except for the marshal has us locked in the courtroom
23 again.

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TONIA GULLEY,

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

THE CLERK: Thank you. Please have seat and please spell your first and last name for the record.

THE WITNESS: Tonia Gulley, T-O-N-I-A, G-U-L-L-E-Y.

THE COURT: Go ahead, counsel.

MR. SCARBOROUGH: May I proceed? Thank you.

DIRECT EXAMINATION OF TONIA GULLEY

BY MR. SCARBOROUGH:

Q I want to take you back to December 30th, 2019, were you working at the Siena Suites?

A Yes.

Q In what capacity or how were you employed at the Siena Suites?

A I was the assistant manager.

Q So generally what does the assistant manager do in terms of your duties there?

A I am to assist the general manager and oversee, basically, help with the front desk.

Q And in this capacity are you responsible for and do you regularly interact with and navigate leasing paperwork and information associated with leasing of rooms and sometimes employee schedules?

A Yes. All of that.

Q Okay. So now going back again to December 30th, 2019, were you familiar with an individual known as Marion Anderson or otherwise A.J.?

A Yes.

1 Q How were you familiar with that individual?

2 A He was an employee.

3 Q What did he do as an employee for Siena Suites?

4 A He was a porter.

5 Q What's a porter?

6 A A porter, basically, he's outside all day, every day and he picks up
7 trash, moves furniture, and that such.

8 Q Okay. Now, walking to December third -- or staying on December 30th,
9 2019, do you recall seeing the person we just referred to as A.J. that day?

10 A Yes.

11 Q Okay. And did you see and were you generally aware of his work
12 schedule, along those lines of the next day he was supposed to come in?

13 A Yes.

14 Q Okay. Did you see him the next day on December 31st, 2019?

15 A No.

16 Q Okay. So as a result of this event, do you recall being contacted by
17 detectives to get some information in terms of a specific room?

18 A Yes.

19 Q Okay. And do you recall giving the detectives information about the
20 person who was on the lease for Room 11 -- or Building 11, Room 309?

21 A Yes.

22 Q Okay. Now I'm showing what's already been admitted as 45 through
23 47.

24 MR. SCARBOROUGH. I'd like to publish, Your Honor, State's 45.

25 THE COURT: Go ahead.

1 BY MR. SCARBOROUGH:

2 Q And I believe it's on the screen in front of you as well. This one.

3 A Okay.

4 Q Okay. So when the officers asked you to pull the renting or the leasing
5 information for Room 309, is this one of the identification cards that you had given to
6 officers as a renter of that room?

7 A Yes.

8 Q Okay. Now, also did you become aware of individuals that were
9 associated with Ms. James in her renting capacity of that room?

10 A Yes.

11 Q Okay. Showing State's 46, is that the individual that you relayed to
12 officers that was associated with Ms. James?

13 A Yes.

14 Q Okay. And just without getting into the specifics or anything like that,
15 you had seen Mr. James, I'm sorry, Mr. Kemp and Mr. -- or Mrs. James interacting
16 before this event?

17 A I have not.

18 Q Okay. But did you know that they were, kind of, let me rephrase.

19 So I want to show you State's 47. Is this another individual that you
20 provided to police as someone who you were familiar with hanging out and around
21 that Room 309?

22 A Yes.

23 Q Now, did you become aware that these individuals or did you know that
24 Mr. Hickman and then Mr. Kemp, they had previously had a room before; is that how
25 you became aware of them?

1 A That is correct.

2 Q Is it true that those two, Mr. Kemp and then Mr. Hickman, got evicted
3 from another room?

4 A That's correct.

5 Q Did you provide that information and information that they provided to
6 your office through their lease in an independent room, did you give that to Metro as
7 well?

8 A I did.

9 Q Okay. Brief indulgence.

10 So as a part of the records that you maintain through the leasing
11 information of all of the individuals that I just showed you through their identification,
12 do you collect phone numbers on those leasing forms?

13 A If they provide it to us, yes, we do.

14 Q Okay.

15 MR. SCARBOROUGH: I'll pass the witness.

16 THE COURT: Any cross-examination?

17 MR. SANFT: No, Your Honor.

18 THE COURT: Any questions by our jurors? No questions.

19 Ma'am, thank you for your testimony.

20 THE WITNESS: Thank you.

21 THE COURT: You are excused.

22 Next witness for the State.

23 MR. DIGIACOMO: I'd like to have the marshal call the hall for Mr. Liapakis
24 who's due at 1:30 and he's two minutes early.

25 THE COURT: All right.

1 MR. DIGIACOMO: So I'll go check while he cleans.

2 THE COURT: Thank you.

3 MR. DIGIACOMO: Judge, while this is happening can Mr. Sanft and I
4 approach?

5 THE COURT: Sure. You need a conference in the other room or just here at
6 the bench?

7 MR. DIGIACOMO: Just a scheduling for right now. We'll have to have a
8 conference after the witness.

9 [Bench conference -- not recorded]

10 **MICHAEL ANDREW LIAPAKIS,**

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

12 THE CLERK: Thank you. Please have a seat and state and spell your first
13 name for the record.

14 THE WITNESS: Michael Andrew Liapakis, L-I-A-P-A-K-I-S.

15 THE COURT: All right. Go ahead, counsel.

16 **DIRECT EXAMINATION OF MICHAEL ANDREW LIAPAKIS**

17 BY MR. SCARBOROUGH:

18 Q Good afternoon, Mr. Liapakis. I want to take you back to
19 December 30th, 2019, were you working at the Siena Suites?

20 A Yeah.

21 Q Over off of Boulder Highway?

22 A Yes.

23 Q And how were you employed at the Siena Suites?

24 A I'm the maintenance manager.

25 Q What does the maintenance manager do?

1 A He's in charge of the maintenance of the property, the grounds, and the
2 housekeeping.

3 Q Amongst those duties are you aware or were you tasked with assigning
4 different areas for your employees to go take care of, like, such as cleaning up trash
5 and other things of that nature?

6 A Yes.

7 Q Okay. So still staying on December 30th, 2019, were you familiar with
8 a man named Marion Anderson?

9 A Yeah, I was.

10 Q Okay. Was he employed as a porter underneath you?

11 A Yes. I was his supervisor.

12 Q Okay. Did he sometimes go by A.J.?

13 A Yes.

14 Q All right. As an employee of -- underneath you, are each -- is each
15 employee assigned a certain set of, like, tools, so to speak? Is there someone who
16 has certain trash can?

17 A Yes, they -- they do.

18 Q Okay. Did A.J. have his own trash receptacle assigned to him or
19 something that he commonly used?

20 A Yes.

21 Q So still staying on December 30th, 2019, did you see A.J. come into
22 work that day?

23 A I did.

24 Q Okay. And were you aware that he was scheduled to work the next
25 day?

1 A Yes.

2 Q All right. Did he show up for work the next day that he was scheduled
3 on December 31st, 2019?

4 A No.

5 Q All right. Now, you have other employees who also, you know, cover
6 different grounds in the area; is that correct?

7 A Yes.

8 Q Now, did you become aware at some time that the trash can that was
9 used by A.J. was in a location that you were surprised to find it in?

10 A Yes.

11 Q And where was that trash can found?

12 A It was in a Dumpster by Building 12.

13 Q Okay. So showing you State's -- showing you State's 44, that's a layout
14 of the Siena Suites, correct?

15 A Yes.

16 Q And then you say the trash can was found in a Dumpster near
17 Building 12?

18 A Yes.

19 Q Okay. Did you know that -- what did you do with that information in
20 terms of finding out that that trash can was located near the Dumpster near
21 Building 12, did you --

22 A Well, the grounds landscaper, he advised me it was there and brought it
23 to me. And then that's where he told me he found it from.

24 Q Okay. And, again, you recognized that as --

25 A Being -- being our property.

1 Q Okay. And the one that was assigned to A.J.?

2 A Yes.

3 Q Okay. Showing you State's 49, is that a photograph of that trash bin
4 located in the Dumpster near Building 12 that we were just referring to?

5 A Yes.

6 Q Okay. Now, you had indicated that that became relevant to you guys
7 on December 31st?

8 A Yes.

9 Q Of 2019?

10 A The morning of, yes.

11 Q Okay. And then that's the same time that you had discovered that
12 Marion, A.J., Anderson was not even at work any longer, correct?

13 A Yeah. No, he didn't show up.

14 Q Okay.

15 MR. SCARBOROUGH: I have no further questions.

16 THE COURT: Any cross-examination?

17 MR. SANFT: Yes, Your Honor.

18 **CROSS-EXAMINATION OF MICHAEL ANDREW LIAPAKIS**

19 BY MR. SANFT:

20 Q Mr. Pakis, how long have you been working for Siena Suites?

21 A About 12 years.

22 Q About 4 years. Okay.

23 A 12.

24 Q 12 years?

25 A 12 years. Yeah.

1 Q Okay. And how long had A.J. been working for you up until the time
2 that he no longer was working for you?

3 A I would say maybe a -- maybe a year, maybe close to two years.

4 Q All right. And when he first applied to work at the Siena Suites did
5 you --

6 At the time when he first applied were you the one that -- who
7 interviewed him?

8 A Yes.

9 Q Okay. And did he fill out an application for employment?

10 A Yes.

11 Q During that application process you had an opportunity to sit down and
12 talk to him about his background, maybe a little bit about his qualifications to work
13 for you; is that fair?

14 A Yes. The background is checked by the corporate office.

15 Q I see. Were you ever made aware during the time that he worked for
16 you that he was selling drugs?

17 A No, I was not made aware.

18 Q Okay. And that wasn't something that was an issue or anything like that
19 that you knew of?

20 A No.

21 Q Okay.

22 A Never came to me.

23 Q Okay. Meaning he never came to you to tell you that he was selling
24 drugs?

25 A No. Nobody ever came to me.

1 Q At all?

2 A At all.

3 Q Okay. No further questions?

4 MR. SANFT: Thank you, Your Honor.

5 THE COURT: Any redirect?

6 MR. SCARBOROUGH: No redirect, Your Honor.

7 THE COURT: Any questions by our jurors? No questions.

8 Thank you, sir, for your testimony.

9 THE WITNESS: Okay. Thank you.

10 THE COURT: You are excused.

11 And, counsel, we're going to take a break at this time to resolve some
12 issues; is that correct?

13 MR. DIGIACOMO: That's correct, Your Honor.

14 THE COURT: All right. And how much time did we need?

15 MR. DIGIACOMO: Maybe half an hour, maybe 45 minutes, depending on the
16 length of the discussion. If you have them come back at 2:20.

17 THE COURT: All right. I think that's good. We'll take an afternoon break at
18 this time. We'll come back at 2:20. Again, just wait outside until the marshal escorts
19 you back in.

20 During this recess you must not discuss or communicate with anyone,
21 including fellow jurors, in any way regarding the case or its merits either by voice,
22 phone, e-mail, text, Internet, or other means of communication or social media.

23 You're not to read watch or listen to any news or media accounts or
24 commentary about the case. You're not to do any research such as consulting
25 dictionaries, using the Internet, or using reference materials. You're not to make any

1 investigation, test a theory of the case, re-create any aspect of the case, or in any
2 other way investigate or learn about the case on your own.

3 You're not to form or express an opinion regarding this case unless the
4 matter is submitted to you.

5 We'll see you back, did we say 2:20; is that correct, counsel?

6 MR. SCARBOROUGH: Yes, Judge.

7 THE COURT: 2:20, we'll see you back at 2:20.

8 THE MARSHAL: All rise for the exit of the jury.

9 [Recess at 1:38 p.m.; resumed at 2:20 p.m.]

10 [Outside the presence of the jury panel]

11 MR. DIGIACOMO: Judge, we might be done by Thursday at this rate by the
12 way.

13 THE COURT: All right. Are the jury instructions and verdict forms
14 forthcoming?

15 MR. DIGIACOMO: They're forthcoming and Mr. Sanft is, much like our
16 exhibits, going to stipulate to our jury instructions when --

17 MR. SANFT: We don't have any specials, Your Honor, as far as I know right
18 now, so.

19 MR. DIGIACOMO: He asked me for a couple that I agreed to give, so I just
20 gotta throw them in here. We're going to give the Court a stipulated packet.

21 THE COURT: Okay. Mr. Sanft, do you want the instruction about
22 constitutional right about testifying?

23 MR. SANFT: Your Honor, I -- he's -- he's --

24 MR. DIGIACOMO: He's going to testify, so that wouldn't be appropriate.

25 MR. SANFT: So but I'm still going to allow him the opportunity to think about

1 it up until the close of the State's case.

2 THE COURT: Absolutely. Absolutely.

3 MR. SANFT: Yeah, but we are anticipating at this point that he would be
4 testifying. So if you want to admonish him at this particular point with regards to
5 his --

6 MR. DIGIACOMO: No. He's asking about whether or not you want that
7 instruction in the packet. If he testifies, it won't go in, so we don't have to worry
8 about it.

9 MR. SANFT: Well, Judge would still have to admonish him about his right to
10 testify.

11 THE COURT: Right.

12 MR. DIGIACOMO: That doesn't --

13 THE COURT: Right. As we get closer to the end.

14 MR. DIGIACOMO: You don't want him to watch what we're going to present
15 from what he told the police before he makes his decision?

16 MR. SANFT: Sure.

17 MR. DIGIACOMO: That's a good idea.

18 MR. SANFT: We're already on that track.

19 MR. DIGIACOMO: So, Judge, the issue is -- we can be off the record here.

20 THE COURT: Let's keep it on. Let's go ahead.

21 MR. DIGIACOMO: We have a witness tomorrow who's entitled to have a
22 lawyer in the room.

23 THE COURT: Okay.

24 MR. DIGIACOMO: And we're trying to figure out where the Court wants the
25 lawyer to sit. Obviously, he shouldn't be sitting next to the witness box.

1 THE COURT: Right.

2 MR. DIGIACOMO: Like, we were thinking maybe that green chair over there
3 or at our counsel table, but then it looks like he's a lawyer for us.

4 THE COURT: Maybe on the -- at the end of the screen.

5 MR. DIGIACOMO: Yeah, I guess he could --

6 THE COURT: Is there enough social distancing between that --

7 MR. DIGIACOMO: That person.

8 THE COURT: See where that -- that disinfecting bottle is, put a chair there
9 but on the floor.

10 MR. DIGIACOMO: Oh, I was just going to have him sit in this chair. There's a
11 chair right here.

12 THE COURT: Yeah.

13 MR. DIGIACOMO: Just have him sit against the wall back there. I don't think
14 Ms. James is going to need him but she is entitled as a rolled defendant to have --

15 THE COURT: Who's her attorney?

16 MR. DIGIACOMO: Jordan Savage.

17 THE COURT: Okay.

18 MR. DIGIACOMO: And he'll be fine with it. I told him I would let you know.

19 THE COURT: So are we good to go for 9:00 tomorrow?

20 MR. DIGIACOMO: We are. I had -- because of the way Mr. Sanft's doing, I'm
21 making everybody just show up at 9:00 and we'll just keep going until we're done
22 and then we just have the homicide detective after lunch, so.

23 THE COURT: Okay. Mr. -- Mr. Kemp, what we were talking about earlier is I
24 have the duty to advise you as to your right to testify in this trial. Okay. And so I will
25 canvass you on that as we get closer to the end of the trial. Okay. That's something

1 that we do need to do for you, sir.

2 THE DEFENDANT: Okay.

3 THE COURT: Okay?

4 THE DEFENDANT: Okay.

5 THE MARSHAL: All rise for the entering jury.

6 [In the presence of the jury panel]

7 THE COURT: All right. Welcome back, ladies and gentlemen.

8 Who is our next witness?

9 MR. SCARBOROUGH: Wayne Traylor, Judge.

10 THE COURT: Thank you.

11 **WAYNE ERIC TRAYLOR,**

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

13 THE CLERK: Thank you. You may have a seat. Please go ahead and state
14 and spell your first and last name for the record.

15 THE WITNESS: Wayne Eric Traylor, W-A-Y-N-E, E-R-I-C, T-R-A-Y-L-O-R.

16 THE COURT: Go ahead, counsel.

17 **DIRECT EXAMINATION OF WAYNE ERIC TRAYLOR**

18 BY MR. SCARBOROUGH:

19 Q Mr. Traylor, I just want to take you back to December 30th, 2019, were
20 you employed as a porter at the Siena Suites over on Boulder Highway?

21 A Yes.

22 Q Okay. Did you work with someone that you know as A.J.?

23 A Yes.

24 Q Okay. Now, around that time, on December 30th, 2019, did you see
25 A.J. along with you at work that day?

1 A If my memory serves me correctly, I wasn't at work with him that day.

2 Q But did you see him around the complex that day?

3 A Yeah. Yes, I did. Okay.

4 Q And then flash forwarding to December 31st, the very next day, whether

5 or not you were at work or not, do you live at that complex?

6 A Yes.

7 Q Okay. So you're around there even if you're not at work?

8 A Uh-huh.

9 Q Is that correct?

10 A Yes. Yes.

11 Q Okay. So flash forwarding to December 31st, 2019, something comes

12 to your attention about A.J. not being around; is that true?

13 A Yes, sir.

14 Q All right. And then what kind of specifically comes to your attention is

15 some sort of, like, a trash can of his that's found in a location that's a little strange,

16 right?

17 A Yes.

18 Q Okay. Now, based on learning that information did you and another

19 coworker, do you have a coworker named Gary?

20 A Yes, sir.

21 Q All right. And is Gary passed away?

22 A Yes. I just learned that. Yes.

23 Q Okay. So based on some information that you learned, you're generally

24 aware of what -- why you're here and what happened to A.J. ultimately, correct?

25 A Yes.

1 Q All right. You have no personal knowledge, you didn't see anything like
2 that, you just know ultimately what happened to him?

3 A Yes.

4 Q Okay. So while you become, you know, somewhat involved in that
5 knowledge, do you based on that knowledge, ultimately go to an apartment in
6 Building 11 because of the stuff that you hear and learn?

7 A Yes. From the -- the tips that I got from Gary talking to me.

8 Q Okay. So we don't want to get into what --

9 THE COURT: Wait. Stop right there, sir.

10 THE WITNESS: Oh, I'm sorry.

11 THE COURT: Wait for the next question.

12 THE WITNESS: Okay.

13 MR. SCARBOROUGH: Thank you.

14 BY MR. SCARBOROUGH:

15 Q Sorry about that. So we don't want to get into what, you know, Gary
16 told you or anything.

17 A Okay.

18 Q But based on some information that you learn about, you know, the
19 whereabouts or you just hear stuff about A.J., you go to that building and that
20 apartment in that building, correct?

21 A Yes.

22 Q Okay. And that's Building 11 on the third floor you go?

23 A Yes, sir.

24 Q Okay. Now, do you go, on December 31st, do you knock on that door?

25 A The days are foggy to me, but it's around that time.

1 Q Okay.

2 A But, yeah, I knocked on the door.

3 Q All right. And then what did you hear when you knocked on that door?

4 Did you feel like you -- or did you hear people inside the residence?

5 A Yes.

6 Q Are those -- had you -- as a, you know, in your capacity, you've kind of
7 been inside that residence, or not that one, but the residences in that Siena Suites
8 complex, right?

9 A Yes.

10 Q So you know them to be, maybe a little bit smaller to where you would
11 possibly hear, kind of, any action that's going on in there?

12 A Yeah. Real easy.

13 Q Okay. So when you knock on the door, you know, to the best of your
14 memory, do you hear or can you kind of perceive that there are people inside that
15 apartment?

16 A Yeah.

17 Q And that they ultimately don't answer the door?

18 A Exactly, that was my assessment.

19 Q Okay. So after you do that then officers or detectives, they come and
20 contact you about, you know, just some things that you may or may not know; is that
21 true?

22 A Yes.

23 Q Now, you contacted A.J. through a cell phone number; is that correct?

24 A Yeah, I used to before, of course, he came up missing. Yes.

25 Q Okay. And then now it's a long time ago, if you don't remember it's

1 okay, but that number that you contacted A.J. at regularly, did you then give that
2 number to police that contacted you?

3 A If I'm correct, I did.

4 Q Okay.

5 A Whatever I had for A.J. at the time, whatever the detectives needed,
6 yeah, I think that was one of things that they had asked me about --

7 Q Okay.

8 A -- was the phone number. So, yes, I'm pretty, if my recollection serves
9 me correctly, yes, I remember giving them the number that I had.

10 Q Thank you, sir?

11 MR. SCARBOROUGH: Brief indulgence.

12 I'll pass the witness.

13 Thank you, Mr. Traylor.

14 THE COURT: Any cross-examination?

15 MR. SANFT: No, Your Honor.

16 THE COURT: Any questions by jurors? No questions.

17 Sir, thank you for your testimony. You are excused.

18 THE WITNESS: Thank you, sir.

19 THE COURT: Next witness? We're done for the day?

20 MR. SCARBOROUGH: We're done for the day, Judge.

21 THE COURT: Okay. Ladies and gentlemen, due to some scheduling issues
22 we've concluded -- we've had -- all of our witnesses for today have testified. The
23 attorneys have told me that we are on track to keep the date as far as when we will
24 conclude this trial. We believe trial may be concluded by this Friday. Okay? And
25 so we're going to take an evening recess and come back at 9:00 o'clock.

1 One of the things, ladies and gentlemen, I had mentioned before in my
2 introductory remarks to all of you that throughout the various breaks in the morning,
3 during lunch hour, and also when you're leaving the courthouse, you may see
4 myself, some of the -- my staff members, the attorneys, maybe some of the
5 witnesses involved in this case and all of those individuals, including myself, are
6 under strict rules not to have any communication with you. And more than likely, if I
7 even see you I'll probably avoid eye contact with you and I've instructed the
8 attorneys not to do that as well.

9 The reason why do that, again, we're not trying to be antisocial just that
10 if it looks like we're communicating in some fashion by a wink, you know, a nod of
11 the head, like, see you later, or something like that, or it's a nice day or what have
12 you, individuals might think that perhaps we're discussing the case and, obviously,
13 all of you would agree how inappropriate that would be.

14 So I have told all my staff, the attorneys, as well myself that even if we
15 see you we're going to avoid eye contact with you just so that it doesn't appear that
16 we're talking about the case. Okay?

17 So we'll come back at 9:00 o'clock tomorrow. We'll resume testimony in
18 this case. Again, when you leave please leave your notepads on your chair.

19 So during this evening recess or late afternoon recess, you must not
20 discuss or communicate with anyone, including fellow jurors, in any way regarding
21 the case or its merits either by voice, phone, e-mail, text, Internet, or other means of
22 communication or social media.

23 You're not to read watch or listen to any news or media accounts or
24 commentary about the case. You're not to do any research such as consulting
25 dictionaries, using the Internet, or using reference materials. You're not to make any

1 investigation, test a theory of the case, re-create any aspect of the case, or in any
2 way investigate or learn about the case on your own.

3 You're not to form or express an opinion regarding this case until this
4 matter is submitted to you. Have a safe drive home. We'll see you tomorrow at 9:00
5 o'clock.

6 THE MARSHAL: All rise for the exit of the jury.

7 [Outside the presence of the jury panel]

8 THE COURT: Counsel, before I leave the bench, anything by the State that
9 the Court needs to be aware of?

10 MR. DIGIACOMO: Not by the State. I did ask your clerk, and I'll get with her,
11 I just need the sealed G.P.A. for Tyeshia James because we don't have access in
12 my office to the filed one. But I'm sure we'll get that tomorrow morning and we're
13 good to go.

14 THE CLERK: I'll get it.

15 THE COURT: Okay. Anything by the defense before I go?

16 MR. SANFT: No, Your Honor. Thank you.

17 THE COURT: All right. Then we'll see everybody back at -- sharply at 9:00
18 tomorrow.

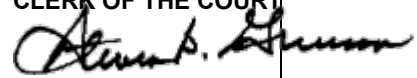
19 PROCEEDING CONCLUDED AT 2:32 P.M.

20 * * * * *

21
22 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-
23 video recording of this proceeding in the above-entitled case.

24 

25 SARA RICHARDSON
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
JECORY ELES KEMP,
Defendant.

CASE NO: C-20-346920-1
DEPT. XVII

BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
WEDNESDAY, APRIL 7, 2021

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 3**

APPEARANCES:

For the State:

MARC DiGIACOMO, ESQ.
Chief Deputy District Attorney
MICHAEL J. SCARBOROUGH, ESQ.
Deputy District Attorney

For the Defendant:

MICHAEL W. SANFT, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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ADDITIONAL APPEARANCES:

For Tyeshia James: JOHN SAVAGE, ESQ.

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Las Vegas, Nevada; Wednesday, April 7, 2021

[Proceeding commenced at 9:16 a.m.]

[Outside the presence of the Jury]

THE COURT: All right, bring the jury in.

THE MARSHAL: Okay. All rise for the entry of the jury.

[Jury in at 9:16 a.m.]

[In the presence of the Jury]

THE COURT: Welcome back, Ladies and Gentleman. Good morning. Our slight delays -- we had some IT issues. We're having a gentleman testifying this morning via Zoom, or we call it BlueJeans here in the courthouse, and that's why we had a little difficulty getting that all set up. But I think we're ready to go.

Mr. DiGiacomo, who's your next witness?

MR. DiGIACOMO: The Custodian of Record for Verizon, I believe his name is Daniel Reed.

THE COURT: All right.

THE COURT CLERK: Sir, raise your right hand for me.

DANIEL REED

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

THE COURT CLERK: Please state and spell your first and last name for the record.

THE WITNESS: Daniel, D-A-N-I-E-L, Reed, R-E-E-D.

THE COURT: Go ahead, counsel.

1 **DIRECT EXAMINATION**

2 BY MR. DIGIACOMO:

3 Q Thank you. Sir, how are you employed?

4 A I'm a senior analyst with Verizon Wireless.

5 Q And what does that mean you do on a day-to-day basis?

6 A Among other things, I act as a Custodian of Records to
7 authenticate business records in subpoena trials, whether it be criminal
8 or civil. I also handle executive complaints that come to various
9 agencies. I handle small claims, as well as arbitrations, as well.

10 Q As an employee of Verizon, do you have a general
11 understanding how cellphones work?

12 A Yes.

13 Q And a general understanding of how the records that you
14 testify to are created by Verizon?

15 A Yes.

16 Q Okay. Can you just generally, without getting into a -- an
17 entire scientific detail, generally describe how it is that Verizon collects
18 what we call tower records?

19 A Their records are typically kept in the normal course of
20 business at or near the time of the interaction and stored in our
21 computer databases.

22 Q If I own a Verizon cellphone, what -- and I make a call or text,
23 explain to me how the system works. What happens between the phone
24 and Verizon? How does the phone call work?

25 A Essentially, you would need to be within range of a cell site in

1 order to acquire the service for it to connect for either a phone call or a
2 text message.

3 Q And does Verizon keep records of which tower that a
4 particular phone is connected to when it makes a phone call or a text
5 message?

6 A Yes.

7 Q And when you say it's got to be in range of a tower, is there
8 any sort of association between the location of the phone and which
9 tower it connects to at Verizon?

10 A Generally speaking, it's going to connect to the cell site
11 closest to it, but there are variables that could cause that not to be the
12 case, such as terrain or the site is congested, things of that nature.

13 Q And obviously, there are variables associated to how many
14 towers or any -- in any given location; is that correct?

15 A Correct.

16 Q So, if you're way out in the desert here in Las Vegas, or on the
17 way to California, there's maybe very few towers that you could connect
18 to, correct?

19 A Yeah, depending on the area, there could be more or less.
20 Correct.

21 Q Okay. And the higher density areas there are more towers,
22 and so, they're closer together?

23 A Yes, generally speaking.

24 Q I'm going to put up for you what's been marked as -- well, it's
25 an opening of the disc of 146. I'm going to share the screen with you for

1 just a second here and ask you, were you asked to testify to here today
2 to certify copies of records associated with 323-537-6895?

3 A Yes.

4 Q So, I'm going to share the screen. It did not come up this
5 time. It came up earlier. Hold on, one second; let me see if I can do
6 that again.

7 There we go. You see the list of records associated with that
8 particular phone number?

9 A Yes, I do.

10 Q And I want to highlight this one right here which is labeled Cell
11 Site Incoming/Outgoing 323-537-6895. Do you see that particular
12 document?

13 A Yes.

14 Q What is that document?

15 A That's essentially -- basically a record that essentially shows
16 you the incoming and outgoing phone calls, and it also details which cell
17 sites those calls connected to, as well as how long the calls were.

18 Q So, I'm going to now pull that record up for you here. Can you
19 see that record there for us?

20 A Yes.

21 Q Okay. And I know it's a little bit small for the Ladies and
22 Gentleman of the jury, but I just want to kind of go over what information
23 is contained on each of the columns that are associated with this
24 particular record.

25 So, if I could start with the first column, and I'll move it out so

1 everybody can see the full name. It says Network Element Name. What
2 does that column mean?

3 A That's the switching equipment that actually transacts the
4 phone call. So, all cell sites route to a switch, and that's how they're
5 stored, essentially.

6 Q All right, the second number is the mobile directory number?

7 A So, that number's always going to be the same, in this case,
8 323-537-6895, because that's your target number.

9 Q The next one is dial digit number?

10 A Yeah, so that is the number that was dialed to initiate the call.

11 Q Next one says call direction?

12 A Call direction, it's basically -- it tells you a number and it will
13 imply whether it's an inbound call or an outbound call. And it's based
14 upon the number. We would have provided a key as well that details
15 what each of those numbers identifies as.

16 Q And that key is also in the first -- when I showed you the list of
17 documents, the key's within that list of documents, as well, correct?

18 A Yes, it is.

19 Q Okay. And then, the next one is the seizure DTTM. It may be
20 self-explanatory, but what is that?

21 A Yes, the seizure date and time, it's the exact date and time of
22 when the call started.

23 Q And these particular records, or I guess all phone records, as
24 the -- a certain date several years ago are in what we call UTC time; is
25 that correct?

1 A Typically, these should be the local time zone wherever the
2 call was transacted.

3 Q Okay, so these are local time zone, not UTC?

4 A Yes, that's correct.

5 Q Okay. Then the seizure -- well, it says DUR. But is it seizure
6 duration? That's the number of seconds that the communication lasted?

7 A Yes, that's correct.

8 Q And then it says first-serving cell site, that is a -- what does
9 that identify?

10 A That's essentially the cell site that the target phone number
11 was hitting off when the call was initiated.

12 Q And then first-serving cell face, what does that mean?

13 A It's the cell site sector of the initiated call. So, it denotes the
14 direction that the target was facing the tower at the time of the call.

15 Q So, we see a bunch of 1s and 0s, I don't know if there's ever a
16 2 in here, but it's essentially there are three faces to a Verizon tower?

17 A Yes, typically.

18 Q And so, 0, 1, 2 would identify one of the three sides?

19 A Yes.

20 Q Okay. And then the rest is probably -- is pretty self-
21 explanatory. But the last-serving tower, what does that column mean?

22 A Yes, that's -- that would be the cell site that the target phone
23 was hitting off when the call was terminated.

24 Q So, if I make a phone call on a phone, and for example, this
25 one's 157 seconds, so it went along for two and a half minutes or so, I

1 theoretically -- my phone, if I'm moving or maybe even if I'm not moving
2 can jump between towers?

3 A Yes, that's correct.

4 Q And that way you don't lose your connection just because you
5 lost the service area for the particular tower you started your phone call
6 on?

7 A Yes.

8 Q Obviously, the -- you've already testified to the call face is the
9 last-serving call face so you know which side of the tower you hit, and
10 then the party number; is that correct?

11 A Yes.

12 Q And so, essentially, what you could do is you can get general
13 information about a location of a cell phone by going through these
14 records and plotting where these towers are; is that fair?

15 A Yes.

16 Q I'm going to stop sharing this record for you. And now, I'm
17 going to pull up the other record I was talking to you, the ERLTE. Oops,
18 I got to share it with you first.

19 Now, these particular records are what we call RTT; is that
20 correct?

21 A Yes, that's correct.

22 Q What does that mean, RTT?

23 A Well, the -- it's -- stands for Real Time Tool. And with these,
24 we typically indicate that the latitude and longitude measurements on
25 the Real Time Tool are derived solely from the round-trip delay

1 measurement. So, they are best estimates, and not necessarily related
2 to a GPS measurement. Measurements with a high confidence factor
3 can be more accurate than measurements with a low confidence factor,
4 but all measurements contained in this report are best estimates
5 available rather than the precise location.

6 Q So, essentially, this record -- well, as opposed to when I'm
7 using my phone. But basically, whenever a phone is in someone's
8 possession and it's near a tower, it is going to be communicating with
9 the tower, and Verizon keeps some information about the location of that
10 particular device; is that fair?

11 A Yes.

12 Q And essentially, what these records do is it measures the time
13 it takes for the tower to send a signal to the phone and the phone to
14 send a signal back to the tower to give sort of a general idea of maybe
15 how far that phone is from a particular tower?

16 A Yes.

17 Q And I'm not going to go over each and every one of these
18 columns, but essentially, it's the same idea, you find the tower number,
19 you find the time, and then ultimately, it'll give you sort of a distance
20 from tower, essentially is how it works?

21 A Yes.

22 Q Thank you. And all of these records are business records
23 kept in the ordinary course of business of Verizon, and basically a law
24 enforcement agency can reach out to you and say hey, we have this
25 particular device, and we want to know what records you have and give

1 us all for a particular time period?

2 A Yes, those requests go to our Verizon security assistance
3 team and they would handle the preparation of records, as well as
4 adhering to any request that was received.

5 Q Thank you. That completes my questions for this witness.

6 A You're welcome.

7 THE COURT: All right, thank you. Any cross-examination,
8 Mr. Sanft?

9 MR. SANFT: No, Your Honor.

10 THE COURT: Any questions from our jurors?

11 No questions.

12 Sir, thank you very much for your testimony. You are excused
13 in this matter.

14 THE WITNESS: Thank you, Your Honor. Have a good day.

15 THE COURT: You, too. Who's our next witness?

16 THE WITNESS: Thank you.

17 [Colloquy between counsel]

18 MR. SCARBOROUGH: Zachary Cooper.

19 THE COURT: All right, thank you.

20 [Colloquy between counsel]

21 THE MARSHAL: Watch your step, raise your right hand, and
22 face the Clerk. You can scoot your chair up once you get done.

23 **ZACHARY COOPER**

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

1 THE COURT CLERK: Thank you, please have a seat. And
2 state and spell your first and last name for the record.

3 THE WITNESS: Z-A-C-H-A-R-Y, and last name's Cooper, C-
4 O-O-P-E-R.

5 THE COURT: And sir, can you slide up to the microphone
6 with the red light there?

7 THE COURT RECORDER: I can't hear him.

8 THE WITNESS: Yes.

9 THE COURT: Thank you, sir.

10 THE COURT RECORDER: Can you repeat that, sir? I
11 couldn't hear very well.

12 THE WITNESS: Z-A-C-H-A-R-Y, and last name, C-O-O-P-E-
13 R.

14 THE COURT: All right, go ahead, Counsel.

15 **DIRECT EXAMINATION**

16 BY MR. DiGIACOMO:

17 Q Mr. Cooper, I want to direct your attention back to December
18 30th of 2019. Where were you living?

19 A At Sienna Suites.

20 Q The one at 6555 Boulder Highway?

21 A Yes.

22 Q And who were you living with?

23 A My wife and my daughter.

24 Q And how long had you been living there?

25 A A few months.

1 Q I'm going to direct your attention to the -- you know, the
2 midday, sometime either slightly before noon or just after noon. Did you
3 happen to see something that ultimately the police came and talked to
4 you about?

5 A Yes. Yes, I did. I seen a trash can just sitting outside of the
6 laundry room -- well it was at the stairs and got moved to the laundry
7 room.

8 Q So, let's start with -- you see the trash can. And is the trash
9 can associated with some sort of employee at the Sienna Suites?

10 A Yeah, with the maintenance man.

11 Q So, you saw the maintenance man's trash can, and you said it
12 was sitting by the stairs originally?

13 A Yes.

14 Q And what building was it by?

15 A I was at Building 12, so I believe -- it's the building right across
16 from mine, I think it's 11.

17 Q Okay. And when you first see that trash can, is there anybody
18 near it?

19 A No.

20 Q Does there come a point in time when you see that trash can
21 be moved by some people?

22 A Yes.

23 Q And how many people were walking near this trash can and
24 moving it; do you remember?

25 A No, I do not. I don't recall.

1 Q If you -- do you remember telling the police that you saw two
2 individuals moving this trash can?

3 Would that refresh your recollection?

4 A Yeah. Yeah, no I -- yes. Yeah.

5 Q Do you remember describing one of those individuals having a
6 conversation with somebody in a dark colored Dodge, either Charger or
7 Challenger?

8 A Yes.

9 Q And do you remember describing the driver of that particular
10 vehicle?

11 A Honestly, no because it's been so long.

12 Q Do you remember describing that individual sort of -- if I told
13 you, you told the police --

14 A Yes. No, I -- yes, I know half of the description, yes, that I
15 gave.

16 Q Okay.

17 A Light --

18 Q And we had a conversation a couple days ago, maybe last
19 week --

20 A Yes.

21 Q -- is that fair?

22 A Yes.

23 Q And we sent you a transcription of your statement; is that fair?

24 A Yes.

25 Q Did you have a chance to look it over?

1 A No, I was not able to. It wasn't uploading on my cellphone.

2 Q Okay. But we kind of went over that with you and --

3 A Yes.

4 Q -- you acknowledged that, hey, that sounds right, that's what I
5 said; is that fair?

6 A Yes.

7 Q If I told you, you described this person as a light-skinned
8 individual, maybe African American, maybe Hispanic, but with tattoos on
9 his arms, sleeve tattoos, does that sound about right to you?

10 A Yes.

11 Q And then, after this one person talks to the guy in the Dodge
12 Charger, you see two guys move this trash can over to the laundry
13 room; is that fair?

14 A Yes, from the stairs.

15 Q Thank you. Thank you, sir.

16 MR. DiGIACOMO: I pass the witness, Judge.

17 THE COURT: Any questions then, Mr. Sanft?

18 **CROSS-EXAMINATION**

19 BY MR. SANFT:

20 Q Mr. Cooper, do you know the person that's -- or sitting here to
21 my left?

22 A No, I do not.

23 Q Okay. Do you know a person by the name of Je'cory Kemp?

24 A No.

25 Q No further questions, Your Honor.

1 THE COURT: Any redirect?

2 MR. DiGIACOMO: Nope.

3 THE COURT: Any questions by our jurors?

4 No questions.

5 Sir, thank you for your testimony, you are excused. Next
6 witness for the State?

7 [Colloquy between counsel]

8 MR. DiGIACOMO: Christie Thomas.

9 THE MARSHAL: Watch your step, raise your right hand, face
10 the Clerk, and once you get done, you can scoot your chair up to that
11 red light right there.

12 THE WITNESS: Okay.

13 **CHRISTIE THOMAS**

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

16 THE COURT CLERK: Thank you, please have a seat. State
17 and spell your first and last name for the record.

18 THE WITNESS: It's Christie Thomas. Christie, C-H-R-I-S-T-I-
19 E, Thomas, T-H-O-M-A-S.

20 THE COURT: All right, go ahead, Counsel.

21 MR. DiGIACOMO: Madame Clerk, can you have it put on my
22 computer?

23 THE COURT RECORDER: Yes.

24 MR. DiGIACOMO: Give me one second for it to all come up.
25 All right. I think we're good.

DIRECT EXAMINATION

BY MR. DiGIACOMO:

Q Ma'am, how are you employed?

A I'm employed as a Crime Scene Analyst II with the Las Vegas Metropolitan Police Department.

Q And how long have you been so employed?

A A little over three and a half years.

Q And we've heard yesterday from Heather Ubbens, do you essentially have similar duties to Ms. Ubbens?

A Yes.

Q Were you one of the crime scene analysts that was assigned to process the interior of room 11309 at the Budget -- or sorry, the Sienna Suites at Boulder Highway, 6555 Boulder Highway?

A Yes, sir.

Q And did you go out there on December 31st to do that, or was it later?

A It was later.

Q Okay. What day did you finally arrive on scene?

A We arrived January 1st, a little around -- like 11 o'clock at night.

Q Were there other crime scene analysts there before you?

A Yes, sir.

Q Okay. And describe -- first of all, how long do you think between your team and their team do you think the processing of the scene took?

1 A Probably like maybe 16, 17 hours at least.

2 Q Can you describe -- first of all, did you go by yourself or do
3 you have other members of your team with you?

4 A We have other members of the team.

5 Q How many other people were with you when you were
6 processing the scene?

7 A There were two senior crime scene analysts and then two II's
8 and then a supervisor.

9 Q Do you divide up the responsibilities?

10 A Yes, sir.

11 Q How do you divide up the responsibilities?

12 A Once we get to the scene, we kind of assess the scene, and
13 then our supervisor will delegate tasks. We divided it, in this case, with
14 our senior crime scene analyst Louise Renhard who did photography --
15 I'm sorry, note taking and processing -- for latent prints. Gabby
16 Guerrero's a senior crime scene analyst who did photography. And
17 then, I did impounding of evidence as well as doing the diagram.

18 Q When you say do the diagram, what does that mean?

19 A So, I sketch the scene and I take measurements, and then I
20 take measurements to certain items of evidence, and then I put it into a
21 system online. I sketch -- or I diagram it on the system and then do a
22 computerized version.

23 Q So, let's start with that. I'm going to show you what's been
24 marked as Exhibit No. 79. Does that appear to be a crime scene
25 diagram that you generated from the interior of 11309?

1 A Yes, sir.

2 Q And then, I'm going to show you what's been marked as 80
3 through -- I'll come around the side here a second -- through 130. I'm
4 just going to ask you to -- there's a stair there -- to briefly flip through
5 those and --

6 A Okay.

7 Q -- just make sure those all appear to be photographs from the
8 interior of that scene.

9 A Okay.

10 [Pause in proceedings]

11 A Yes.

12 MR. DiGIACOMO: Move to admit 79 through 130, Judge.

13 THE COURT: Any objection?

14 MR. SANFT: No objection, Your Honor.

15 THE COURT: All right, they will be admitted.

16 **[EXHIBITS 79 THROUGH 130 ADMITTED]**

17 BY MR. DiGIACOMO:

18 Q I'm going to start with Exhibit No. 79 for you. Or I'm not.

19 Can you generally describe for the Ladies and Gentleman of
20 the jury, it's somewhat self-explanatory, but the crime scene diagram,
21 like where's the entrance to this particular apartment?

22 A So, North is at the --

23 Q Before I let you start talking there, if you touch the screen, it'll -
24 -

25 A Oh.

1 Q -- draw little things for you. So, if you want to kind of --

2 A Okay.

3 Q -- point the things for them, they'll be able to see what's going
4 on.

5 A Okay. So, this is -- that's the entry to the apartment. And
6 then, this room right here is the living room. This is the kitchen. This is
7 the bedroom and then the bathroom and the vanity area with a closet.

8 Q Okay. There we go. And then on your right-hand side, I
9 mean, you have directions and sort of distances, but then you listed
10 evidence on the right-hand side. And then, there's a bunch of letters
11 that are associated with that. Do those -- well, explain how those
12 correlate to what's on the diagram.

13 A So, letters A through N are swabs of apparent blood that we
14 recovered, and then you can see their locations on the diagram, as well.
15 And then the green for footwear one -- or FW 1 through 14's the
16 footwear impressions that we covered on the tile of the kitchen. And
17 then the blue are items of evidence that we also recovered. And you
18 can see them labeled throughout the suite, as well.

19 Q Now, before all of this processing that happened at this
20 particular crime scene happens, are overall photographs taken of sort of
21 the condition when crime scene analysts first arrive on scene?

22 A Yes, sir.

23 Q Okay. So, what I'm going to do is I'm going to put this
24 diagram up on the left-hand side of our screen here.

25 A Okay.

1 Q And then I'm going to go through some of these photographs
2 to just kind of give us an overall view of what we're looking at, at the
3 crime scene, okay?

4 A Yes, sir.

5 Q So, some of these might be somewhat self-explanatory, but
6 let's start with 80. This is just the documentation of the front door, and
7 that's actually -- that door is turned into the apartment currently, correct?

8 A Yes, sir.

9 Q And just to the left of the door is -- what's that black kind of
10 square that we're looking at there?

11 A That's a TV.

12 Q Okay. And Ms. Thomas, in this courtroom with that glass, that
13 mask, everything else, I'm having a hard time hearing you, so which
14 means I think maybe some of them might have a hard time hearing you.

15 A Okay.

16 Q So, let's try to keep our voice up, it's just really hard in here.

17 A Okay.

18 Q Thank you. And so, I'm just going to walk around the room
19 side going counterclockwise. So, if we start there and go to that TV, I'm
20 just going to start heading left and put up photographs.

21 A Okay.

22 Q So, State's Exhibit 81 --

23 A Yes.

24 Q -- as you --

25 A That's the TV --

1 Q -- go ahead.

2 A -- on the dresser.

3 Q I'm sorry, I couldn't hear you.

4 A That's a TV on like a dresser in the living room.

5 Q Okay. And you can notice just to the left there, there's --

6 appears to be a chair with something underneath that chair; is that

7 correct?

8 A Yes, sir.

9 Q Okay. And then go over to 84. There's actually two chairs
10 there, but what appears to be underneath the chairs?

11 A It's a broken table.

12 Q Kind of like a kitchen table with -- how many of the legs are
13 broken?

14 A I believe it was two.

15 Q Two of the legs are broken off that kitchen table?

16 A Yes.

17 Q Okay. And then obviously you can see sort of where the
18 kitchen starts. Go to 85 for just orientation purposes. And that's that tile
19 floor that we saw that you have a bunch of green numbers on your
20 diagram?

21 A Yes, sir.

22 Q And 87, as you kind of turn around, would you describe this as
23 a fairly small apartment?

24 A Yes.

25 Q It's somewhat hard to orient yourselves, but this is -- for those

1 people who have been into a daily, weekly, it's a single bedroom, small
2 apartment, almost hotel room-ish [sic]?

3 A Yes.

4 Q So, we focus on that trash bag, if we go to the left a little bit,
5 that's 88, there's now a hallway that kind of goes off to the left and that's
6 on our diagram up here; is that correct? Whoops, I just completely redid
7 that.

8 I've got to realize which screen I'm writing on. That's up here
9 or that's that hallway there?

10 A Yes, that's a doorway.

11 Q 90, that's just coming around to sort of the rest of the living
12 room area?

13 A Yes.

14 Q 92 --

15 A That's showing the couch and the living room area.

16 Q And then ultimately 94, you wind up back at the front door?

17 A Yes.

18 Q So, now I'm going to go back to the doorway that goes to the
19 bedroom and just do a circular view of that as well, all right? So, State's
20 Exhibit No. 95, that just takes us back to the doorway showing into that
21 room?

22 A Yes.

23 Q And then I'm going to start as if you're standing in the room,
24 shooting out, in State's Exhibit No. 96. Can you describe for the record
25 what we're looking at?

1 A That's from standing inside the bedroom, looking towards the
2 doorway and the kitchen.

3 Q And I'll jump to 98.

4 A That's also in the bedroom towards a corner in the bedroom.

5 Q So, it's sort of like we're standing at the doorway and just kind
6 of turning right as I go through these pictures?

7 A Yes.

8 Q 99?

9 A That's showing the beds in the bedroom.

10 Q And I'm going to jump over to 100. These beds, one of them
11 appears to be a bed with a sheet and pillows and everything else like
12 that. And the other bed appears to just have a pile of clothes and other
13 sundry items on it?

14 A Yes.

15 Q Then 102, what's the shiny thing in the back there?

16 A That's going into the vanity area where the bathroom is.

17 Q Okay, so that -- it's like a mirror over the sink?

18 A Yes.

19 Q I guess I'll show you the last two.

20 A That's the mirror over the sink.

21 Q And then there's a small bathroom, as well.

22 A Yes, that's the bathroom.

23 Q Now, once overalls are taken of the scene, did you guys do
24 processing -- obviously, you must have done processing with all those
25 numbers on your thing. But what is the first thing that you guys would

1 have looked for? How -- walk us through the process.

2 A So, initially what we do is we do a walk-through with
3 detectives. And then we conduct our own walk-through. After we do the
4 walk-through and divvy up tasks, that's when the photographer will go in
5 and photograph the scene. After we photograph and do the initial
6 overall photographs, we go and try and look a little bit more in depth
7 without moving things. We use our flashlight and do different types of
8 like lighting to see if we can see any prints, footwear, or any other types
9 of impression evidence that's visible to us. And we also document
10 everything we're seeing in our notes.

11 Q And when you see something that might be relevant to the
12 investigation, do you try and mark it so you remember where it's at and
13 obviously someone doesn't step on it, something like that?

14 A Yes.

15 Q So, let's start with 105. What are all those little green tabs that
16 are all over the floor?

17 A Those are all pointing at footwear patterns that we had seen
18 visually.

19 Q And then 106, there is both little pink tabs everywhere and
20 then there's rulers that are taped up.

21 A Yes, that's done a little bit later on. The pink arrows are
22 pointing at stains that we thought are -- could be blood, reddish brown
23 stains. And then the rulers are just kind of documenting different
24 quadrants of those areas where we think there could be blood.

25 Q And why would you document things like -- why would you use

1 the rulers? What's the purpose of doing all those rulers?

2 A We do the rulers that way we can kind of locate where the
3 stains are, gives you like an up and a left to right direction. And then
4 later on, if needed, a blood pattern analyst can go and document this by
5 looking at the photos.

6 Q So, there's times when it becomes highly relevant where the
7 blood is and how high it is in order for a blood pattern expert to tell us
8 what may or may not have happened in that particular location?

9 A Yes, sir.

10 Q Now, you said the pink tabs identify locations where you think
11 the -- there's reddish-brown stains?

12 A Yes, sir.

13 Q After you place the pink tabs on all the reddish-brown stains,
14 does there come a point in time when you do presumptive tests on each
15 one of those pink tabs, stains?

16 A Yes, sir.

17 Q And what kind of presumptive test do you use?

18 A We use a test called phenol ethaline.

19 Q And it's a presumptive test for human blood?

20 A It's a presumptive test for blood, yes, sir.

21 Q And once you get a positive, what do you do on the pink tab?

22 A We will identify it with a letter, a corresponding letter. Every
23 stain will have a different letter assigned to it.

24 Q And if it doesn't test positive, then ultimately in the
25 photograph, you don't have any letters on it.

1 A Right.

2 Q Now, after you guys do all that -- and so on your -- well, let me
3 back up. On your diagram where each of those letters are locations that
4 the presumptive positive for blood was identified to; is that correct?

5 A Yes, sir.

6 Q Then after you do all that, I'll put up 108, what is being
7 documented in 108?

8 A 108 is showing areas where we powder process for the
9 footwear.

10 Q Did you guys do anything to see if there's any evidence of
11 cleanup?

12 A Yes, sir.

13 Q And what did you do?

14 A We used different chemicals that we use for clean-up
15 purposes. In this case we used Amido Black as well as Leuco Crystal
16 Violet which we shorten for LCV.

17 Q So, Amido Black and Leuco Crystal Violet, how does that
18 work?

19 A So, for Amido Black, it consists of two solutions. We have a
20 developer and a rinse. And what we do is we -- before we even apply
21 any of the chemicals, we take a swab and a sample of the stain to make
22 sure it doesn't mess up the stain, but just a small enough sample to
23 where we can send it off later to get tested. And then we apply the
24 developer on the stain; we leave it there for 30 seconds so it can adhere
25 to the stain. And then we use the rinse. And a positive result will

1 usually be a bluish to black color.

2 And then for Leuco Crystal Violet, which is LCV, it comes in a
3 -- like a -- like premixed thing that you read the instructions on how to do
4 it. You mix it and you can put it into a spray bottle, and you apply it
5 throughout the areas where you think that there could have been clean-
6 up or blood. And it will adhere to the hemoglobin in blood, and it'll turn
7 like a greenish color.

8 Q When you used those chemicals, and I don't have a good
9 picture from those, did you guys see evidence of what appeared to be
10 clean-up, or an effort to clean up blood, at this particular scene?

11 A Yes, sir.

12 Q Okay. So, even if someone were to use certain chemicals,
13 you'll still see swipe marks and those type of things that are included in
14 the -- once you spray the Leuco Crystal Violet on it?

15 A Yes, sir.

16 Q And then, I'm not going to go through all of these, but you
17 indicated that once you get presumptive positive for blood, you indicate
18 a little letter on it. So, for the Ladies and Gentleman of the jury, if they
19 ever want to look at each of these, I'm going to put up 110 as an
20 example.

21 Just describe what we're looking at here.

22 A That's like a small area of blood that we found. It's labeled H-
23 1, or H -- yes.

24 Q Is it H-1 or I? Is that line underneath there to show you that
25 it's the I?

1 A Oh, it's I, sorry, that's what the line's for.

2 Q Okay. And I know --

3 A And it's on a chair leg.

4 Q -- yeah, it's really small, but maybe if I grab that, maybe we
5 can see it on this screen -- a little bit better on this screen over here.

6 You can see a little bit of blood down on the bottom of that chair, or what
7 appears to be blood?

8 A Yes, sir.

9 Q And you would have done that for each and every one of the
10 stains that was identified as --

11 A As blood, yes.

12 Q Now, we saw pictures of you guys blackening the floor. You
13 also opened sort of the cabinets to see what was inside the cabinets, as
14 well; is that correct?

15 A Yes, sir.

16 Q 116, there were a number of cleaning supplies in that cabinet?

17 A Yes.

18 Q Including -- in the front, there's actually probably two of them.

19 But in the very front portion of that 118, there's some La's Totally
20 Awesome Bleach that was found in that bottom area?

21 A Yes.

22 Q Now, do you do -- we saw the black powder that you threw on
23 the floor. Do you also -- was there processing done by other members
24 of your team of items in that room for potential fingerprints?

25 A Yes, sir.

1 Q And I'm not going to go through all of these, but I will put up
2 just a couple of them. Let's start with 121. So, when the jury looks at
3 these pictures and they see black stuff all over it, what is that?

4 A That's our powder after we have processed it. And then you
5 can see areas where there's tape, and that's where there were positive
6 results.

7 Q And then on the tape itself, if you were to, let's see, zoom into
8 that, it would have -- you can see where the print is underneath the tape
9 and then the actual piece of tape is then labeled for later on?

10 A Yeah, so every time we get a latent print, we assign it a letter
11 or a number, and then we put an arrow. If it's like on a vertical surface,
12 we'll put a arrow to show up, and if it's on a horizontal surface, we'll put
13 an arrow to show which way is north.

14 Q And then what do you do with that piece of tape?

15 A We photograph it and document it in our notes, and then we
16 lift the tape and put it onto a white latent print card.

17 Q And what goes on the card?

18 A When you -- once you put the tape on the card, we also put
19 the arrow and the identifier, so the letter or the number, and then we
20 adhere like a -- one of our labels on it, which has the Las Vegas
21 Metropolitan Police Department. It shows the location that we got it as
22 well as the item number that we assigned it, and then it shows your
23 name, your P number, and the date.

24 Q Does it also have what we call the event number?

25 A Yes, sir.

1 Q What is an event number?

2 A An event number is like a unique number that's assigned to
3 each case.

4 Q And so, the event number on the top of your diagram here is
5 200100003412?

6 A Yes, sir.

7 Q And that's the event number associated with this homicide
8 investigation?

9 A Yes.

10 Q And so, each one of the fingerprints that are taken out of this
11 particular scene would have that same unique identifying number on it,
12 so we know that these fingerprints are associated with this case?

13 A Yes, sir.

14 Q And it would have the crime scene analyst's name of who did
15 the fingerprint?

16 A Yes.

17 Q The location, the date, the time, so that someone later on can
18 say, yeah, these are the ones that the crime scene analyst collected?

19 A Yes.

20 Q What happens to all those print cards when you're done with
21 them?

22 A You put the -- all the latent print cards into a latent print
23 envelope, which also has the event number, the P number and initials,
24 the type of call, on the outside. And then you seal the envelope with a
25 red evidence seal, and you mark it with your P number and initials, as

1 well as the date, to show when you sealed that envelope.

2 Q Exhibit No. 123, in addition to doing the doors and everything
3 else, that TV was printed, as well?

4 A Yes, sir.

5 Q Now, you didn't actually -- you're not the person who placed
6 the powder or did the tape, it was one of the other crime scene analysts
7 --

8 A Yes, sir.

9 Q -- that did it inside the scene, correct?

10 A Right.

11 Q Now, you collected items from inside the scene that you
12 impounded; is that correct?

13 A Yes.

14 Q When you got back to the lab, did you process any of those
15 items for fingerprints?

16 A Yes, sir.

17 Q What'd you process?

18 A I processed the two bleach bottles that were in that cabinet
19 you guys saw, and then I processed a roll of trash bags, and then a
20 bottle of Fabuloso cleaner, as well.

21 Q On any of those items, did you find what appeared to be latent
22 fingerprints?

23 A Yes, sir.

24 Q On what items?

25 A I found them on the closed bleach bottle, the Fabuloso bottle,

1 and then a roll of trash bags.

2 Q And once again, do you document those similarly the way that
3 the ones at the scene are documented?

4 A Yes.

5 Q And so, if a fingerprint -- or fingerprint examiner were to come
6 in here, they'd be able to say, hey, Christie Thomas took this under this
7 event number off, let's say, the trash bags?

8 A Yes.

9 Q In addition to that, during the processing, were there
10 paperwork found associated with some of the people that might have
11 been inside this apartment?

12 A Yes.

13 Q And I'm just going to put up a couple of -- or maybe just one or
14 two of these. But let's put up just one of these for right now, 129. There
15 were items associated with Je'cory Kemp with inside this apartment?

16 A Yes.

17 Q And there was also items associated with a Devon Hickman,
18 as well; is that correct?

19 A Yes.

20 Q Thank you, ma'am.

21 MR. DiGIACOMO: Pass the witness.

22 THE COURT: Any cross-examination?

23 **CROSS-EXAMINATION**

24 BY MR. SANFT:

25 Q Ma'am, you're here today to basically explain to this jury

1 where you found different pieces of evidence; is that correct?

2 A Yes.

3 Q Okay. Are you here at all, or could you opine as to where the
4 incident actually occurred inside of that apartment?

5 A From the areas that we found blood, we would think it would
6 happen somewhere in the living room or the kitchen.

7 Q Okay. And can you tell, for instance -- can you tell this jury
8 how many people were in the room, can you tell them where everyone
9 was sitting, anything like that?

10 A No.

11 Q In terms of the couch that you see there in --

12 MR. SANFT: What number exhibit is that, by the way, State?
13 The map?

14 MR. DiGIACOMO: The map is 79.

15 BY MR. SANFT:

16 Q In State's Exhibit 79, the bottom left-hand corner of the
17 diagram itself where you have the couch, coffee table, and then the
18 table that's on the side, can you tell us who was sitting where, for
19 instance?

20 A No.

21 Q All right. And the blood that was collected, you don't do
22 anything with it outside of just collecting the blood and identifying where
23 you found it at?

24 A Right.

25 Q Okay. That goes -- that next process goes to somebody else?

1 A Yes, sir.

2 MR. SANFT: All right, I have no further questions. Thank
3 you, Your Honor.

4 THE COURT: Any redirect?

5 MR. DiGIACOMO: Nope.

6 THE COURT: All right, any questions by our jurors?

7 No questions.

8 Thank you for your testimony, you are excused. Next witness
9 for the State?

10 [Colloquy between counsel]

11 MR. DiGIACOMO: Can we just check to see which CORs are
12 outside, Judge.

13 THE COURT: Sure.

14 MR. DiGIACOMO: Thank you.

15 [Colloquy between counsel and the Marshal]

16 MR. DiGIACOMO: Mister Marshal, you've checked his
17 temperature, correct?

18 THE MARSHAL: Mm-hmm, he's good.

19 MR. DiGIACOMO: All right, Michael Kanakis. You're going to
20 walk right up there, and the Marshal's going to take care of you.

21 [Colloquy between counsel]

22 THE MARSHAL: Watch your step, raise your right hand, and
23 face the Clerk. Once she gets done swearing you in, scoot your chair all
24 the way up to the red light right there, and speak up loud.

25 THE WITNESS: Yes, sir.

1 THE COURT CLERK: Please raise your right hand.

2 **MICHAEL KANAKIS**

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

5 THE COURT CLERK: Thank you. Please have a seat, and
6 state and spell your first and last name for the record.

7 THE WITNESS: Michael Kanakis, K-A-N-A-K-I-S.

8 THE COURT: Go ahead, Counsel.

9 [Colloquy between counsel]

10 **DIRECT EXAMINATION**

11 BY MR. SCARBOROUGH:

12 Q Good morning, sir. How are you currently employed?

13 A At Breeze Rite In Convenience Store.

14 Q And where is that Breeze Rite In Convenience Store?

15 A 6451 Boulder Highway.

16 Q All right. Now, is that pretty close to a Sienna Suites at --
17 located at 6555 Boulder Highway?

18 A Yes, sir.

19 MR. SCARBOROUGH: Can I pull up State's 44?

20 MR. DiGIACOMO: 43.

21 MR. SCARBOROUGH: 43, publishing State's 43.

22 BY MR. SCARBOROUGH:

23 Q Sir, just directing your attention to that area and before I get
24 you to talk or anything like that, I believe on the screen you can kind of
25 circle generally. Where -- if you see the dot in the middle that says

1 Sienna Suites Complex --

2 A Yes.

3 Q -- where is your store located? Okay, so you circled kind of
4 just in the middle, maybe upper, left quadrant, yes?

5 A It's right there on the corner, yes, sir.

6 Q And what are those streets that it's on the corner of?

7 A Boulder Highway and Russell.

8 Q Thank you. So, how are you employed in that store?

9 A My wife is one of the partners, and I'm the operator.

10 Q And you're the operator, you said?

11 A Yes, sir.

12 Q As a part of your duties as an operator, are you required, or do
13 you have good knowledge that your store has a surveillance system?

14 A Yes, sir.

15 Q And do you routinely interact with that surveillance system and
16 pull footage from it and occasionally provide that footage upon request?

17 A Yes, sir.

18 Q Okay. That footage that's maintained in your store, how is it
19 stored in terms of memory and things like that? Is it digitally stored?

20 A Yes, sir.

21 Q Okay. And how is the time kept?

22 A Accurate.

23 Q Okay, so in other words, saying that the time that would be
24 reflected in the video would be the accurate time as if it were real time
25 during that incident?

1 A Yes, sir.

2 Q Okay.

3 MR. SCARBOROUGH: I would like to publish, for purposes of
4 identification, State's proposed 137, Your Honor. I believe defense
5 counsel's aware of the exhibits.

6 MR. SANFT: Yes, Your Honor, I am. No objections.

7 THE COURT: All right, thank you. Go ahead and publish.
8 And has that already been admitted, 137?

9 MR. SCARBOROUGH: He just had no -- I was publishing it
10 for -- yes, by stipulation, it looks like --

11 THE COURT: Okay.

12 MR. SCARBOROUGH: -- it is.

13 THE COURT: All right, it's -- it is admitted for the record,
14 thank you.

15 **[EXHIBIT 137 ADMITTED]**

16 BY MR. SCARBOROUGH:

17 Q Okay, sir, so it looks like we've paused this video. Do you
18 recognize the exterior portion that's depicted in this video?

19 A Yes.

20 Q Is that an exterior portion of your store?

21 A Yes.

22 Q Is that camera 14 correlated to just different cameras with
23 different angles that are correlated via number?

24 A Yes.

25 Q Going up to the top, left-hand corner, we see a date, correct?

1 A Yes.

2 Q And that is 12/30/2019?

3 A Yes.

4 Q Is that correct? And that would be the accurate date and time
5 in real time footage on that camera?

6 A Yes.

7 Q Going to the time 13:02, that's military time, correct?

8 A Yes.

9 Q And that would be also accurate in terms of no daylight
10 savings time change or anything like that? It was the exact time of day?

11 A Yes.

12 Q Okay. Looking at -- if we could press play.

13 [Video played for the Witness]

14 Q And if we could pause right here, the player's paused at this
15 point. We have shifted to a different camera angle; is that correct?

16 A Yes.

17 Q And that's camera 18, yes?

18 A Yes.

19 Q Is this depicting the interior portion of this store?

20 A The front area, yes.

21 Q The front area. Now, it seems as though the store is laid out
22 where there's two separate sides; is that correct?

23 A Correct.

24 Q The side where -- closest to the bottom of the screen where
25 we see, it looks like a Krispy Kreme Donut receptacle, what area of the

1 store is that?

2 A The front side -- the front --

3 Q Is that like a --

4 A -- the front area.

5 Q -- is that like a convenience store type of area?

6 A Yes.

7 Q In other words, comparatively -- so, you kind of see that
8 middle walkway, what's on the other side of that?

9 A Jack-in-the-Box.

10 Q Okay. So, there's a fast-food restaurant and then a
11 convenience store area --

12 A Yes.

13 Q -- in this -- depicted in this angle, yes?

14 A Yes.

15 Q So, ultimately, you were tasked with pulling this video
16 surveillance from this time frame, on this date, and then providing that
17 copy to Metro Police; is that correct?

18 A Correct.

19 Q This copy that you viewed just now, is that a fair and accurate
20 depiction of the exterior portions and the interior portions of your store?

21 A Yes.

22 MR. SCARBOROUGH: Brief indulgence.

23 [Colloquy between counsel]

24 BY MR. SCARBOROUGH:

25 Q Sorry, yes. Is there a liquor store also in that store?

1 A Not in the store, no.

2 Q Is there another door for that?

3 A Separate entrance, yes.

4 Q Separate entrance, would it be on the other side kind of
5 closest to us, or by the Jack-in-the-Box?

6 A On the other side of the -- it's on the other side. So, the
7 convenience store's in the middle, Jack-in-the-Box is to the right, the
8 liquor store is to the left.

9 Q Thank you, sir.

10 [Colloquy between counsel]

11 MR. SCARBOROUGH: I'll pass the witness, Judge. Thank
12 you.

13 THE COURT: Any cross-examination?

14 MR. SANFT: No cross, Your Honor.

15 THE COURT: All right, any questions by our jurors?

16 No questions.

17 Sir, thank you for your testimony. You are excused.

18 THE WITNESS: Thank you, sir.

19 [Colloquy between counsel]

20 MR. DiGIACOMO: And Judge, for the record, if it hadn't been
21 offered, we offered 137.

22 THE COURT: Any objection to 137?

23 MR. SANFT: No, Your Honor.

24 THE COURT: All right, that'll be admitted.

25 **[EXHIBIT 137 PREVIOUSLY ADMITTED]**

1 [Colloquy between the Court and the Court Clerk]

2 THE COURT: All right, Ladies and Gentleman, we're just
3 going to take a very brief recess. And during this recess, you must not
4 discuss or communicate with anyone, including fellow jurors, in any way
5 regarding the case or its merits, either by voice, phone, email, text,
6 internet, or other means of communication or social media. You are not
7 to read, watch, or listen to any news or media accounts or commentary
8 about the case.

9 You're not to do any research such as consulting dictionaries,
10 using the internet, or using reference materials. You're not to make any
11 investigation, test the theory of the case, recreate any aspect of the
12 case, or in any other way investigate or learn about the case on your
13 own. And you're not to form or express an opinion regarding the case
14 until it's submitted to you.

15 See you back in about ten minutes, which will be 10:25.

16 THE MARSHAL: All rise for the exit of the jury.

17 [Jury out at 10:15 a.m.]

18 [Outside the presence of the Jury]

19 [Recess began at 10:15 a.m.]

20 [Recess concluded; proceedings resumed at 10:31 a.m.]

21 [Outside the presence of the Jury]

22 THE COURT: Let's go.

23 MR. DiGIACOMO: Let's go.

24 [Colloquy between counsel]

25 THE MARSHAL: All rise for entry of the jury.

1 [Colloquy between the Court and the Court Clerk]

2 [Jury in at 10:31 a.m.]

3 [In the presence of the Jury]

4 THE COURT: Welcome back, Ladies and Gentleman. Who
5 is our next witness?

6 [Colloquy between counsel]

7 MR. SCARBOROUGH: Ashlynn Bogus, Judge.

8 THE COURT: Thank you.

9 THE MARSHAL: Just follow me.

10 [Colloquy between the Court and the Court Clerk]

11 THE MARSHAL: Watch your step, raise your right hand, face
12 the Clerk. Once the Clerk is done swearing you in, just make sure you
13 scoot your chair all the way forward to that red light there.

14 THE WITNESS: Okay.

15 **ASHLYNN BOGUS**

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

18 THE COURT CLERK: Thank you. Please have a seat and
19 state and spell your first and last name for the record.

20 THE WITNESS: Ashlynn Bogus, A-S-H-L-Y-N-N, B-O-G-U-S.

21 THE COURT: Go ahead, Counsel.

22 MR. SCARBOROUGH: Thank you.

23 **DIRECT EXAMINATION**

24 BY MR. SCARBOROUGH:

25 Q Ma'am, how are you currently employed?

1 A I'm currently employed as a forensic scientist with the Las
2 Vegas Metropolitan Police Department in the Forensic Laboratory.
3 Specifically, I work in the Latent Print Detail.

4 Q How long have you been employed in that capacity?

5 A I have been employed there for about two years.

6 Q What training and experience do you have to obtain such a
7 position?

8 A Prior to working for the Metropolitan Forensic Laboratory, I
9 worked in the Washington State Patrol as a ten-print examiner for about
10 three years. So, my job was specifically to look at fingerprints in the
11 database.

12 From there, once I got employed by Las Vegas Metropolitan
13 Police Department, I started a very intensive training program that lasted
14 about a year and a half where I learned a bunch of the science, as well
15 as the practical application in regards to latent print analysis. And
16 throughout that process, I was vigorously tested at various stages. And
17 at the end, I had to pass a competency test before I was allowed to
18 proceed to casework.

19 Q As a part of your career, are you required to keep up with
20 current, up-to-date training, policies, and procedures?

21 A Yes, it is very --

22 Q And are you --

23 A -- highly encouraged.

24 Q Okay. And are you up to date on all that policy and training,
25 procedures.

1 A Yes.

2 Q What is a latent print?

3 A A latent print is a print that has been left on a surface through
4 contact. Most often, that print is invisible to the naked eye and needs to
5 be processed in some manner in order to be visualized.

6 Q Is that the same with a palm print?

7 A Yes. Latent prints can come from the fingers, the palms, as
8 well as the soles of your feet and your toes.

9 Q Are these latent prints specific to each individual?

10 A Yes.

11 Q In other words, can two people have the same latent print, two
12 separate people?

13 A It has not been found for that to be the case.

14 Q Are some surfaces more conducive to leaving prints as opposed
15 to others?

16 A Yes. For example, smooth surfaces, like cellphone screens,
17 are much better surfaces. They tend to collect prints far more easily
18 than surfaces that are patterned, for example, clothing.

19 Q Is it possible for a person to touch a surface and maybe not
20 leave a print?

21 A Yes

22 Q What is a suitable print?

23 A A suitable print is a print that is determined to have value for
24 comparison. So specifically, for the Las Vegas Metropolitan Forensic
25 Lab, we define suitable for comparison to be, for a fingerprint, a print

1 that has at least eight minutia, which are points of change along the
2 ridge flow. We also prefer that it has at least, either the middle of the
3 print visible, the pattern type visible, or some other distinguishing feature
4 that we can use to assist us in our comparisons.

5 Q Now, are suitable prints what you use to conduct what you
6 compare fingerprints to? Is that what you're basing it off of, a suitable
7 print?

8 A For the latent prints, yes.

9 Q Okay. Now, are you also in your course of duties in
10 possession of fingerprints and palm prints from various databases that
11 allow you to compare to suitable prints lifted from a scene?

12 A Yes.

13 Q Okay. Is one of those databases AFIS?

14 A Yes, it is.

15 Q Okay. And just briefly for the Ladies and Gentleman of the
16 jury, describe what AFIS is.

17 A AFIS is the Automated Fingerprint Identification System. And
18 it is a computer database that is composed of what we refer to as known
19 or exemplar records. So, whenever an individual is printed where they
20 go to a facility and use either a machine these days, or previously, it was
21 inked fingerprints. So, in most cases, we have inked impressions from
22 all ten fingers for an individual, and sometimes the palms are also
23 available.

24 Q Are those individual prints that you were just referring to
25 catalogued in that database according to an ID number associated with

1 that individual?

2 A Yes, they are.

3 Q Okay. Now, we've heard a little bit from a couple of crime
4 scene analysts in terms of how they impound fingerprint cards. Can you
5 walk the Ladies and Gentleman of the jury how you receive a fingerprint
6 card and what you kind of do from there?

7 A So, once the card has been impounded by the CSA, our
8 evidence technicians will deliver it to what we call our Renstar, which is
9 our secure fingerprint location where we keep all of our evidence
10 packets secured. From there, once the case gets assigned to me, I will
11 go and pull the fingerprints that I need for the case and then move them
12 into my custody through our electronic chain of custody.

13 Q When you receive packaging, we had also heard about CSAs
14 marking it with red tape. Is that to indicate any break in chain of
15 custody?

16 A Yes. It is to indicate that the packet has been sealed since the
17 CSA sealed it.

18 Q Now, when you receive a print, and you open it up, and the
19 chain of custody is all fine, what do you then do comparatively between
20 the prints that you have from the scene and maybe any prints that you're
21 made aware of through those databases that you mentioned? How do
22 you do that?

23 A So, I initially start out by opening any packets that I have. And
24 I go through and I assign card numbers to all of the lift cards that are
25 available to me. From there, I start by analyzing all of the lift cards to

1 determine whether or not there are any suitable prints that I can use for
2 comparison.

3 Once I have determined that for each of the items of evidence
4 that I have, I will then collect any known prints from the databases for
5 individuals that have been requested for comparison. I will then conduct
6 a comparison between the individuals that have been requested and the
7 suitable prints that I have marked. And I will come to a conclusion for
8 each suitable print.

9 If I conclude for a print that it does not match any of the
10 suspects that were requested, and if the print is of high enough quality, I
11 will then enter it into the AFIS system for a search of the system to see
12 whether or not I can find any additional names to provide in my report.

13 Q So, when you receive packages, do you receive them in the
14 form of lab item and then the lab item is numbered with the P number of
15 the CSA; is that correct? Or do you assign the lab item number?

16 A The lab item number gets assigned by the evidence
17 technicians when the CSAs are impounding the evidence.

18 Q And then amongst those impound packages of the lab items,
19 that's what you were referring to was the different cards where different
20 fingerprint -- latent prints are lifted and put on; is that correct? Like Q1,
21 Q2, are those the cards that -- where the prints would be on in those
22 packaging?

23 A Yes, the Q numbers refer to the individual cards within the lab
24 item.

25 Q Okay. Now, I want to direct your attention to work you

1 completed under event number 200100003412. Are you familiar with
2 the work that you conducted under this event number?

3 A Yes.

4 Q Okay, and were -- when you received it, were you made
5 aware of the nature of the event that you were doing the work under?

6 A It has the assigned event type on the packet, but -- so, I was
7 aware of the event type, but outside of that, I did not receive any
8 additional information.

9 Q And amongst the information that you received for this event,
10 you had mentioned that there were individuals you were requested for
11 comparison; is that correct?

12 A That is correct.

13 Q Okay, so one, two, three, four, five, six, seven individuals were
14 received by you, or for comparison in this event?

15 A Would it be all right if I refer to my report to refresh my
16 recollection?

17 Q Yeah, if it would refresh your recollection to look at the report.

18 A So, for this particular case, I actually received five individuals
19 that were requested for comparison, and then the additional two were
20 ones that I discovered through AFIS searches.

21 Q Okay. And just to get out in front of it, one person that you
22 found through AFIS, Jayshanda Pagy [phonetic], that's someone that
23 you found not to be, you know, compared to anyone in this case,
24 correct?

25 A Jayshanda Pagy [phonetic], I did find through an AFIS search.

1 So, she was identified to at least one of the suitable latent prints that I
2 had. But I do not know how she might have been related to the case.

3 Q In other words, you weren't asked to compare any prints of
4 hers?

5 A Correct.

6 Q Okay. So, now what I want you to do -- so, you received
7 notifications or a request to compare people by the name of Mackeisha
8 Murphy, Davon Hickman, Je'cory Kemp, Tyeshia James, and Preston
9 Huteson; is that correct?

10 A Yes.

11 Q Okay. Now, going to the work that you actually did when you
12 compared, did you develop identifiable prints to some of the suspects
13 that were given to you in this case from these prints?

14 A I did, yes.

15 Q Okay. So, going to lab item No. 2, in lab item No. 2, were
16 there about 25 Q-cards with prints on them from the scene and various
17 areas of the scene?

18 A Yes.

19 Q Okay. Just to briefly run through them, were there some Q-
20 cards where there were no -- latent prints for comparison?

21 A Yes, that is correct.

22 Q Okay. Directing your attention to Q-card or Q2, you're
23 oriented on the card as to where that print was lifted from, correct?

24 A Yes.

25 Q So, Q2 would have been one lift card from a -- from the frame

1 of a flatscreen TV in the living room; is that correct?

2 A Yes.

3 Q And that was -- and what was the result of that comparison
4 based on those individuals that you received and your comparison to the
5 fingerprint lifted from the scene?

6 A That suitable print was identified to the left palm of Je'cory
7 Kemp.

8 Q Okay, moving to Q3, one lift card from the frame of the
9 flatscreen TV, another one, what were the result -- what was the result
10 of that?

11 A For that lift card, I had two suitable prints marked, and both
12 were identified to the left palm of Je'cory Kemp.

13 Q Okay, now going to Q4 and Q5, those were other lifts from the
14 flatscreen TV. Were those also identified to various areas of an
15 individual named Je'cory Kemp?

16 A Yes, they were.

17 Q Okay. Now, flipping through, did you also identify fingerprints
18 associated with Je'cory Kemp in different areas of the house, as well?

19 A Yes.

20 Q Now, going to Q8, did you identify or look at a lift card from a
21 cactus cooler bottle and a trash bag in the kitchen from that residence?

22 A Yes, I did.

23 Q Now, was that identified to -- what was the result of that
24 identification? For Q8.

25 A That particular suitable print was identified to the left thumb of

1 Mackeisha Murphy.

2 Q And did you also, going -- continuing through, identify her and
3 different areas of, you know, the residence via the suitable latent print
4 comparisons?

5 A Yes.

6 Q Okay. Now, going to Q23 on a lift card from the interior, front
7 door, what was the result of that comparison?

8 A The suitable latent print was identified to the left palm of
9 Davon Hickman.

10 Q And then moving down one lift card, on Q24 from the interior,
11 front door of the apartment, what was the result of that?

12 A That suitable print was identified to the left middle finger of
13 Je'cory Kemp.

14 Q Now, moving to Q30, did you compare one lift card from the
15 ash tray on the bedroom and the nightstand?

16 A Yes, I did.

17 Q And was that identified to another individual involved in this
18 event?

19 A It was.

20 Q And who was that?

21 A It was identified to Tyeshia James.

22 Q And would that be the left, ring finger of Tyeshia James?

23 A Yes.

24 Q Okay. And again, as I had asked before on other individuals
25 that you received requests for, did you identify fingerprints from Tyeshia

1 James on different items pulled from different areas of this residence?

2 A Yes.

3 Q Okay. So, moving to Q42, you -- those are two lift cards from
4 the handle of a dustbin in the kitchen, correct?

5 A Yes.

6 Q And what was the result of that comparison?

7 A That was identified to the right, middle finger of Je'cory Kemp.

8 Q Okay. And then moving down the line, as I had said before,
9 you found these individuals and prints associated with these individuals
10 in different areas again; that's correct?

11 A Yes.

12 Q So, moving to 2 -- lab item 4, Q45, from a roll of a piece of cut
13 trash bags. What were the result -- what was the result of that suitable
14 print comparison?

15 A I had two suitable prints from that particular lift card. One was
16 identified to the left, middle finger of Je'cory Kemp. And the other was
17 identified to the left, ring finger of Je'cory Kemp.

18 Q Okay. Now, when you finish your suitable print comparison,
19 do you author a report for this case?

20 A I did.

21 Q And is there some sort of peer review that you're subjected to
22 when you issue these reports?

23 A Yes. A technical review is conducted.

24 Q A technical review, can you just briefly explain what that is to
25 the Ladies of the -- Ladies and Gentleman of the jury?

1 A So, for a technical review, a second individual will look over
2 our report checking for any spelling errors, or anything that perhaps got
3 put into the wrong place. They will also do their own individual
4 comparisons for all the prints that I have marked as suitable, as well as
5 looking for any that they feel do meet the suitability criteria that perhaps I
6 have not marked in order to make sure that we have done everything
7 possible in the case, and just checking for overall accuracy.

8 Q And that was done in this case for your work under this event;
9 is that correct?

10 A Yes.

11 MR. SCARBOROUGH: I have no further questions for this
12 witness. I'll pass the witness --

13 THE COURT: All right.

14 MR. SCARBOROUGH: -- Judge, thank you.

15 THE COURT: Thank you. Any cross-examination?

16 MR. SANFT: Yes, Your Honor.

17 **CROSS-EXAMINATION**

18 BY MR. SANFT:

19 Q Ms. Bogus, would it be fair to say that with fingerprints, your
20 testimony here today just basically says that a person placed his hand
21 down on a podium like this, right? Meaning that, if I left this fingerprint
22 that was on here that you captured and then, you know, compared it to
23 some other fingerprint known sample that I have, that your testimony
24 would basically be is that it was found on this podium, right?

25 A Yes.

1 Q Okay. But you wouldn't be able to tell the jury, for instance,
2 when it was placed on the podium?

3 A That is correct.

4 Q Or why it was placed on the podium?

5 THE COURT RECORDER: I can't hear you.

6 MR. SANFT: Why --

7 THE COURT: You'll need to be -- right --

8 MR. SANFT: Okay.

9 THE COURT: -- closer to a microphone, perhaps.

10 BY MR. SANFT:

11 Q All right. Why it was placed on the podium, you wouldn't be
12 able to tell that, right?

13 A Correct.

14 Q Or for instance, you wouldn't be able to tell us quite honestly
15 anything other than the fact I just touched a podium?

16 A That is correct.

17 Q All right. So, in this case, when you -- you've testified as to
18 Je'cory's prints being in this apartment. You can't tell the jury why they
19 were in the apartment, right?

20 A That is correct.

21 Q Okay. And would it be fair to say that if it's a apartment where
22 he lived in that presumably you would be able to find prints at some
23 point of something of his or something that he's touched in an apartment
24 that he lived in, right?

25 A Yes.

1 Q Okay.

2 MR. SANFT: No further questions, Your Honor.

3 THE COURT: Any redirect?

4 MR. SCARBOROUGH: No, Judge.

5 THE COURT: Any questions by our jurors?

6 No questions.

7 Thank you, ma'am, for your testimony. You are excused.

8 Next witness for the State?

9 MR. DiGIACOMO: Glezzelle Tapay.

10 [Colloquy between counsel]

11 [Pause in proceedings]

12 THE MARSHAL: Watch your step, raise your right hand, face

13 the Clerk. Once the Clerk swears you in, scoot forward to that red light

14 right there and speak loud.

15 THE WITNESS: Okay.

16 THE COURT CLERK: Please raise your right hand.

17 **GLEZZELLE TAPAY**

18 [having been called as a witness and being first duly sworn, testified as

19 follows:]

20 THE COURT CLERK: Thank you, please have a seat. And

21 state and spell your first and last name for the record.

22 THE WITNESS: First name is Glezzelle, G-L-E-Z-Z-E-L-L-E,

23 last name is Tapay, T-A-P-A-Y.

24 THE COURT: Go ahead, Counsel.

25 **DIRECT EXAMINATION**

1 BY MR. DiGIACOMO:

2 Q Ma'am, how are you employed?

3 A I am a crime scene analyst.

4 Q And just so you know, there's a mask, there's a piece of
5 plastic, and a really long room, so you got to keep your voice way up,
6 even though there's a microphone in front of you, okay?

7 A Okay.

8 Q I -- we've heard from several crime scene analysts, I assume
9 your job functions are similar, as well as your training and experience?

10 A Correct, yes.

11 Q Okay. Were you assigned to process the exterior portion of
12 building 11 at 6555 Boulder Highway in relation -- well, on December
13 31st into January 1st of '19 to '20; is that a yes?

14 A I'm -- yes. Yes, I was.

15 Q Okay. And as part of that, you worked in a team separate
16 than the team that Christie Thomas worked inside the apartment there;
17 is that correct?

18 A Correct, yes.

19 Q Okay. I'm going to show you what's been marked as State's
20 proposed -- or actually, I guess they're admitted, 52 through 78. We're
21 not going to go through all of these, but I just want you to briefly flip
22 through and make sure these are all photographs taken during your
23 team's processing.

24 [Pause in proceedings]

25 A All right, yes, these are.

1 Q Okay.

2 MR. DiGIACOMO: Move to admit 52 through 78.

3 THE COURT: Any objection?

4 MR. SANFT: No objection, Your Honor.

5 THE COURT: They will be admitted.

6 **[EXHIBITS 52 THROUGH 78 ADMITTED]**

7 BY MR. DiGIACOMO:

8 Q Can I steal those back from you, so I know which ones
9 [indiscernible]. So, I'm going to put these up on the screen, and if you
10 are describing a certain area, if you touch that screen, it'll make a mark
11 for -- it's sort of like a -- an old drawing thing that we now have
12 computerized. It sort of works.

13 I'm going to start here with 52 and ask you, what are we
14 looking at?

15 A This photo is taken from the parking lot, and that is the
16 building that we were responding to.

17 Q And we've heard testimony that there was a blood trail found
18 from the parking lot up to an apartment called 11309.

19 A Correct, yes.

20 Q Okay. And you -- your job was to document that particular
21 blood trail?

22 A Yes.

23 Q Now, throughout the -- in addition to a blood trail, did there
24 appear to be some evidence of scrapings and parts of maybe something
25 that were kind of broken off through the blood trail?

1 A There were pieces of like a black plastic.

2 Q Okay. So, I'm going to start with -- well, the other thing is
3 when I -- oh, I'm going to circle the wrong one. In this area here, there
4 appears to be some orange cones; do you see those?

5 A Yes, I do.

6 Q Can you explain what the cones represent in this particular
7 case?

8 A The cones are blocking off just areas of apparent blood.

9 Q Okay. So, if I zoom in a little bit on 53, now we've got a closer
10 view there. You can see the three cones, but you can also see there's
11 two little, pink things. And I'm just going to try and zoom this camera in
12 a little bit. What do the pink tabs represent?

13 A The pink arrows here are representing areas of apparent
14 blood where we collect.

15 Q When you use the term apparent blood, did you do some sort
16 of presumptive test to determine if it was actually blood or just some sort
17 of reddish-brown stain?

18 A So, we will do a presumptive test, it's phenol ethaline, to say
19 that it is apparent blood.

20 Q Okay. So, now I'm just going to walk you through the blood
21 trail. Start with 54, each of those orange cones represents evidence of
22 this blood trail?

23 A In this case, the cones are kind of blocking off the areas of
24 apparent blood.

25 Q The three -- or sorry, the four cones on one side, the four

1 cones on the other, and then there's sort of cones that are laying in the
2 middle; is that correct?

3 A Correct, yes.

4 Q Okay. And so, as we look at those cones, 55, some of those
5 cones appear to be tipped over. Why are those cones tipped over?

6 A Some of the cones are tipped over to signify that there seems
7 to be apparent footwear.

8 Q Associated with the blood trail that you're working on?

9 A Correct, yes.

10 Q So, going to back up this trail, 58, now we've kind of walked
11 past building 11, and now you've got the turn that goes down the interior
12 portion of 11 from the parking lot?

13 A Correct.

14 Q And I'm just going to put this up as sort of a representative,
15 061. So, now we're at the -- kind of the corner of the walkway there of
16 building No. 11, correct?

17 A Yes.

18 Q All right. And it's hard to see in this one, but as you focus in,
19 when we talk about a blood trail, 62, is it the reddish-brown stains that
20 kind of are laying on the ground; is that correct?

21 A That is correct.

22 Q So now 63, as we go down, the interior side of building 11,
23 you wind up at a -- the bottom of a stairwell? Correct?

24 A Yes.

25 Q Okay. And then as you turn the corner into the stairwell, 64,

1 and we're going up the stairwell, 67 -- 68, you're on that -- are you now
2 standing, or whoever's taking this photograph, is standing on the first
3 landing after going up to the second-floor landing, shooting down to the
4 floor?

5 A Correct, yes.

6 Q And then there's a cone that shows the blood trail kind of
7 turning this corner?

8 A Yes, that is correct.

9 Q Now, from the second floor, that's that same cone on the right-
10 hand side of the second-floor landing, and now it -- the blood trail now
11 seems to be going up to the stairs to the third floor?

12 A Yes.

13 Q 72, this is a shot from the third landing -- the third-floor landing
14 shooting down to the second-floor landing?

15 A Yes.

16 Q Okay. And you could see sort of a chair over here on the left-
17 hand side?

18 A Yes.

19 Q Number 73, the blood trail leads right to that doorway, and you
20 can see that same chair in the picture, correct?

21 A That is correct.

22 Q And that apartment door that's open there is apartment 11309;
23 is that correct?

24 A The one that's on the left?

25 Q Yeah, the one that's on the left, right, there's two --

1 A Correct.

2 Q -- I guess -- but the one that the cone's in front of is 11309?

3 A Correct, yes.

4 Q Okay. Now, you mentioned something about documenting
5 footwear and things like that, so I'm just going to put this up so the
6 Ladies and Gentleman of the jury understand, it's 77. Now, instead of a
7 reddish color this now has a -- like a bluish color to it. What's happening
8 here?

9 A So, once we have the footwear documented, then we put a
10 chemical on it, which is called Amido Black, and it's just to enhance the
11 footwear impression in blood -- in apparent blood.

12 Q So, an example of one of those footwear impressions in 78,
13 the -- I think my touch screen isn't working. So, that's how the Amido
14 Black will enhance the blood in the footwear?

15 A Yes, correct.

16 Q Thank you.

17 MR. DiGIACOMO: That completes my questions for the
18 witness, so the Grand Jury -- oh sorry.

19 THE COURT: All right, thank you.

20 MR. DiGIACOMO: I pass the witness, Judge.

21 THE COURT: Mr. Sanft, do you have any cross-examination.

22 MR. SANFT: I do not, Your Honor.

23 THE COURT: All right, any questions by our jurors?

24 No questions.

25 Thank you, ma'am for your testimony, you are excused.

1 THE WITNESS: Thank you.

2 THE COURT: Next witness for the State?

3 MR. DiGIACOMO: Tyeshia James.

4 [Colloquy between counsel]

5 THE MARSHAL: Watch your step, raise your right hand, face
6 the Clerk. Once she gets done swearing you in, scoot your chair in and
7 you got to speak up loud.

8 THE WITNESS: All right.

9 **TYESHIA JAMES**

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

12 THE COURT CLERK: Thank you, please have a seat. And
13 state and spell your first and last name for the record.

14 THE WITNESS: Tyeshia James, T-Y-E-S-H-I-A, James, J-A-
15 M-E-S.

16 THE COURT: Go ahead, Counsel.

17 MR. DiGIACOMO: Thank you.

18 **DIRECT EXAMINATION**

19 BY MR. DiGIACOMO:

20 Q Good morning, Ms. James. We've talked a couple times, and
21 I know you have a very low voice. And I know the Marshal said to speak
22 up, but almost talk to me like you're yelling at me, okay?

23 A Okay.

24 Q Thank you. And if you have to, just roll right up to that
25 microphone for us.

1 Ma'am, do you know a individual by the name of Mackeisha
2 Murphy?
3 A Yes, I do.
4 Q How do you know her?
5 A That's my sister.
6 Q Is she your older sister or your younger sister?
7 A Older sister.
8 Q And back in, let's say, the late part of 2019, where were you
9 living?
10 A We were staying at the Siennas on Boulder Highway.
11 Q The Sienna Suites --
12 A Yes.
13 Q -- that's down there? And you now know that address is 6555,
14 correct?
15 A Yes.
16 Q When you first move into the Sienna Suites, where are you
17 living?
18 A In -- I don't know the exact room number. It's 1113, I think.
19 Q Okay. Does there -- well, let me ask you this, when you finally
20 get a room there, it's 11309?
21 A Yes.
22 Q Right?
23 A Yeah.
24 Q It's the crime scene, ultimately.
25 A Yeah.

1 Q Okay. But are you living at the Sienna Suites before you ever
2 move into 11309?

3 A I'm not actually living there. They are; they have a room.

4 Q When you say they, who are you talking about?

5 A Sorry, my older sister, Mackeisha Murphy, and Davon
6 Hickman, her boyfriend.

7 Q So, her name is Mackeisha and his name is Davon Hickman.

8 A Yes.

9 Q So, I'm going to put up for you Exhibit number -- well, that's
10 you, you probably don't need to identify yourself.

11 MR. DiGIACOMO: 37 and 38 Judge, I believe Mr. Sanft has
12 already seen these and does not have an objection to them being
13 admitted.

14 MR. SANFT: Yes, Your Honor, that's correct.

15 THE COURT: All right, they will be admitted.

16 **[EXHIBIT 37 AND 38 ADMITTED]**

17 BY MR. DiGIACOMO:

18 Q So, let's start with 38. Who is that?

19 A My sister, Mackeisha Murphy.

20 Q Okay. And then 37, who is that?

21 A Her boyfriend, Davon Hickman.

22 Q Now, did you call Davon, Davon, or did you call him something
23 else?

24 A Little, that's --

25 Q Little.

1 A -- what he goes by.

2 Q Okay, he goes by Little. Does he have any other name that
3 he goes by, as well?

4 A Papa Smurf.

5 Q You ever heard him called Payso?

6 A And Payso, yes.

7 Q Okay. And it's going to get really confusing at some point
8 when talk about Payso and Sayso, so let's call Davon, Little, throughout
9 this.

10 A Okay.

11 Q Okay?

12 A Okay.

13 Q How long do you think your sister had been dating Little?

14 A I want to say over five years, maybe a little more. I'm not
15 entirely sure, though.

16 Q But a pretty long time?

17 A Yes.

18 Q You said that when they first moved into the Sienna Suites,
19 they had a different apartment than the one you eventually rent?

20 A Yes.

21 Q Through Little, did you meet an individual by the name of
22 Je'cory Kemp?

23 A Yes, I did.

24 Q Do you see Mr. Kemp here in court today?

25 A Yes.

1 Q Will you point him out and describe something he's wearing?

2 A White shirt, I can't really see him. But white shirt --

3 THE COURT: Ma'am, you can stand up, if you need to.

4 THE WITNESS: All right. White shirt.

5 THE COURT: You --

6 MR. DiGIACOMO: May the record reflect identification of the
7 Defendant?

8 THE COURT: It will. Thank you.

9 MR. DiGIACOMO: And Judge, I have marked here, State's
10 Exhibit No. 35, which is the picture of Mr. Kemp. I'd offer that, as well.

11 THE COURT: Any objection to 35?

12 MR. SANFT: No objection, Your Honor.

13 THE COURT: 35 will be admitted.

14 **[EXHIBIT 35 ADMITTED]**

15 BY MR. DiGIACOMO:

16 Q Now, Mr. Kemp, did you call him Je'cory or what -- how did
17 you refer to Mr. Kemp?

18 A Sometimes I would call him Cory, sometimes it'd be Smooth.

19 Q Smooth?

20 A Smooth, yeah.

21 Q And let's -- throughout your testimony, you've given some
22 statements, you've called him Cory throughout those statements; is that
23 fair?

24 A Yes.

25 Q Is that a yes?

1 A Yes.

2 Q Okay. The nods and the uh-huhs and the uh-uhs are really
3 hard to catch on a transcript, so if you could do the best you can, and I'll
4 correct you if I catch you, all right?

5 A Okay.

6 Q Thank you. When did you meet Cory?

7 A Maybe a month or two before I got the room or three months I
8 think before I actually got the room for them.

9 Q Okay. And was Cory staying with Davon and Mackeisha?

10 A To my knowledge, yes.

11 Q Okay. Eventually, do you form a relationship with Cory?

12 A Correct.

13 Q Dating relationship?

14 A Yes.

15 Q How long after you met him did you start dating him?

16 A Month, month and a half, I believe.

17 Q So, if you and he have both said you started dating in October
18 of 2019, does that sound about right?

19 A Yeah.

20 Q Okay.

21 A I'm not too sure on the date when we officially started dating,
22 but yeah.

23 Q Somewhere around there.

24 A Yes.

25 Q Now, what was -- well, let me ask you this, did you ever see

1 Cory interact with Davon?

2 A Yes.

3 Q Little?

4 A Yeah.

5 Q Okay. And did they have -- how would you describe the
6 nature of their sort of relationship? Are they friends, employee, what?

7 A They considered each other brothers, but also partners or
8 business partners, I guess.

9 Q And when you say business partners, what was Little's
10 business?

11 A Selling weed.

12 Q Okay. And would Mr. -- or Cory, Mr. Kemp, would he -- were
13 him and Davon working together to sell the weed?

14 A Yes.

15 Q I'm going to -- well, during the time you're living at the Sienna
16 Suites, did you meet a person or learn that there was a worker there by
17 the name of A.J.?

18 A Yes, I did.

19 Q How many times you think you met A.J.?

20 A Once.

21 Q Had you seen him around on other occasions?

22 A In passing, but not necessarily paying attention.

23 Q He was just someone who worked at the Sienna Suites?

24 A Correct.

25 Q Were you aware that he had any other side businesses going

1 on?

2 A Not at first, no. Eventually, I did learn that he was also selling
3 weed.

4 Q He was also selling weed?

5 A Yeah.

6 Q Okay. Does there come a point in time in December -- well,
7 let me ask you this. At some point, do Mr. Hickman and Mr. Kemp get
8 evicted from their room at the Sienna Suites?

9 A They do.

10 Q And after they get evicted, what did you decide to do?

11 A I ended up getting them a room in my name.

12 Q And that's the 11309, the crime scene.

13 A Correct.

14 Q And who was staying in this particular room?

15 A Myself, my older sister, Mackeisha, Little, and Je'Cory.

16 Q So, let's talk about the living arrangements. There was a
17 master bedroom?

18 A Correct.

19 Q Or I guess there's a bedroom and a --

20 A And a living room, yeah.

21 Q -- living room. There's two beds in that bedroom.

22 A Yes.

23 Q Who stayed in the bedroom?

24 A My sister and Little.

25 Q Okay. You and Mr. Kemp didn't use that other bed?

1 A No, we did not.

2 Q Okay. Where would you sleep?

3 A We would sleep on the couch.

4 Q Both of you?

5 A Yes.

6 Q At the same time?

7 A Yes.

8 Q And did they continue their weed selling business while they're

9 inside this -- in 11309?

10 A They did.

11 Q Does there come a point in time where you learn of an

12 individual by the name of Sayso?

13 A Yes.

14 Q And how long before the homicide would you say you first met

15 Sayso?

16 A Honestly, not sure. Maybe two, three months, I think.

17 Q So, you'd known him for some period of time before the

18 homicide actually occurred?

19 A Yeah.

20 Q And Sayso, did you know what he did for a living?

21 A Yeah, he sold weed, as well.

22 Q He sold weed, as well. Okay. I'm going to show you what's

23 been marked as State's Exhibit No. 39, assuming you identify it, we'll

24 offer it.

25 A That's Sayso.

1 Q That's Sayso. And I'm going to try and rotate this for us here.
2 Now, did you know if Sayso and Davon or Cory were friends?

3 A I knew they would smoke together every once in a while. I'm
4 not sure how close they were in the beginning, but --

5 Q Okay. Did you know Sayso's brother?

6 A No.

7 Q When is the first time you meet Sayso's brother?

8 A The day of the incident, I believe.

9 Q So, the day of the incident, you meet Sayso's brother, and
10 have you since learned that his name is Anthony Woods?

11 A Since then, yes.

12 Q Okay. Showing you 40, I don't know why some of these are
13 coming up sideways, but they are, so. You recognize that guy?

14 A Vaguely, yes.

15 MR. DiGIACOMO: Judge, I'd offer 39 and 40.

16 THE COURT: Any objection?

17 MR. SANFT: No objection, Your Honor.

18 THE COURT: 39 and 40 will be admitted.

19 **[EXHIBITS 39 AND 40 ADMITTED]**

20 BY MR. DiGIACOMO:

21 Q Now, did there come a point in time when you learned about a
22 problem with A.J. and sort of involving your sister and Davon?

23 A Yes, I did.

24 Q Okay. And can you describe what you knew about that
25 problem?

1 A The first time it was because A.J. had mentioned my sister
2 and Juanita working together, and that's how I knew my sister had a
3 problem with A.J. in the beginning. And she had brought it to Little, and
4 that's when it had become everybody's problem, Little and my sister,
5 Davon, Cory, and A.J.

6 Q Who's Juanita?

7 A She was also a friend of my sister's. She lived in the Siennas.

8 Q And you said your sister and Juanita were working together;
9 what does that mean?

10 A Going out and getting dates every once in a while.

11 Q A street term called hustling?

12 A Yes.

13 Q Okay. You know, and we're in courtroom, prostitution is
14 another version of what we're talking about here.

15 A Right.

16 Q And you said Juanita and your sister would sometimes go out
17 and prostitute together?

18 A Yes.

19 Q And you said A.J. said something about that to --

20 A To my sister and Juanita.

21 Q -- to your sister, and what'd he say?

22 A I'm not sure, I wasn't there. I know she just mentioned -- my
23 sister mentioned it --

24 Q That --

25 A -- to Little that A.J. had said something about her and Juanita

1 working together.

2 MR. SANFT: Objection, Your Honor. Objecting as to
3 hearsay.

4 THE COURT: I'm sorry, restate your question, Mr.
5 DiGiacomo.

6 MR. DiGIACOMO: Let me rephrase and --

7 THE COURT: Okay, so I'm going to --

8 MR. DiGIACOMO: -- I don't need to know what A.J. said.

9 THE COURT: -- okay.

10 THE WITNESS: Oh.

11 THE COURT: Just for the record, the jury's instructed,
12 disregard the last statement from the witness, okay? So, do not
13 consider that during your deliberations. We're going to re-ask a
14 question.

15 MR. DiGIACOMO: Yeah, I'll rephrase it.

16 BY MR. DiGIACOMO:

17 Q So, you don't -- you didn't hear what A.J. said to Juanita or
18 your sister?

19 A Correct.

20 Q You heard your sister complaining to Little about something
21 A.J. said about her and Juanita working together?

22 A Yes.

23 Q Okay. How did Little react to that?

24 A He was upset.

25 Q And you said at that point it became all of our problems.

1 A Yes.

2 Q Who's all of us?

3 A Little, my sister, Je'cory, myself.

4 Q So, all four of you had a problem with A.J. because of this

5 thing that he did with saying something about Juanita and your sister?

6 A Yes.

7 Q I'm going to sort of fast forward a little bit, but in late

8 December, maybe the 29th, maybe the 28th, somewhere around there,

9 do you become aware of a situation involving Sayso and A.J.?

10 A I do.

11 Q And how is it you first learn about this issue with Sayso and

12 A.J.?

13 A Little and Je'cory and my sister, they had brought it up, Sayso

14 owing A.J. some money and him not paying it off. So, that's the

15 situation between those two.

16 Q So, this conversation is Cory, Little or Davon --

17 A Yes.

18 Q -- and your sister and you and --

19 A In the apartment.

20 Q -- in the apartment.

21 A Yeah.

22 Q And they said that Sayso owed A.J. some money?

23 A Correct.

24 Q And Sayso didn't want to pay A.J. back.

25 A Yes.

1 Q And do you recall how much money it was?

2 A I believe it was 2,000, but I'm honestly not sure.

3 Q If you told the police at some point it was two racks --

4 A Yes, 2,000.

5 Q All right. So, just so that we get some of the terminology
6 because later on the jury's going to see a statement and need to know.
7 When someone uses the term, rack, that's a thousand dollars?

8 A Yes.

9 Q So, if someone owes somebody two racks, that's \$2,000 they
10 owe?

11 A Correct.

12 Q And Sayso didn't want to pay it back?

13 A Yes.

14 Q Okay. Some time after the four of you have this conversation,
15 are you present when Sayso is there discussing sort of his issue with
16 A.J. and there's a discussion about forming a plan?

17 MR. SANFT: Objection, Your Honor, leading.

18 THE COURT: I'm going to sustain the objection. Just
19 rephrase the question.

20 BY MR. DIGIACOMO:

21 Q At some point, are you present when Sayso was there
22 discussing this?

23 A Yes, I am.

24 Q Okay. And how long before the death of A.J. do you think this
25 conversation occurred?

1 A A day before, I think.

2 Q Okay. So, the day -- where did the conversation happen?

3 A In the room, they were in the kitchen.

4 Q So, in 11309?

5 A Yes.

6 Q And who was in the kitchen?

7 A Davon, Sayso, Je'cory, me and my sister were on the couch.

8 Q Okay. And what's the conversation?

9 A That Sayso wasn't going to pay A.J. back his money and that

10 they should just take his weed from him -- take the weed from A.J.,

11 sorry.

12 Q So, there's a conversation that happens at this table where

13 Sayso says I'm not paying back the money and that they're going to take

14 A.J.'s weed from him?

15 A Correct.

16 Q Is there any discussion about how they're going to wind up

17 taking the weed from him?

18 A That it would happen a little later. They --

19 Q Okay, so there's more than one conversation where this is --

20 A That day, yes.

21 Q -- discussed, that day?

22 A They're kind of ironing out the kinks, I guess, of the plan.

23 Q How many conversations do you think occurred about this

24 plan between let's say the day before and the time A.J. actually shows

25 up to that apartment?

1 A Two.

2 Q And ultimately, is there a plan formed about taking A.J.'s
3 weed?

4 A Yes, there is.

5 Q Okay. And what was the plan?

6 A The plan was to have Sayso and his brother, Anthony, in the
7 bedroom and Je'cory and Davon would be in the kitchen waiting for A.J.

8 Q Then how --

9 A Me and my sister wouldn't be in the apartment.

10 Q The plan was for you and your sister not to be there?

11 A Yes.

12 Q Do you know how much weed they were supposed to -- or
13 A.J. was supposed to bring over to the apartment?

14 A I believe it was two pounds.

15 Q Okay. And then once he shows up at the apartment, what's
16 supposed to happen?

17 A He's supposed to come in, they're supposed to talk for a little
18 bit, and then they're supposed to just take his weed, Sayso and his
19 brother are supposed to come out of the room, and then that was --

20 Q Take the weed?

21 A Yes.

22 Q Now, you had been living in that apartment for how long do
23 you think before the homicide occurs?

24 A I want to say eight months.

25 Q A month?

1 A Eight, sorry.

2 Q Eight months?

3 A Yes, but I'm not entirely sure. I know we've had -- we had it
4 for a while.

5 Q So, it -- when I used -- when you used the term October for
6 dating Cory, we're talking about October of 2018, not October of 2019?

7 A Yes.

8 Q Okay. That was my mistake. So --

9 A Sorry.

10 Q -- you had known Je'cory for some period of time, not just two
11 months by the time this homicide occurred?

12 A I had known Je'cory from the time that they had the apartment
13 before I had got the one for them.

14 Q Okay. So, I'm going to kind of jump forward to the early
15 morning hours of December 30th. Are -- do you sleep at the apartment
16 that night?

17 A Yes.

18 Q Okay, and you sleep on the couch?

19 A Yes.

20 Q Is Cory there?

21 A Yes.

22 Q What about Davon and -- or Little and your sister?

23 A In the bedroom.

24 Q At some point, does somebody arrive early in the morning?

25 A Sayso.

1 Q Sayso arrives?

2 A Yes.

3 Q And how early do you think it was?

4 A I'm honestly not sure. It could have been 7:00. Davon is
5 usually up around 6:00, 7:00 in the morning, so some time around then.

6 Q Okay. And Sayso comes over to the apartment?

7 A Yes.

8 Q Do you guys go back to sleep or do you remember what
9 happens throughout that morning?

10 A I don't completely. I know I'm still laying on the couch. Davon
11 and Sayso are in the kitchen, and I kind of just turn over and go back to
12 sleep for a while.

13 Q Is there any discussion when Sayso's there about A.J. again?

14 MR. SANFT: Objection, Your Honor, leading.

15 MR. DiGIACOMO: How is that --

16 THE COURT: I'm going to overrule --

17 MR. DiGIACOMO: -- leading?

18 THE COURT: -- the objection.

19 BY MR. DiGIACOMO:

20 Q Is there any discussion about A.J. that morning when Sayso's
21 over?

22 A Not that I remember.

23 Q At some point, does anybody else come over to the
24 apartment? You said Sayso's there now, what about Mr. Woods? Does
25 he ever arrive?

1 A His brother -- his brother shows up, and they are sitting
2 around everybody -- everybody's up at this point. I end up going to go
3 and get a bottle in the mornings, and then we're all drinking, they're
4 smoking. And at that point, they're all in the kitchen, Payso, Je'cory,
5 Davon, and Anthony.

6 Q Now, back in this time period, were you drinking pretty
7 heavily?

8 A Yes, I was.

9 Q Where did you usually buy your liquor at?

10 A The liquor store right next to the gas station.

11 Q The one that's on the Sienna Suites property?

12 A Yes.

13 Q How many times do you think you probably bought a bottle
14 that day?

15 A Possibly over four.

16 Q So, you're --

17 A It was --

18 Q -- drinking pretty heavily?

19 A Yes.

20 Q At some point, do you realize A.J.'s coming over to the
21 apartment?

22 A I don't until my sister Mackeisha tells me that it's time to get up
23 and go. We go down to Mariah's house to finish drinking.

24 Q So, when your sister, Mackeisha, tells you it's time to go, do
25 you know what that means?

1 A It doesn't hit me in the beginning. I just know she's like, well,
2 let's go. We're going to go, you know -- I'm usually -- any time she tells
3 me to get up and let's go do something, I follow.

4 Q So, how long do you think you go down to Mariah's house?
5 How long do you think you're there before something else happens?

6 A I want to say maybe 30, 40 minutes.

7 Q Okay. So, you're down at Mackeisha's house, what happens
8 at that point?

9 A Mariah's? We're drinking -- me, my sister, and Mariah, we're
10 all sitting in her living room drinking. Me and my sister get up to go
11 smoke a cigarette, and that's when we see Davon, or Little, and Je'cory
12 walking towards us.

13 Q Do you recall when you first left the apartment whether or not
14 you went and had to go buy another bottle?

15 A I don't recall that. I might have though.

16 Q You might --

17 A Because I know she had -- I know Mariah had wine in the
18 house, and we did end up with another Hennessy bottle.

19 Q So, you said you're down there for a little while, and then you
20 see -- who did you see coming up?

21 A I seen Davon -- Little and Je'cory walking towards us.

22 Q Okay. And when they walk toward you, does anybody say
23 anything to you?

24 A He doesn't say anything to me. Davon, he turns to my sister,
25 and he's like pacing a little. He's like, I had to, I messed up, but I didn't

1 have a choice.

2 Q And I'm sorry, I had to, I didn't have a choice, I messed up?

3 A Yes.

4 Q At that point, did you know what they were talking about?

5 A I did not.

6 MR. SANFT: Objection, Your Honor, as to the frame of the
7 question. It's not they, it's he.

8 THE COURT: Sustained. Rephrase the question.

9 BY MR. DiGIACOMO:

10 Q Did you know what Little was talking about?

11 A I did not, at first.

12 Q Okay. Does the conversation go on?

13 A It does. We ended up heading -- me, my sister, Davon, and
14 Je'cory head back into Mariah's. Davon mentions what he was talking
15 about. He said he had to shoot A.J. He didn't have a choice, A.J. pulled
16 a gun, and so, he shot him.

17 Q What was Cory saying?

18 A Cory wasn't saying anything in the beginning. He was kind of
19 just standing there letting Davon talk.

20 Q Eventually do you and Cory have a conversation about what
21 happened in that room?

22 A We do. He tells me that -- Je'cory tells me that A.J. had
23 started to freak out and pulled his gun out of his bag, and that's when
24 Little had to shoot him.

25 Q Okay. So, let me -- you'd been living in this apartment for

1 some period of time with Cory, your sister, and Little. Did you know
2 whether or not there was a gun in that apartment?

3 A I did know that Little kept a gun just in case anything went
4 wrong, and somebody came in when he wasn't there. He would --
5 Je'cory would have it under the cushion sometimes.

6 Q Je'cory would have it under the cushion of what?

7 A Under the couch cushion. But usually, Davon had it.

8 Q And as far as you knew, was there only one gun, or was there
9 more than one gun in that apartment?

10 A As far as I knew, there was only one.

11 Q And sometimes, Little would carry it or if Little didn't carry it,
12 it'd be under the couch cushion for Je'cory?

13 A Correct.

14 Q You said you only met A.J. once. Had you ever seen A.J. with
15 a gun before?

16 A No.

17 Q So, your -- you guys have this conversation at Mariah's, at
18 some point, do you and Cory go back to the liquor store, or do you go
19 anywhere?

20 A Yes, we do. We go back to the liquor store and get another
21 bottle.

22 Q Okay. Is there a discussion about what to do now?

23 A Once we head back to Mariah's and we sit down, Davon is like
24 well, we can't leave the body upstairs, we need to do something. And
25 so, myself, my sister, Je'cory, and Little head upstairs. And at first,

1 we're just trying to make sure that none of the blood gets on the carpet
2 or goes too far. So, we put towels down around him.

3 Davon was like, well, we need to get some trash bags to put
4 under him and over him, so that'll be easier to move him later.

5 Q Does somebody have to go get trash bags?

6 A Yes, Je'cory has to go to the store and get some different
7 trash bags because the ones in the house weren't working.

8 Q How -- was there a plan made as to what to do with A.J.'s
9 body?

10 A For a while, we kind of just left it upstairs. And then, Davon
11 was like, well, we're going to just -- we're going to take him out, put him
12 in his car, and drive it out somewhere.

13 Q Did -- well, do you know whether or not A.J. had a car?

14 A I didn't in the beginning. I didn't know he had his own car, but
15 they said that A.J.'s car was downstairs parked. Davon said that.

16 Q Davon said A.J. had a car parked downstairs?

17 A Yes.

18 Q Okay. Do you know if anybody moved that car shortly after
19 the homicide?

20 A Je'cory did. Davon told Je'cory to go move the car, so it
21 wasn't anywhere near our apartment building. And so, to my
22 knowledge, he moved it to the far side by the street. And then, once it
23 was time to officially move the body and put it in the car, he moved it
24 back closer.

25 Q Okay. Was there a plan as to when -- once you moved the

1 body, where they were going to take the body?

2 A I don't know if there was a specific area, but the plan was to
3 have one of Davon's friends follow, Flaco is his name. He was going to

4 --

5 Q Flaco?

6 A Flaco. He was going to --

7 Q Okay.

8 A -- follow Je'cory in the car and help them get back after it was
9 dumped.

10 Q Have you met Flaco before?

11 A I have.

12 Q Showing you what's been marked as State's Exhibit No. 41,
13 you recognize that guy?

14 A Yes.

15 Q Is that Flaco?

16 A Yes, it is.

17 MR. DiGIACOMO: Move to admit 41.

18 THE COURT: Any objection?

19 MR. SANFT: No objection, Your Honor.

20 THE COURT: 41 will be admitted.

21 **[EXHIBIT 41 ADMITTED]**

22 MR. DiGIACOMO: And 42, I offer that, as well.

23 THE COURT: Any objection to 42?

24 MR. SANFT: No, Your Honor.

25 THE COURT: 42 would be admitted.

1 **[EXHIBIT 42 ADMITTED]**

2 MR. DiGIACOMO:

3 Q Flaco has basically sleeve tattoos?

4 A Yes, he has a lot of them.

5 Q A lot of tattoos.

6 A Yeah.

7 Q Do you remember what kind of car Flaco drives?

8 A I believe it was a black Mustang, but I'm not too sure on the
9 make. I know it was black.

10 Q Black car?

11 A Yeah.

12 Q Okay. So, let's talk about moving this body.

13 A Yes.

14 Q What's the -- just describe for me the efforts you went through
15 to move this body.

16 A Well, Davon, he said that he couldn't because of his
17 pacemaker and he didn't want to hurt his self anymore. So, me and
18 Je'cory had to do it ourselves. And A.J. is not -- he's not light. So, we --
19 Davon told us to try putting him on the wooden table that we had in the
20 kitchen. We could not move that, so he kind of broke two of the legs off
21 the table and tried to get us to drag it out. But that wouldn't work, so he
22 had gotten a little shopping cart that you can -- like a personal shopping
23 cart you can put groceries in, he told us to put A.J. on top of that and try
24 to drag it out, which we did.

25 It started to --

1 Q How many hours after the homicide do you think this is?

2 A Maybe 12 -- 8 -- 8 or 12. It was really late when we started
3 doing it, and it was dark outside, so.

4 Q So, the homicide occurs much earlier in the day while it's still
5 sunny outside?

6 A Correct.

7 Q But now it's dark?

8 A Yes.

9 Q And the table you said that two of the legs got broken off it.
10 So, the table was perfectly fine when you went back after the homicide
11 and A.J. was there?

12 A Yes, it was kind of tipped over, but it was fine.

13 Q It was tipped over, but it was not broken?

14 A No.

15 Q So, the legs are broken off in an idea to kind of sled the body
16 onto it and then use it as a sled to get it down the stairs?

17 A Correct.

18 Q And you decided that wasn't going to work very well?

19 A Yes.

20 Q And despite Little saying he was the shooter, he's saying I'm
21 not going to help you guys get this body out?

22 A Correct.

23 Q And -- but Cory and you still do it?

24 A Yes.

25 Q Why?

1 A Anything -- the best way to put it is, anything that Davon wants
2 done, it gets done. We all do it just because not only don't we -- we
3 don't want to piss him off, but it's the way things usually are.

4 Q So, if Davon says it's going to happen, it's going to happen?

5 A Yes.

6 Q And nobody argues with him?

7 A No, my sister might argue with him, but it usually doesn't end
8 well. And me and Cory are usually the ones trying to break up the
9 fights, so we try to stay out of it.

10 Q So, Cory doesn't argue with him, he just does it.

11 A Yeah.

12 Q Okay. So, you said he gets a cart. Describe this cart for me.

13 A It's a black kind of metal -- it's not really a grocery cart, but
14 sometimes you'll see people walking with them on the sidewalks and
15 stuff.

16 Q Okay. And then you try and load A.J.'s body onto that?

17 A Yeah, on top of it.

18 Q And it's you and Cory?

19 A Yes.

20 Q After the homicide, do you ever see Sayso or Anthony Woods
21 again?

22 A I don't.

23 Q So, when you left that room with your sister, Mackeisha, that's
24 the last time you see Sayso and Woods?

25 A Yes.

1 Q So, the body is placed on the cart?

2 A It's rolled onto it from --

3 Q Rolled onto it?

4 A -- off of the table.

5 Q And then, do you and Little and Cory figure out how to get it
6 down the stairs?

7 A Me and Je'cory try to figure out how to get it down the stairs,
8 and Little's kind of just standing there telling us to hurry up and pull it.
9 So, he's kind of like coaching us to get it down the stairs.

10 Q And you -- well, let me ask you this, is there -- aren't you guys
11 worried someone's going to see you guys taking a body out of the third
12 floor of an apartment building?

13 A Yes. There was a old guy sitting on the second level. He's
14 usually out there smoking; he's in a wheelchair. He was sitting outside,
15 and so, Davon stood in front of him while me and Je'cory tried to rush
16 and get the body off of the stairs.

17 Q Do you think that was an effective means of blocking this guy -
18 -

19 A No.

20 Q -- in the wheelchair?

21 A I don't.

22 Q Okay. What happens to this cart as you're trying to take it
23 down the stairs?

24 A The wheel -- one of the wheels starts to turn sideways, so
25 we're pretty much just dragging metal on cement at this point, and it

1 starts to bend inwards, so it gets stuck a couple of times.

2 Q What about the plastic bags that were around A.J., were they
3 keeping all the --

4 A No, they were not. They started to rip open, as well.

5 Q Okay. Eventually, do you get him all the way downstairs?

6 A We do. We eventually get him all the way to the ground floor
7 and kind of take a second to gather ourselves so we can pull it the rest
8 of the way towards where A.J.'s car is now parked at.

9 Q And where is A.J.'s car parked now?

10 A Off to the side of the building that we stayed in, right there in
11 the parking lot in front of those stairs.

12 Q Do you and Cory get the body to the car?

13 A We do.

14 Q And eventually, where does the body get put?

15 A In the trunk.

16 Q And now, A.J.'s not a little guy.

17 A No, he's not.

18 Q How do you -- you and Cory get him in the trunk?

19 A Me and Je'cory tried lifting his top half. We kind of try to roll
20 him into the car top first, and we kind of succeed in that part. And it's his
21 legs that we have the issue with, so Davon grabs them and bends them
22 and kind of puts the rest of him in there.

23 Q Eventually, does A.J. get put in the car?

24 A Yes, he does.

25 Q Okay. And do you see Flaco at all down at the apartment

1 complex?

2 A I don't. They closed the car door -- the trunk, and then we go
3 upstairs to finish cleaning the room and getting all of the blood and
4 towels off the floor.

5 Q Either before or after A.J. is taken out of that room, do you
6 remember getting any cleaning supplies to finish up the room?

7 A There was bleach in the cupboards up under the sink.

8 Q Okay.

9 A So, I remember getting that and pouring some of it on the floor
10 in the kitchen.

11 Q What about buying bleach? Do you have any memory of
12 actually buying the bleach?

13 A I don't, no.

14 Q And were you drinking throughout this day?

15 A Yes, I was.

16 Q At some point, does Cory leave the apartment with Davon and
17 they're gone?

18 A Yes, he does.

19 Q Do you know what the plan is to do with the body?

20 A The plan is to take A.J. in his car far away and kind of make it
21 seem like he left, like out of state. And Je'cory and Davon were going to
22 burn the car and the body to get rid of the evidence.

23 Q Eventually, do you see either Cory or Davon come back from
24 wherever they went with that body?

25 A No. I see Je'cory and Davon come back, and then during that

1 point, it's about us leaving the room. They're making plans -- well,
2 Davon's making plans to get us away from the Siennas.

3 Q Did anyone ever tell you what happened with A.J. and his
4 body?

5 A Yes. Je'cory had mentioned that once they were driving, he
6 had stopped at a -- they had to stop to get gas so that they can burn the
7 car and burn A.J.'s body. Eventually the car starts to mess up and it
8 completely quits on them, so they stopped wherever the car was and he
9 pours the gas in the car and on A.J. and he sets it on fire.

10 Q Who poured the gas?

11 A Je'cory.

12 Q Did they say whether or not -- did Cory tell you whether or not
13 the body remained in the vehicle or was out of the vehicle?

14 A He said that at first they were going to do it in the car, but he
15 decided to take him out because it would hopefully burn faster. So, set
16 the car first on fire while A.J. was laying next to it, and then set A.J. on
17 fire.

18 Q Did they tell you how they got back?

19 A Yes, Flaco was following behind them the whole way, so they
20 had him drive him back.

21 Q Now, once they've come back, and they've told you all this,
22 you said something about we had to make a plan to get out of this
23 apartment?

24 A Yes.

25 Q What's the plan?

1 A The plan is to go to Davon's baby mother's house and stay
2 there for a while. And then my sister, Mackeisha, and Davon were going
3 to go to California. And then, me and Je'cory were supposed to follow
4 after if things went well. If not, then they would come back.

5 Q Does Cory give Davon anything when he leaves -- when
6 Davon leaves Las Vegas?

7 A Yeah, Davon takes the parts of the gun that he still had and he
8 gets on the Greyhound and kind of just gets rid of it throughout his drive
9 out there.

10 Q What about -- did Je'cory have a cellphone?

11 A He did. He had a old Samsung, I believe. But he --

12 Q And --

13 A -- gave -- he gives Davon his phone.

14 Q So, he gives Mr. Hickman the phone --

15 A Yes.

16 Q -- when he leaves to go to California?

17 A Yes.

18 Q And your sister goes, as well?

19 A Yes.

20 Q Sometime after they leave, do the police officers show up and
21 take you and Cory into custody?

22 A They do.

23 Q And do you go to the police station?

24 A I do.

25 Q And do the police try and have a conversation with you?

1 A They do.

2 Q And the first time they talk to you, do you remember how long
3 that they talked to you for?

4 A I want to say maybe 15, 30 minutes, maybe less.

5 Q I have your transcript here that's about 122 pages. And well,
6 it's about 119 pages. The first time the cops come in and talk to you,
7 how would you describe your truthfulness with them?

8 A There wasn't any in the beginning.

9 Q There wasn't any the first time they talked to you?

10 A Yes.

11 [Colloquy between the Court and the Court Clerk]

12 Q You told a number of lies in order to protect yourself and
13 everybody else involved in this?

14 A Correct.

15 Q At some point, they leave, and they go talk to Cory, correct?

16 A Yes.

17 Q After they talk to Cory, they come back and talk to you?

18 A Yes, they do.

19 Q At that point, were you somewhat more truthful with them?

20 A I was.

21 Q And at the end of that second conversation, what happens to
22 you?

23 A We get put -- I get put under arrest and taken to jail.

24 Q And eventually, you're indicted for all the charges that Mr.
25 Kemp is sitting here facing, as well?

1 A Correct.

2 Q At some point, do -- well, you have a lawyer, right?

3 A Yes, I do.

4 Q He's here in court sitting over there by that back door, correct?

5 A Yes, he is.

6 Q At some point, do you make a decision to have an honest
7 conversation with the State?

8 A I do.

9 Q And then, after that conversation, do you work out a plea
10 agreement?

11 A Yes.

12 Q And do you plead guilty to a crime?

13 A I do.

14 Q What crime do you plead guilt to?

15 A Accessory after the fact.

16 Q To what?

17 A To murder.

18 Q You pled to accessory after the fact of murder.

19 A Yes.

20 Q And do you understand basically what kind of sentencing
21 you're facing?

22 A Yes, I do.

23 Q What is that?

24 A A one to five, possible prison, maybe probation. Nothing is
25 guaranteed, but I'm supposed to testify and tell the truth.

1 Q And the State retains the right to argue?

2 A Yes.

3 Q And after you entered that plea, did something -- were you in
4 jail at the time you entered this plea?

5 A Yes, I was.

6 Q And what happened to you after you entered your plea?

7 A It took a while. I ended up getting put on high-level house
8 arrest, and I'm supposed to check in with my house arrest officer.

9 Q Since -- well, whenever you got released after July of 2020,
10 you've been on house arrest?

11 A Yes.

12 Q And as of today, right now, as you sit here, you're still on
13 house arrest?

14 A Correct.

15 Q And you're hoping -- or are you hoping to ask the Court to
16 release you from house arrest after you're done testifying here today?

17 A I am.

18 Q Thank you.

19 [Colloquy between counsel]

20 MR. DiGIACOMO: Thank you, Judge. I pass the witness.

21 THE COURT: All right, any cross-examination?

22 MR. SANFT: Yes, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. SANFT:

25 Q Ms. James?

1 A Yes.

2 Q As you're sitting here today, would it be fair to say that you still
3 care for Je'cory Kemp?

4 A I do.

5 Q Okay. And you've told this jury the things that happened on
6 this particular day, right?

7 A Yes.

8 Q And you told this jury that Je'cory was there when the plan
9 was going on, right?

10 A Correct.

11 Q But it wasn't his plan, right?

12 A Yes.

13 Q Somebody else's plan?

14 A Yes.

15 Q Okay. And in the morning, when you were sleeping, were you
16 sleeping with Je'cory on that couch?

17 A I was.

18 Q Okay. Did he get up at some point?

19 A I'm not sure.

20 Q Okay. So, when you were told by your sister to get up and go,
21 and you left, where was Je'cory at that point?

22 A He was still in the room.

23 Q Okay.

24 A He was sitting --

25 Q Was he sleeping, was he --

1 A No, he was up.

2 Q Okay, he was up. But he's not the one to tell you, hey, get out
3 of there, something's going to happen?

4 A No.

5 Q That was your sister?

6 A Yes.

7 Q Okay. And then once you left, at that point, you don't know
8 what happened inside that room?

9 A Correct.

10 Q Okay. Do you know if -- prior to that, do you know whether or
11 not, outside of Je'cory standing there listening to the plan, if anything
12 else happened?

13 A No, I don't.

14 Q So, everything after the plan, and after the thing happened,
15 your testimony to the jury was that you see Je'cory and then you see
16 Davon?

17 A I see Davon and Little -- Little and Je'cory coming towards us,
18 yes.

19 Q Okay. And that's when Davon had said, I screwed up, I shot
20 the guy?

21 A Yes.

22 Q I thought he was going to shoot me or pulled out a gun, or
23 something like that.

24 A Yes.

25 Q Okay. And Je'cory's just standing there?

1 A Yes.

2 Q All right. Could you describe for the jury what his expression
3 was?

4 A I'm not sure. I know he just -- standing there, kind of calm.
5 Not --

6 Q So, was he dancing, smiling, and having a good time, anything
7 like that?

8 A When he -- when I first seen him?

9 Q Right.

10 A No.

11 Q Okay. Now, at some point in the future, he is dancing, smiling,
12 having a good time, right?

13 A Yes.

14 Q And that was when you were in the convenience store?

15 A Correct.

16 Q Okay. And in that convenience store, he's acting like he's
17 having a party?

18 A Yes.

19 Q Okay. And when -- for instance, the -- you guys were taking
20 the body of A.J. to the desert to burn, was he dancing, and smiling, and
21 having a good time during that time period?

22 A I'm not sure, I wasn't there.

23 Q Okay. So, you weren't part of that whole thing then, in terms
24 of the burning of the --

25 A No.

1 Q -- of the car and so forth?

2 A I was not.

3 Q You weren't present when that happened?

4 A No.

5 Q Okay. And your testimony before was that Sayso owed A.J.
6 some money, \$2,000, two racks, right? That was something that was a
7 problem between Sayso and A.J., right?

8 A Yes.

9 Q Cory didn't have a problem with that?

10 A No.

11 Q That's not his problem?

12 A No.

13 Q Okay. The second problem, or I guess the very first problem
14 is the problem about the prostitution?

15 A Correct.

16 Q That's -- the person that A.J. has said -- had said some things
17 about somebody being a prostitute. That was your sister?

18 A Yes.

19 Q Okay. Obviously, you would have a problem with that.

20 A Yes.

21 Q That's your sister.

22 A Yes.

23 Q Okay. And would it be fair to say that because of your
24 relationship to Cory that of course he would probably have a problem
25 with it because you're having a problem with it?

1 A Correct.

2 Q Okay. Did you at any point ever believe, like either when the
3 plan was being formulated or afterwards that Je'cory made any
4 decisions with regards to this? Like did he order people to go do stuff or
5 --

6 A No.

7 Q -- that kind of thing?

8 A No.

9 Q And would it be fair to say that really -- I mean, Je'cory's
10 demeanor, kind of a straightforward, stoic, sort of not really say much
11 kind of guy?

12 A Sorry, can you repeat that?

13 Q Meaning, you know, his demeanor right now, for example,
14 he's sitting here, he's looking at you, right? Fair to say, that's pretty
15 much Je'cory? That's kind of like how he is, he's kind of a calm
16 demeanor, doesn't say much, doesn't do much, that kind of thing?

17 A Just in general?

18 Q Yeah.

19 A Pretty much. He's goofy but laid back and calm. He likes to
20 make people smile, so.

21 Q Yeah. But would it be fair to say not the life of the party, right?
22 Kind of like more of the guy that's just a calm person that's there?

23 A Correct.

24 MR. SANFT: I have no further questions, Your Honor. Thank
25 you.

1 THE COURT: Any redirect?

2 MR. DiGIACOMO: No, Your Honor.

3 THE COURT: Any questions by our jurors?

4 No questions.

5 All right, ma'am, you are -- thank you for your testimony.

6 THE WITNESS: Thank you.

7 THE COURT: You are excused. Ladies and Gentleman, I
8 think it's a good time to take our lunch break at this point.

9 MR. DiGIACOMO: It is. Our next witness is scheduled at
10 1:00 p.m., Judge.

11 THE COURT: Okay. So, let's come back at 1 o'clock.

12 Ladies and Gentleman, during this lunch recess, you must not
13 discuss or communicate with anyone including fellow jurors, in any way
14 regarding the case or its merits, either by voice, phone, email, text,
15 internet, or other means of communication or social media. You're not
16 to read, watch, or listen to any news or media accounts or any
17 commentary about the case.

18 You're not to do any research, such as consulting dictionaries,
19 using the internet, or using reference materials. You're not to make any
20 investigation, test the theory of the case, recreate any aspect of the case
21 or in any other way investigate or learn about the case on your own.
22 And you're not to form or express an opinion on any matter regarding
23 this case until it's finally submitted to you.

24 We'll see you back at 1 o'clock. Have a good lunch.

25 THE MARSHAL: All rise for the exit of the jury.

1 MR. DiGIACOMO: Judge, can you please remain though --

2 THE COURT: Sure.

3 MR. DiGIACOMO: -- for just a moment?

4 [Jury out at 11:55 a.m.]

5 [Outside the presence of the jury]

6 MR. DiGIACOMO: Waiting for that door to close.

7 THE COURT: All right, we're now outside the presence of the
8 jury panel. Yes, Mr. DiGiacomo?

9 MR. DiGIACOMO: Yes, Judge. Mr. Savage had filed a
10 motion that was on your calendar yesterday, and we asked your Clerk to
11 just pass it until Ms. James's testimony, which he wants her released
12 from house arrest. I talked to Mr. Sanft, I don't believe he has an
13 objection. I'm willing to submit it to the Court's discretion. She's been
14 fully compliant, and I have no concerns that she won't appear for the
15 other co-Defendants.

16 THE COURT: Mr. Savage, did you have any dog in this fight?
17 Apparently, you do.

18 MR. SAVAGE: Any what, I'm sorry?

19 THE COURT: Now, you represent Ms. --

20 MR. SAVAGE: That's correct.

21 THE COURT: -- James?

22 MR SAVAGE: And she has been in full compliance. She's
23 been on house arrest since July of last year, so it's almost nine months.
24 She's employed, she's -- as Mr. DiGiacomo said, she has been a model
25 client, punctual, reliable, and has -- fully complied with everything. So,

1 we'd ask the Court to remove her from house arrest at this time.

2 THE COURT: All right. Mr. DiGiacomo, are you aware of any
3 infractions by Ms. James --

4 MR. DiGIACOMO: I am not.

5 THE COURT: -- on house arrest?

6 MR. DiGIACOMO: We've received no infraction letter by the
7 State. And I assume the Court hasn't received one either. And so, I'm
8 not aware of any reason why she should remain on house arrest.

9 THE COURT: And it may be obvious, but you're not aware of
10 any situation where she committed any new offenses; is that correct?

11 MR. DiGIACOMO: That's correct.

12 THE COURT: All right. Based upon those factors, agreement
13 of the parties, she's hereby released from the house arrest program.

14 MR SAVAGE: Thank you, Your Honor.

15 THE COURT: Okay.

16 [Colloquy between counsel]

17 THE COURT: All right.

18 [Recess began at 11:57 p.m.]

19 [Recess concluded; proceedings resumed at 1:06 p.m.]

20 [Outside the presence of the jury]

21 THE COURT: Are we ready? The jurors here?

22 THE MARSHAL: The jurors are here.

23 MR. DiGIACOMO: If he's not -- look, if he's not here by the
24 time -- oh you know what, the other thing we need to do, can we just
25 check the volume on -- when I play it through this thing on the statement

1 because we have the Defendant's statement here. See if I need to get a
2 speaker or something.

3 [Pause in proceedings]

4 MR. DiGIACOMO: We may take a break in the middle of the
5 Detective after I play the Defendant's statement, and put up a custodian,
6 and then we'll come --

7 THE COURT: Okay.

8 MR. DiGIACOMO: -- back to the Detective.

9 THE COURT: We're ready to go?

10 MR. DiGIACOMO: We're ready to go.

11 THE COURT: All right.

12 [Colloquy between counsel]

13 THE MARSHAL: All rise for the entry of the jury.

14 [Jury in at 1:09 p.m.]

15 [In the presence of the jury]

16 MR. DiGIACOMO: Mike Bosillo just showed up. There he is.
17 Take his temperature, we'll call him first.

18 THE MARSHAL: He's there.

19 MR. DiGIACOMO: All right, let's call him first. We'll make it
20 quick.

21 THE MARSHAL: All right, hang on a second.

22 THE COURT RECORDER: Do we have everyone?

23 THE COURT: Welcome back, Ladies and Gentleman.

24 THE MARSHAL: Their first witness is here, I just got to check
25 him.

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THE COURT: Okay.

THE MARSHAL: He just got here.

[Colloquy between counsel]

MR. DiGIACOMO: We will be calling Mike Bosillo who's the
Custodian of Records for T-Mobile.

THE COURT: All right, thank you.

MR. DiGIACOMO: And Sprint, and MetroPCS and everybody
else.

[Pause in proceedings]

[Colloquy between the Marshal and the Witness]

THE WITNESS: Thank you, sir.

THE MARSHAL: Watch your step, raise your right hand, face
the Clerk. Once the Clerk swears you in, sit in your chair, scoot all the
way forward to that red light there, speak loudly so we can hear you.

THE WITNESS: Thank you.

MICHAEL BOSILLO

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

THE COURT CLERK: Thank you, please have a seat, sir.

THE WITNESS: Thank you.

THE COURT CLERK: And state and spell your first and last
name for the record.

THE WITNESS: It's Michael, M-I-C-H-A-E-L, Bosillo, B-O-S-I-
L-L-O.

THE COURT: Go ahead, Counsel.

1 **DIRECT EXAMINATION**

2 BY MR. DiGIACOMO:

3 Q Sir, how are you employed?

4 A I'm employed as a Custodian of Records Testify with T-
5 Mobile.

6 Q Now, does T-Mobile have some association with Sprint?

7 A Yes, about a year ago, they formulated a contract and we
8 bought them.

9 Q So, you've -- T-Mobile has since purchased Sprint, so you're
10 also here as a Custodian of Records for former records of Sprint; is that
11 correct?

12 A Correct.

13 Q Okay. Prior to your testimony here, did you review the records
14 -- and there's a screen up in front of you, and maybe I can jump in on
15 this -- I probably can't jump in on this screen a little bit farther. But there
16 are a number of records that are listed here with the exception of the
17 bottom one, which is Verizon, there's one, two, three, four, five, six
18 phone numbers that you were asked to review records for; is that
19 correct?

20 A Yes, sir.

21 Q And all of those were business records of T-Mobile and/or
22 Sprint kept in the ordinary course of business?

23 A That's correct.

24 Q I am not going to go through each and every one of these. I
25 just want to talk about two different types of records with you.

1 A Yes.

2 Q And so, first I want to start with and I'm going to go into which
3 will -- is State's Exhibit 145.

4 MR. DiGIACOMO: And for the record, Judge, Mr. Sanft has
5 already looked at these. So, I'd offer 140 through 146. I think 146 is
6 already in, but --

7 THE COURT: Any objection Mr. Sanft?

8 MR. SANFT: No, Your Honor.

9 THE COURT: Sanft, excuse me. 140 to 146 are admitted into
10 evidence.

11 **[EXHIBITS 140 THROUGH 146 ADMITTED]**

12 BY MR. DiGIACOMO:

13 Q So, there's two Excel programs at the top of this area there.
14 One of them is a CDR Mediations for a number, 716-341-8848. What
15 type of record is that?

16 A That's what we call call-detail records. It's a mediation. What
17 it does is it explains the activity on a particular number, that number, as
18 far as incoming and outgoing communication with the -- any subsequent
19 numbers.

20 Q And generally speaking, how does a cellphone communicate
21 with -- how do two cellphones communicate with each other; how about
22 that?

23 A Yes, sir. Well, there's a couple of ingredients that are
24 necessary to understand. Primarily, you have your handset. It has a
25 relatively weak signal, so it has to give out a signal, in such it has to

1 reach to the nearest, which we hope is the closest, cell tower for that
2 handset. Engineers plot them every two miles, give or take, you know,
3 maybe a couple hundred yards, sometimes closer, sometimes a little
4 further.

5 Once it actually reach out and connects with a tower or a
6 transreceiver or base station, it then formulates the signal, further
7 formulates it, and then it sends it to the switch. Now, the switch is the
8 gatekeeper. It's what makes the call work; it's the brains of the
9 operation. Once it does that, then it will send out a signal to the nearest,
10 again, and strongest tower, which is adjacent to the number you're trying
11 to reach. And keeping in mind, this moves extremely rapidly at the, you
12 know, speed of light.

13 So, a lot of times, it may make an attempt, not hit, but making
14 another hit and you won't even know it because it's traveling so rapidly.
15 But that's the cycle in which one number reaches another number.

16 Q And T-Mobile, for purposes of its business, will keep records
17 of a particular phone number's activity, calls going to, from, text
18 messages to, from, those type of things?

19 A That's correct, sir.

20 Q And so, I've pulled up the CDRs for that 716-number here and
21 it's really small on this screen. But I'm going to go over here to these
22 columns. Let me go over to these columns over here, maybe just
23 highlight one of these columns here for us. And then, perhaps I could
24 zoom this in if I knew what I was doing. Ah, here we go. Zoom it in a
25 little bit. Let's make it 200 percent, let's see what happens.

1 Okay, so I've highlighted one. There's a date there that says
2 12/30/2019. That's the time of this particular call involving this particular
3 phone; is that correct?

4 A Correct.

5 Q And then the next time is 20:59:16. Is there a particular time
6 zone that that number is associated with?

7 A It's -- all these are what we call UTC, Universal Time
8 Coordinated. And what you do is whenever you see the number that's
9 posted, keep in mind that's posted at -- we used to call, still do -- the
10 Greenwich Mean Time. But to get the actual Las Vegas time -- and
11 correct me if I'm wrong, I think y'all are in Pacific, aren't you, or
12 Mountain?

13 Q The Pacific, so --

14 A Pacific.

15 Q -- 7 or 8 depending on the time of year.

16 A Exactly, yeah. And this is in the daylight -- yeah daylight
17 savings time, so it would be 7 hours.

18 Q Well, wait a second, isn't it between November and March that
19 it's 8:00 and between March and --

20 A I stand corrected. I was looking at a different number. I stand
21 corrected. Yes, it's -- it would be 8:00 then. Because it's --

22 Q So, this call on this phone occurred at 12:59 p.m. Pacific
23 Time?

24 A Correct.

25 Q Okay. It's 63 seconds long is the next call.

1 A Yes, that's correct.

2 Q And then, MTC, what does that mean?

3 A That means it's the Mobile Terminating Call, and that's just an
4 abbreviation for the network --

5 Q Okay.

6 A -- and how it handled it.

7 Q And --

8 A But it's terminating, excuse me, meaning it's receiving an
9 incoming call.

10 Q And that's that next call, is the incoming -- it says it's
11 incoming?

12 A Correct.

13 Q Okay. And then the next is the number that is calling the 716
14 number?

15 A Yes.

16 Q So, it's the number that's calling in?

17 A Yes.

18 Q And that number is 808-600-0824?

19 A Correct.

20 Q Okay. These are numbers associated with the subscriber and
21 the phone itself, correct?

22 A Correct.

23 Q Okay. It shows it was successfully completed. I'm going to
24 skip some of these codes over here. Well, we don't have any tower
25 location on that one, but --

1 A No, sir.

2 Q Let me go down and see where our next tower location is.
3 Now, why wouldn't there necessarily be tower -- oh wait, what's this?

4 A Because it's a text.

5 Q Let me go up to the top now. I was all the way down at 8:30,
6 so I don't know what this column is. So, let's roll this thing up to the top.
7 Darn technology. So, that was the cell site. So, sometimes, there's a
8 number in -- that's listed in the first cell site category. What does that
9 number represent?

10 A Well, the only time you have cell sites is -- that show up, is
11 when it's a voicemail -- a voice communication, whereas texting doesn't.
12 It utilizes it, but you don't see it in this format.

13 Q So, on these records, only when the call is -- when it's actually
14 a phone call are we going to see location information for where that cell
15 site is?

16 A Precisely.

17 Q Okay. And then the next column says LTD -- LTE Sector ID.
18 So, we'll go down to this first one here, this is cell site 80617, and it says
19 sector 2; what does that mean?

20 A Well, all cell sites, of course, are circular -- initially, are circular
21 in nature, 360 degrees. Then they all start out with what we call three
22 sectors, or what's commonly referred to as pieces of the pie. And so,
23 you'll have one, two, three, and they start in the northerly direction. And
24 they'll be 120 degrees each because there's three of them; that's your
25 360-degree circumference.

1 So, this would mean that it's in the second sector, which you
2 visualize, it'd be pointing in a south-easterly direction, for a beam of 120
3 degrees.

4 Q And so, essentially, what you can do with these records is not
5 only know who someone is communicating or what devices are
6 communicating, but generally you can know the location of where that
7 device is in relationship to a particular cell tower?

8 A Yeah, precisely. It narrows it down from you know the call
9 came from this circular area, but then once you find out what the sector
10 is, and you knock that down to a third of that area. So, you're, you
11 know, in line with finding where the phone was.

12 Q And these particular towers all have listed GPS locations or
13 addresses that law enforcement can look up and find out, hey, where's
14 this T-Mobile tower with that sector?

15 A Yes, sir. Exactly.

16 Q So, now I want to move onto -- and I'm not going to pull this
17 other document up but -- there is also something that is referenced in
18 here called a Timing Advanced Document. That's a business record of
19 T-Mobile, as well?

20 A I'm sorry, I didn't hear everything you said.

21 Q The other Excel spreadsheet that has the Timing Advanced
22 title on it.

23 A Oh, okay. Timing Advanced, yes.

24 Q What is that -- what records does that collect?

25 A Okay, well, Timing Advanced is really the times, i.e. we give

1 that it takes for the signal to go from the handset to the base station.
2 Now, it's a variable, so we can't testify to it, only engineers can.

3 Q But generally speaking, that'll provide information as to how
4 long it takes for the signal to get to the tower and back to the phone?

5 A Exactly. I mean, it definitely provides that basic knowledge.

6 Q Okay. And from that, you can estimate the distance the phone
7 is from that particular tower; is that --

8 A Yes, it's like the old standard of sonar pinging, you know, how
9 that works. You know, you send out a signal, radio wavelength, and
10 when it hits an object under water, it'll ping back, and it determines the
11 distance based on the ping.

12 Q And like those other records, it'll tell you which tower it pinged
13 to and all those other things that we talked about with the phone -- with
14 the CDRs?

15 A That's correct, sir.

16 Q And unlike CDRs, when I have a phone in my hand, this is
17 constantly communicating with the tower, assuming there's one near it,
18 correct?

19 A Correct.

20 Q And T-Mobile or some other company, for your purposes, T-
21 Mobile keeps these records even though I may not be using the phone.
22 The phone may still be creating records as to what its location is?

23 A That's correct.

24 Q Thank you, very much.

25 MR. DiGIACOMO: I pass the witness, Judge.

1 THE COURT: Any cross-examination?
2 MR. SANFT: No, Your Honor.
3 THE COURT: Any questions by our jurors?
4 No questions.
5 Thank you, sir, for your testimony.
6 THE WITNESS: Thank you, Your Honor.
7 THE COURT: You are excused. Who's our next witness?
8 MR. DiGIACOMO: Detective Breck Hodson.
9 [Colloquy between counsel]
10 THE MARSHAL: Watch your step, raise your right hand, face
11 the Clerk. Once the Clerk swears you in, scoot your chair forward to
12 that red light and speak loud.
13 THE WITNESS: All right, thank you.
14 **BRECK HODSON**
15 [having been called as a witness and being first duly sworn, testified as
16 follows:]
17 THE COURT CLERK: Thank you, please have a seat. And
18 state and spell your first and last name for the record.
19 THE WITNESS: My name is Breck, B-R-E-C-K, Hodson, H-O-
20 D-S-O-N.
21 THE COURT: Go ahead, Counsel.
22 **DIRECT EXAMINATION**
23 BY MR. DiGIACOMO:
24 Q Sir, how are you employed?
25 A As a detective with the Las Vegas Metropolitan Police

1 Department.

2 Q And how long you been with Metro?

3 A Fifteen years.

4 Q How long you been on homicide?

5 A Just under three.

6 Q Direct your attention back to December 31st of 2019. Did you
7 become involved in what was originally a San Bernardino investigation
8 into a death of a person identified as Jabbar Anderson?

9 A Yes, I did.

10 Q And did you learn that Marion Jabbar Anderson went by the
11 nickname, A.J.?

12 A I did, yes.

13 Q We're going to get into sort of the rest of what you did, but at
14 some point in time, do you come into contact with a person identified as
15 Je'cory Kemp?

16 A I do, yes.

17 Q Do you see Mr. Kemp here in court today?

18 A Yes, I do.

19 Q And where is he sitting, and what is he wearing?

20 A He is seated just over here in the white dress shirt.

21 MR. DiGIACOMO: May the record reflect identification of the
22 Defendant?

23 THE COURT: Yes, it will.

24 BY MR. DiGIACOMO:

25 Q During the time that you had contact with Mr. Kemp, did you

1 wind up having conversation with him?

2 A Yes, I did.

3 Q And did that conversation cover the circumstances of the
4 death of Mr. Anderson?

5 A Yes, it did.

6 Q And was that conversation recorded in any manner?

7 A Yes, it was.

8 Q How was it recorded?

9 A It was audio recorded, as well as video recorded.

10 Q Did you also then submit a transcription of that particular
11 recording?

12 A I did, yes.

13 MR. DiGIACOMO: And Judge, I've had marked State's
14 proposed Exhibit No. 168; I'd offer it at this time.

15 THE COURT: Any objection to 168?

16 MR. SANFT: No, Your Honor.

17 THE COURT: All right 168 will be admitted.

18 **[EXHIBIT 168 ADMITTED]**

19 BY MR. DiGIACOMO:

20 Q I want to talk a little bit about the transcription before I play it,
21 all right?

22 A Okay.

23 Q The best evidence, obviously, is the video itself and what's
24 actually being said by the parties, correct?

25 A Yes.

1 Q When you send a transcription off, where do you send it to?

2 A So, that goes into an audio file where our law enforcement
3 support technicians then will either transcribe that themselves within the
4 department or to a third party, as well.

5 Q And oftentimes, these transcriptions happen by people who
6 have no idea what the circumstances of the transcription are, right?

7 A That's correct.

8 Q And so, often time in these transcriptions, there are things that
9 you hear that are clearly wrong, they just didn't know because they don't
10 know anything about the circumstances?

11 A That'd be correct.

12 Q Okay.

13 MR. DiGIACOMO: And so, Judge, we've only offered the
14 video into evidence. There'll be a transcription that runs at the bottom of
15 this video while it plays, but they won't have a transcription in the back
16 room.

17 THE COURT: All right. Is that correct --

18 MR. DiGIACOMO: I'm going to play --

19 THE COURT: -- Mr. Sanft?

20 MR. SANFT: Sure, yeah, that's fine, Your Honor.

21 THE COURT: Okay.

22 [Video played for the Jury]

23 THE COURT: Ladies and Gentleman, we haven't completed
24 the video yet, but that's a good time for everyone to take a break. So,
25 let's come back at 3 o'clock, it's -- almost 15-minute break.

1 So, during this midafternoon recess, you must not discuss or
2 communicate with anyone, including fellow jurors or any way regarding
3 the case or its merits, either by voice, phone, email, text, internet or
4 other means of communication or social media. You're not to read,
5 watch, or listen to any news or media accounts or commentary about the
6 case.

7 You're not to do any research, such as consulting dictionaries,
8 using the internet, or using reference materials. You're not to make any
9 investigation, test the theory of the case, recreate any aspect of the
10 case, or in any other way investigate or learn about the case on your
11 own. And you're not to form or express an opinion regarding this case,
12 until this matter's submitted to you.

13 We'll see you back in 15 minutes.

14 THE MARSHAL: All rise for the exit of the jury.

15 [Jury out at 2:47 p.m.]

16 [Outside the presence of the Jury]

17 THE COURT: All right, see everybody in about 15 minutes.

18 MR. DiGIACOMO: Thank you, Judge.

19 [Recess began at 2:48 p.m.]

20 [Recess concluded; proceedings resumed at 3:09 p.m.]

21 [Outside the presence of the Jury]

22 THE MARSHAL: All rise for the entry of the jury.

23 [Jury in at 3:09 p.m.]

24 [In the presence of the Jury]

25 THE COURT: All right, welcome back Ladies and Gentleman.

1 Go ahead and have a seat. Detective, do you understand that you're
2 still under oath?

3 THE WITNESS: I do.

4 THE COURT: All right. Resume our video.

5 MR. DiGIACOMO: Thank you, Judge.

6 [Video continued to be played for the Jury]

7 **DIRECT EXAMINATION CONTINUED**

8 BY MR. DiGIACOMO:

9 Q Detective, obviously you're the guy who starts off the
10 interview. The person that came in is who?

11 A Detective Dotch.

12 Q And is that your partner in this investigation?

13 A That's correct.

14 Q I need to clean my ears out after how loud that thing was in
15 here. The -- Mr. Kemp is -- is Mr. Kemp the first person who gives you a
16 rendition of events that occurs inside that apartment of somebody who
17 actually witnessed the events?

18 A Yes, he is.

19 Q Okay. So, I want to sort of back up in your investigation, how
20 do you get involved in this particular investigation?

21 A I was working; we were on call on the 30th. And then into the
22 31st, we were covering any calls that would come in referencing any
23 homicides over the New Year's Eve break. I received a call from San
24 Bernardino Sheriff's County, homicide investigators that were
25 conducting an investigation, referenced a body that they were working.

1 During that conversation, they had come across some information to
2 believe that the person they were investigating, the Decedent there, was
3 from Las Vegas. And I got involved in that point.

4 Q At some point, do they head up here, and do you meet with
5 them?

6 A Yes. They came up later that evening, we met and briefed on
7 the information that they had at the time, and then we coordinated a plan
8 from there.

9 Q During the course of the -- when you first meet them, do you
10 learn about any local information about a missing person by the name of
11 Marion Jabbar Anderson?

12 A I do. I encounter a missing person report out of the City of
13 Henderson, that that subject, Mr. Anderson, had been reported missing
14 by family. And also, I confirmed that information at his place of work,
15 which was the Sienna Suites there at 6555 Boulder Highway.

16 Q In addition, was there something called a license plate reader
17 that was checked?

18 A That's correct. The license plate reader, or LBR, a lot of those
19 are affixed to different tow trucks that travel throughout the valley, and
20 they're constantly scanning license plates. From that equipment, his
21 plate had shown several times inside of that apartment complex, due to
22 the fact that he worked there.

23 Q Based upon all that, you thought it was maybe a good idea to
24 go down to the Sienna Suites?

25 A That's correct.

1 Q And do you fellow homicide detectives, as well as San
2 Bernardino detectives, go to the Sienna Suites?

3 A That's correct, we do. We begin some interviews with people
4 that worked there trying to locate where Mr. Anderson had last been
5 seen.

6 Q During the course of those interviews -- well, first of all, the
7 missing persons report, did the family report a phone number for A.J.,
8 for --

9 A They did.

10 Q -- Mr. Anderson?

11 A They did.

12 Q And that was a 702-area code phone number, correct?

13 A That's correct.

14 Q During the course of your interviews that were conducted
15 between you and San Bernardino down there, did a Mr. Liapakis also
16 provide an 808-phone number for Mr. Anderson?

17 A Yes, that was initially provided to the San Bernardino
18 detectives, and then, yeah, that was given to us later on.

19 Q And we've already heard that during the course of the time
20 period you guys are down there, someone finds the blood trail and that's
21 when it's, hey, this is Las Vegas's problem, not ours anymore?

22 A That's correct.

23 Q In addition to getting Mr. Anderson's two phone numbers, did
24 you receive information about the renters of apartment 11309?

25 A I did. I contacted one of the assistant managers there on the

1 property. We obtained information on Ms. James, her sister, as well as
2 Mr. Kemp, and Mr. Hickman.

3 Q And did you get some phone numbers that way, as well?

4 A We did. We had phone numbers for each one of those
5 persons.

6 Q Okay. And so, in this interview, you already know some of
7 these phone numbers that Mr. Kemp provides you, both his 702 number,
8 as well as the 716 number?

9 A That's correct.

10 Q When you are down there -- well, you also learned that on
11 property at the Sienna Suites, there is a Sinclair/Breeze Rite station
12 owned by Michael Kanakis or his wife or something like that?

13 A That's correct.

14 Q And do you make a request for video throughout the day of
15 December 30th to be recovered?

16 A We do. We request digital forensics detectives to go retrieve
17 that video for us.

18 Q Do you -- subsequent to the interview of Mr. Kemp also go to
19 the Walgreens and request video from Walgreens?

20 A We do.

21 Q And then, when you have -- first, you start with the numbers
22 that you originally have, but ultimately, do you also find a number for
23 someone by the name of Preston Huteson?

24 A We do, that's correct.

25 Q And Preston Huteson's moniker is?

1 A Flaco.

2 Q Flaco. So, ultimately you identify Flaco, the person that Mr.
3 Kemp claims picked them up in the desert, but didn't actually drive,
4 follow them down to the desert?

5 A That's correct.

6 Q Okay. And do you run all -- you get all those phone numbers?

7 A We do.

8 Q Finally, you find -- you hear about Sayso and Sayso's brother.
9 Do you know Sayso's real name?

10 A Sayso is Arleo Davis.

11 Q Sayso's brother is?

12 A Anthony Woods.

13 Q Okay. And do you find a phone number associated with
14 Sayso?

15 A We do.

16 Q And ultimately, do you send search warrants requesting -- or
17 pen registers/search warrants requesting phone records for all of those
18 people?

19 A We do, that's correct.

20 Q How do you actually find Ms. James and Mr. Kemp at
21 Shameka's [phonetic] house?

22 A So, that came through phone records that we'd requested,
23 and then we solicited the -- so, the Nevada Criminal Apprehension
24 Team to facilitate that arrest, as well.

25 Q And so, they're taken into custody at that point?

1 A That's correct.

2 Q During the course of your interview with Mr. Kemp, you ask
3 him about who picked up the shell casing from the gun?

4 A That's correct.

5 Q And I'm sure the Ladies and Gentleman of the jury, most of
6 them understand this, but describe how a semi-automatic firearm works.

7 A So, a semi-automatic firearm works, there's a magazine that
8 contains the ammunition that's fed through the bottom of the gun. And
9 then, as the gun is fired, the upper portion of the gun, it's the slide,
10 maneuvers back and forth. And when it slides back, it brings up another
11 round into the chamber, and it ejects the cart casing, so the leftover
12 portion, the bullet's fired, and then what -- the gun powder's contained in
13 that cartridge casing is ejected from the firearm out onto the ground
14 typically.

15 Q How many hours do you think -- well, first of all, were you
16 there when crime scene analysts were processing the inside of 11309?

17 A Yes, I was there for well over 12 hours.

18 Q And during the -- that processing, did you guys find a casing
19 associated with the event?

20 A We did not.

21 Q So, at the time you're talking to Mr. Kemp, you don't believe
22 that there was a casing left at the scene?

23 A No, we -- at that time, we believed either someone had picked
24 it up and taken it out or it had been thrown away during the clean-up
25 process.

1 Q Do you later find out -- or do you later receive information that
2 sends you back to the Sienna Suites?

3 A I do. I received a contact from one of the maintenance
4 managers there at the property. They had gone in to refurbish the entire
5 room to re-rent it out. During that process, they had removed the stove
6 completely from the wall. And during that process, they had located a
7 .9-millimeter shell casing.

8 MR. DiGIACOMO: May I approach, Judge?

9 THE COURT: Yes.

10 BY MR. DiGIACOMO:

11 Q And then, did you and crime scene analysts respond down
12 there to recover that casing?

13 A We did.

14 Q Showing you what's been marked as State's proposed
15 Exhibits 131 through 135. Do those appear to be photographs taken at
16 the time that you went back to recover the casing?

17 A That would be correct.

18 MR. DiGIACOMO: Move to admit 131 through 135.

19 THE COURT: Any objection?

20 MR. SANFT: No objection, Your Honor.

21 THE COURT: They'll be admitted.

22 **[EXHIBITS 131 THROUGH 135 ADMITTED]**

23 BY MR. DiGIACOMO:

24 Q I'm going to briefly just -- very quickly go through this, but
25 that's a picture of the stove in place?

1 A That's correct.

2 Q And that's sort of the undercarriage of where that stove is?

3 A Correct.

4 Q 133 is the stove pulled out?

5 A Yes.

6 Q And that's a picture of the casing?

7 A That's correct.

8 Q That's 134, and 135 is the head stamp showing it's a .9-
9 millimeter casing?

10 A That's correct.

11 Q Now, did you also make efforts by way of using the phone
12 records and the videos that we've been talking about to try and confirm
13 or dispute some of the information Mr. Kemp provided you during that
14 interview?

15 A Yes, I did.

16 Q So, I'm going to start with the phone records here, and I'm
17 going to first show you -- well, let me back up and ask you this. They've
18 heard from two Custodians of Records about both call detail records
19 about phone calls and text messages back and forth from phones. And
20 then, they've also heard about real time or true -- Timing Advanced
21 records. Do you have an ability to use those records to sort of give you
22 a visual effect of where the location of the phone is at the time?

23 A That's correct. There's a program through a company that's
24 called ZetX that I'm able to take those phone records and input them
25 into this program, and it produces a -- essentially, it's a Google Map file

1 that lays out what that hit looks like from the cell phone site. Meaning,
2 depending on what set of records you put in there, it'll lay out a photo for
3 you to show you, essentially, where it believes that phone is connecting
4 with that cellphone site.

5 One will produce, for lack of a better word, like a blob, which is
6 the H-plane, which is the radio frequency that's the best signal for that
7 tower referenced to that phone call. And then you will get the real time
8 measurements, or like a -- it's called a PCMD, a Per Call Measured
9 Data, as well, and that will produce a line that you'll see through the
10 Google map in an arc. And what that's telling you is through an
11 algorithm, that's the -- essentially, the distance from the tower to that
12 actual device, and it's along that arc; it's a measurement that they
13 produce.

14 So, between those two things, we can get a general idea of
15 where that device is and compare it to the cellphone site that it's
16 communicating with.

17 Q So, I'm going to go to one record, and I'm only going to show
18 you one actual, physical record itself. But it is in State's Exhibit No. 145
19 in the CDR, so the Call Detail Records, call numbers. Do you recall Mr.
20 Kemp telling you that it was Mr. Hickman and -- communicating with
21 A.J., essentially?

22 A That's correct.

23 Q And that there was a communication shortly before he arrived
24 at the apartment, and he thought it was about 1:00 p.m. on the 30th?

25 A That's correct.

1 Q So, I want to go to -- and so, on these records, they're eight
2 hours off. So, if it's shortly before 1:00 p.m., it should be shortly before
3 2100 on December 30th of 2019 on this record?

4 A That's correct.

5 Q I went a little far. Just zoom into this one section here. It
6 appears that Mr. Kemp's phone is communicating with 808-860-0824
7 right around the 1 o'clock hour, Pacific Time, on December 30th, correct?

8 A That's correct.

9 Q And that 808 number is the number that was received by Mike
10 -- from Michael Liapakis as another number associate with A.J.?

11 A That's correct.

12 Q So, that appears to be something accurate that Mr. Kemp told
13 you?

14 A That's correct.

15 Q Now, I want to go to the ZetX records. I'm going to show you
16 first what's been marked as State's proposed Exhibit No. 167. Does that
17 appear to be a list created by you and I of basically the exhibits between
18 147 and 168 to establish what each one of these ZetX phone records
19 are?

20 A Yes, that's correct.

21 Q And those are all accurate and correlate to these exhibit
22 numbers?

23 A That's correct.

24 Q Showing you what's -- well, so, 147 to 166, you've seen these
25 and confirmed that that list matches this?

1 A That's correct.

2 Q Okay. So, let me take that back.

3 MR. DiGIACOMO: I move to admit 147 to 167.

4 THE COURT: Any objection?

5 MR. SANFT: No objection, Your Honor.

6 THE COURT: They will be admitted.

7 **[EXHIBITS 147 THROUGH 167 ADMITTED]**

8 BY MR. DiGIACOMO:

9 Q Now, each and every record in here, you could do it -- you
10 could have thousands and thousands and thousands of pictures from
11 ZetX because you can go to each time that the phone record finds out
12 where this phone is, correct?

13 A That's correct.

14 Q And we have six separate phones that we're talking about.
15 So, I only took a representative sample here, but I'm going to go through
16 these for them. But I'm going to start with 147 -- or sorry, 167 and show
17 them the list.

18 So, the first two, 147 and 148, that's Mr. Anderson's phone,
19 correct?

20 A That's correct.

21 Q And so, the one that says Anderson phone -- so 148,
22 Anderson phone, 12/30/19 at 12:37 is a tower hit, meaning there was
23 actual communication on Anderson's phone number that you had, and
24 that's the 702 number you had for him, correct?

25 A That's correct.

1 Q And that also there is a corresponding RTT, or Real Time
2 Location, for that phone, as well?

3 A That's correct.

4 Q And ZetX will give us two different views of what that looks
5 like?

6 A Yes.

7 Q So, actually, I'm going to start with 148, and put 148 for you.
8 So, it -- that yellow dot right there, that represents basically the
9 apartment?

10 A That would be the apartment; that's correct.

11 Q And the tower coverage for that particular phone call is
12 basically covering the area where the Sienna Suites is?

13 A That's correct.

14 Q So, Mr. Anderson's phone is somewhere within that area?

15 A That's correct.

16 Q Then, if we go to the Real Time precision, which is 147, now
17 you have a much more confined area, but basically the arc is basically
18 just right around where the apartment is?

19 A That's correct. That's showing that -- if you look at the line
20 going directly out, that's called the azimuth, and then it's hitting that arc.
21 And what the algorithm is producing is, is that phone is precisely along
22 that arc in that area. And that line coming out is the direction.

23 On a cellphone site, you'll see panels, the panels that you'll
24 see on the towers, those panels face certain directions, that way they
25 optimize 360-degree coverage. So, that one's showing you that that

1 phone is facing that particular panel, and then it's giving you a
2 measurement from that device to that panel.

3 Q So, it's an estimate of the distance from the phone to the
4 tower, and then that's an arc for that entire estimate for that tower?

5 A That's correct.

6 Q So, I want to go to now Ms. James's phone. And I'm going to
7 put up her tower, which is 152. Once again -- sorry, 12 -- sorry, I said
8 152. 12:36:04, it's Exhibit 152, her phone's generally in the area of the
9 Sienna Suites, correct?

10 A That's correct.

11 Q And before I go any farther, Mackeisha's phone, there is no
12 information during the relevant time period on Ms. Murphy's phone; is
13 that correct?

14 A That's correct.

15 Q That appears to be off or not functioning during this time
16 period?

17 A That's correct.

18 Q Okay. Now, 149 -- I meant 153, State's Exhibit 153. This is
19 also Ms. James's phone, that tower hit. Now, her location appears to be
20 farther out then let's say where A.J.'s is?

21 A That's correct.

22 Q She's somewhat closer to the intersection there of Russell and
23 Boulder Highway?

24 A That's correct.

25 Q And did you have other evidence that confirmed that she

1 might be generally in the area of the corner of Tropicana and Russell --
2 or Boulder Highway and Russell?

3 A Yes, we did.

4 Q And that's shown in 137 on the Breeze Rite video; is that
5 correct?

6 A That's correct.

7 [Video played for the Jury]

8 Q That appears to be Ms. James entering the Breeze Rite at
9 12:42?

10 A That is correct.

11 Q And then I'm not going to have you watch her all buy a -- she
12 buys a bottle of Hennessy it appears, correct?

13 A That's correct.

14 Q All right. And then -- oops.

15 [Video played for the Jury]

16 Q She also, a few minutes before, had gone into the other side
17 and bought some cigarettes, as well, on the Breeze Rite convenience
18 store?

19 A That is correct.

20 [Video played for the Jury]

21 Q Now, Mr. Kemp's phone, and I'm just going to do a few of
22 these for Mr. Kemp's phone. I'm going to start with 149. Mr. Kemp's
23 phone at 12:45 is a Real Time precision that puts him somewhere in the
24 area of the apartment?

25 A That's correct.

1 Q He doesn't have any tower records near that time, but at
2 13:29, this is Exhibit No. 150, he's somewhere in the area of Sienna
3 Suites?

4 A That's correct.

5 Q And at 23:48, this is 151, his phone's somewhere -- still
6 somewhere in the area of that apartment?

7 A That's correct.

8 Q And when you looked at his records throughout the evening
9 hours of the 30th into the morning hours of the 31st, it appears his phone
10 never leaves the Sienna Suites?

11 A That's correct.

12 Q So, he appears to be accurate to you that he didn't take his
13 phone to the desert with you?

14 A That's correct.

15 Q Now, I'm going to do Sayso's phone, which is 159. Sayso's
16 phone by noon, this is -- he's on a different tower, but the arc goes right
17 through our apartment area, correct?

18 A That's correct.

19 Q And that's a Real Time precision. And then 160, this one
20 doesn't have the little tag in it, but according to our sheet that we have
21 here, that's 12/30/19 at 12:45, he's still right generally where that
22 apartment is?

23 A That's correct.

24 Q Now, I'm going to go to Mr. Hickman's phone, 154. This is Mr.
25 Hickman on December 30th at 12:32. It appears that his phone is

1 somewhere in the area of that apartment.

2 A That's correct.

3 Q And we have a tower at -- this is 155. 12:55, we have a tower
4 hit that shows him generally in the area of the Sienna Suites -- sorry,
5 12:59 tower hit.

6 A That's correct.

7 Q Okay. And then, 156. 156, he has a tower -- or sorry, Exhibit
8 156, it's 3:17 in the morning, he has a tower hit that covers the area
9 where the car is burned?

10 A That is correct.

11 Q So, Mr. Kemp appears to be accurate in his assessment that
12 he went out to -- Mr. Hickman came with him out to the desert?

13 A That's correct.

14 Q And then, Exhibit 157, there's an RTT at 3:53 a.m. that shows
15 Mr. Hickman south -- just generally south of where that fire area is?

16 A That's correct.

17 Q Now, you found Mr. Huteson's phone, and let's start with Mr.
18 Huteson, 161. Mr. Huteson's phone at 2:26 is generally in the area of
19 the Sienna Suites, but not there yet, right? He's not quite on property.

20 A That's correct.

21 Q Okay. And then 162, doesn't have the tag in it, but it says Mr.
22 Huteson's phone 12/30/2019 at 14:30 p.m., so 2:30 in the afternoon, he
23 appears to be in the area of the parking -- at the parking lot?

24 A That's correct.

25 Q Now, you had testimony -- or you received information from a

1 Zachary Cooper that somebody moving A.J.'s trash can talked to
2 somebody in a charger that had tattoos and -- or a dark car that -- light-
3 skinned with sleeve tattoos?

4 A That's correct.

5 Q Okay. Then 164, you have Mr. Huteson on December 31st,
6 2019, at 3:57 on an RTT hit, generally just north of where the fire scene
7 is?

8 A That's correct.

9 Q And then, 165, at 4:00 a.m. with Mr. Huteson's -- 4:04 a.m.,
10 Mr. Huteson's got a tower hit that generally covers the area where the
11 fire scene is?

12 A That is correct.

13 Q I skipped 163 for some reason, I don't know. 163, there's a
14 tower hit on Mr. Huteson's phone at 22:54, so almost 11 o'clock at night
15 on the 30th, he's back in the area of the Sienna Suites?

16 A That is correct.

17 Q And then, 166, Mr. Huteson's phone has an RTT somewhere
18 else in the valley, and there's a little yellow tag on there that says -- so, I
19 think it says 7900 Copper Canyon? You see that?

20 A That's correct. That is Mr. Huteson's residence.

21 Q That's Mr. Huteson's residence. In addition to that one, I'm
22 going to go back to Mr. Hickman's phone at 23:45, which is 158. At
23 about the same time there's an RTT next to Mr. Huteson's residence.

24 A That is correct.

25 Q So, it appears that Mr. Huteson's phone and Mr. Hickman's

1 phone are in the area of 7900 Copper Canyon?

2 A Yes.

3 Q Did you go out to 7900 Copper Canyon?

4 A We did.

5 Q And ultimately, was there video surveillance of a house at
6 7904 Copper Canyon?

7 A There was. The residence at 7904, they had exterior cameras
8 that covered the front of their residence and -- as well as their next-door
9 neighbors, which would have covered 7900 Copper Canyon --

10 Q Well -- go ahead.

11 A -- which would have been Mr. Huteson's residence.

12 MR. DiGIACOMO: Judge, I have in my hand State's Exhibit
13 No. 139, which is a copy of that video; I'd offer it.

14 THE COURT: Any objection?

15 MR. SANFT: No, Your Honor.

16 THE COURT: All right, 139 will be admitted.

17 **[EXHIBIT 139 ADMITTED]**

18 BY MR. DiGIACOMO:

19 Q I'm going to play it for you, 139.

20 [Video played for the Jury]

21 Q Where does that car appear to be in the front?

22 A So, that would be a dark-colored Dodge Challenger that pulled
23 up in front, and appears to be -- the passenger that gets out appears to
24 be Mr. Hickman who goes back to a light-colored vehicle that's directly
25 behind it.

1 Q And that light-colored vehicle is consistent with what?

2 A That would be consistent with the victim, Mr. Anderson's
3 Lexus four-door vehicle that was taken.

4 Q And it appears that Mr. Hickman then has a conversation with
5 whoever's driving that vehicle, correct?

6 A That is correct.

7 [Video played for the Jury]

8 Q It appears that Mr. Anderson's vehicle remains at the scene
9 while Mr. Huteson, Flaco, and Little leave in Flaco's car?

10 A That is correct.

11 Q If we keep watching, eventually we're going to see that vehicle
12 return?

13 A That is correct.

14 [Video continued playing for the Jury]

15 Q That appears to be the two-door car -- dark car coming back?

16 A That is correct. It pulled right in front of 7900, which is Mr.
17 Huteson's residence. That was confirmed also by the fact that white
18 Mustang you see in the driveway is also Mr. Huteson's vehicle, the
19 second vehicle parked in the driveway.

20 [Video continued playing for the Jury]

21 Q And eventually, it appears A.J.'s vehicle leaves and follows
22 Mr. Huteson's vehicle?

23 A That's correct.

24 Q Now, Mr. Kemp told you some other random guy in a four-
25 door car followed them down there, and then they were going to take --

1 they were either going to drive the car back, but then some other guy
2 had to come get them and that guy's name is Flaco in a two-door car?

3 A That's correct.

4 Q So, it appears that maybe Mr. Kemp was not accurate with
5 you as it relates to who helped dispose of this body and the way that it
6 happened?

7 A Yeah, based on the evidence we were able to obtain, it
8 appears that Mr. Huteson is the same person both times, as far as he's
9 the one that comes and helps facilitate the getting the body away with
10 the vehicle and follows it all the way down to the Field Road location and
11 then is the same person that drives them back to Las Vegas.

12 MR. DiGIACOMO: We also talked about the Walgreen -- I
13 have State's Exhibit No. 138, Judge, I offer it; it's the video of the
14 Walgreens.

15 THE COURT: Any objection?

16 MR. SANFT: No objection, Your Honor.

17 THE COURT: It'll be admitted. Mr. DiGiacomo, we just have
18 about 15, 20 minutes left to --

19 **[EXHIBIT 138 ADMITTED]**

20 MR. DiGIACOMO: I got about five minutes left of testimony,
21 so --

22 THE COURT: All right.

23 [Video played for the Jury]

24 BY MR. DiGIACOMO:

25 Q That appears to be Mr. Kemp entering the Walgreens?

1 A That is correct.

2 Q And we cut the blank parts out, but this appears to be him
3 walking back up to the registers?

4 A That is correct.

5 Q And the time on this was 13:59 and it was checked to make
6 sure it was accurate?

7 A That is correct.

8 Q Now, he says he buys duct tape and trash bags, but do you
9 see any duct tape being purchased here at Walgreens?

10 A Just the box of trash bags at this time.

11 Q And that box -- or it appears to be that box was found back in
12 the apartment when the apartment was processed?

13 A That is correct.

14 [Video continued playing for the Jury]

15 Q And he appears to exit a little after 2:00 p.m.?

16 A That is correct.

17 Q Lastly, I'm going to go back to the Sinclair video. Did Mr.
18 Kemp -- he described for you sort of two different times he went over to
19 Sinclair/Breeze Rite. Once was right after the homicide with his
20 girlfriend -- or actually he may not have said his girlfriend. But once he
21 went over to the liquor store or just into the area of the Sinclair, correct?

22 A That's correct.

23 Q And then he claims he then, later, before going to Walgreens,
24 bought a bottle -- a small bottle of bleach?

25 A That's correct.

1 Q Were you ever able to find him buying that small bottle of
2 bleach on the Breeze Rite video?

3 A We were not, no.

4 Q Okay. When you looked at the Breeze Rite video, a little after
5 1:00 p.m., did you find two other people associated with this event?

6 A That is correct.

7 [Video played for the Jury]

8 Q So, there was a large individual with a backpack that's walking
9 through the front door right now and going to come in here. Do you
10 recognize who that individual is?

11 A This was a subject that was initially identified as Sayso's
12 brother, Mr. Anthony Woods.

13 [Video continued playing for the Jury]

14 Q And shortly, when this changes camera view, there we go, Mr.
15 Woods appears to have some sort of backpack with him?

16 A That's correct.

17 Q Mr. Woods walks to an area that has a restroom?

18 A That is correct.

19 [Video continued playing for the Jury]

20 Q The individual that just walked in, in the red jacket, were you
21 able to identify him?

22 A This person was later identified as Sayso, Mr. Arleo Davis.

23 Q So, him and his brother are seen at the Breeze Rite at 13:04?

24 A Yes, that's correct.

25 Q Now, you said you couldn't find the Defendant buying a small

1 bottle of bleach, but at about 11:17 p.m., do we see Mackeisha come in
2 and purchase one of the large bottle of bleaches that are found in the
3 apartment?

4 A That is correct.

5 [Video played for the Jury]

6 Q The video's a little jumpy. Finally, Detective, Mr. Kemp said
7 shortly after the homicide that he was going -- he went over in the area
8 of the Sinclair. And did you find video of the Defendant with Tyeshia at
9 about -- some time after the homicide in the area of the Sinclair at the
10 liquor store side?

11 A That I don't recall, no.

12 Q Well, let me play it for you, 137-D.

13 [Video played for the Jury]

14 Q This is 13:20, that appears to be Tyeshia and that appears to
15 be Mr. Kemp?

16 A That is correct.

17 Q And this would have been shortly after he witnessed A.J.
18 being killed?

19 A That is correct.

20 Q Thank you, Detective.

21 MR. DiGIACOMO: I pass the witness.

22 THE COURT: Mr. Sanft, we can go ten minutes, but you don't
23 rush your cross-examination. And we can have the detective come back
24 at 9 o'clock tomorrow morning.

25 MR. SANFT: We can do it tomorrow morning, 9 o'clock, Your

1 Honor.

2 THE COURT: All right, why don't we -- we've been sitting for
3 a long time this afternoon. So, Ladies and Gentleman -- Detective, can
4 you come back at 9 a.m. tomorrow for --

5 THE WITNESS: Yes.

6 THE COURT: -- cross-examination? All right, thank you, sir.

7 Ladies and Gentleman, I appreciate your patience today.

8 Let's come back at 9 o'clock tomorrow morning. During this evening
9 recess, you must not discuss or communicate with anyone, including
10 fellow jurors, in any way regarding the case or its merits, either by voice,
11 phone, email, text, internet or other means of communication or social
12 media.

13 You're not to read, watch, or listen to any news or media
14 accounts or commentary about the case. You're not to do any research,
15 such as consulting dictionaries, using the internet, or using reference
16 materials. You're not to make any investigation, test the theory of the
17 case, recreate any aspect of the case or in any way investigate or learn
18 about the case on your own. And you're not to form or express an
19 opinion on any subject connected with this matter until it is finally
20 submitted to you.

21 We will see you back at 9 o'clock tomorrow morning.

22 THE MARSHAL: All rise for the exit of the jury.

23 [Colloquy between counsel]

24 [Jury out at 4:51 p.m.]

25 [Outside the presence of the Jury]

1 THE COURT: Mr. DiGiacomo, since you're up --

2 MR. DIGIACOMO: Yes, sir?

3 THE COURT: -- can you just grab those? All right, we're
4 outside the presence of the jury panel. I'm handing Mr. DiGiacomo to
5 hand out to the other counsel the jury instructions that have been
6 submitted to me. I put them in a different order than that were submitted
7 to me. I think they flow better this way. So, I want the attorneys to look
8 at them, you know, this evening or early tomorrow morning, see if you
9 have any objection to the order that I've put these in. They have not
10 been numbered, but there is -- like a -- an order I like to give them.

11 Mr. DiGiacomo, how many more witnesses do you have in the
12 case?

13 MR. DIGIACOMO: He's done after cross, so if you want to
14 canvass the Defendant now, so we can flow right into the defense case,
15 we could do that.

16 THE COURT: Actually, I'll do that at 9 o'clock.

17 MR. DIGIACOMO: First thing in the morning?

18 THE COURT: I just don't have my canvass with me right now.
19 I just want to make sure we don't miss anything for that. And Mr. Sanft,
20 have you had an opportunity to speak with Mr. Kemp regarding his right
21 to testify?

22 MR. SANFT: I have, Your Honor. We're still undecided at this
23 point.

24 THE COURT: Okay, that's fine. And then, sir, if you have any
25 questions for Mr. Sanft, talk to him today or tomorrow morning. I'm also

1 going to advise you of your rights about testifying. I'll do that tomorrow,
2 as well, sir. Okay?

3 THE DEFENDANT: Okay.

4 THE COURT: All right, so we'll see everybody at 9 o'clock.
5 Hopefully, we can start maybe a few minutes early where I'll just give the
6 Defendant the canvass, then we can call the jury in at 9:00 for cross-
7 examination.

8 MR. SANFT: Yes, Your Honor.

9 THE COURT: Thank you.

10 MR. DiGIACOMO: Thank you, Judge.

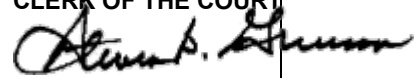
11 [Proceeding concluded at 4:52 p.m.]

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

24 

25 Kaihla Berndt
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

JECORY ELES KEMP,
Defendant.

CASE#: C-20-346920-1
DEPT. XVII

BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
THURSDAY, APRIL 8, 2021

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 4**

APPEARANCES:

For the State:

MARC DIGIACOMO, ESQ.
Chief Deputy District Attorney
MICHAEL J. SCARBOROUGH, ESQ.
Deputy District Attorney

For the Defendant:

MICHAEL W. SANFT, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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DAY

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None

DEFENDANT'S EXHIBITS

DAY

PAGE

None

1 Las Vegas, Nevada, Thursday, April 8, 2021

2
3 [Proceedings began at 9:00 a.m.]

4 [Outside the presence of the jury]

5 THE COURT: All right. Mr. Sanft, I'm going to go over the
6 *Carter* instruction for Mr. Kemp.

7 MR. SANFT: Yes, Your Honor.

8 THE COURT: All right, Mr. Kemp, you have -- I'm going to
9 advise you that you have the right under the Constitution of the United
10 States and under the Constitution of the State of Nevada not to be
11 compelled to testify in this case.

12 Do you understand that, sir?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You may, if you wish, give up this right and
15 take the witness stand and testify. If you do, you'll be subject to
16 cross-examination by one of the deputy district attorneys and anything
17 that you may say, either on direct examination, meaning when your
18 attorney questions you; or on cross-examination, would be the subject of
19 fair comment when the district attorneys speak to the jury in their closing
20 argument.

21 Do you understand that, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: If you choose not to testify, the Court will not
24 permit the district attorneys to make any comment to the jury concerning
25 the fact that you have not testified.

1 Do you understand that, sir?

2 THE DEFENDANT: Yes, sir, I do.

3 THE COURT: If you elect not to testify I will instruct the jury,
4 but only if your attorney specifically requests, the following, so I will
5 advise the jury of the following, It is a constitutional right of a defendant
6 in a criminal trial that he may not be compelled to testify; thus, the
7 decision as to whether he should testify is left to the defendant on the
8 advice from counsel of his attorney, you must not draw any inference of
9 guilt from the fact that he does not testify, nor should this fact be
10 discussed by you or enter in your deliberations in any way.

11 Do you understand I will give that instruction, if requested?

12 THE DEFENDANT: Yes, sir, I do.

13 THE COURT: Do you have any questions regarding these
14 rights, sir?

15 THE DEFENDANT: Not at all.

16 THE COURT: Okay. I also must advise you that if you have a
17 felony conviction from the last ten years that I must advise you that if you
18 do take the stand and testify one of the district attorneys, in the presence
19 of the jury, will be permitted to ask you if you've ever been convicted of a
20 felony, what was the felony, and when did it occur; however, they would
21 not be allowed to go into the details of that felony.

22 Do you understand that, sir?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Mr. Sanft, as far as you know, does
25 your client have any prior felony convictions?

1 MR. SANFT: No, Your Honor.

2 THE COURT: Okay.

3 [Colloquy between counsel]

4 THE COURT: All right. If everyone's ready, we'll bring the
5 jury in.

6 MR. DIGIACOMO: Judge, can you give us one moment.

7 THE COURT: Sure.

8 MR. DIGIACOMO: We're having a little bit of a problem
9 connecting.

10 THE COURT: All right, hang on, Marshal, we're having
11 technical difficulties again.

12 MR. DIGIACOMO: One moment, we should be good.

13 THE COURT: And the parties had an opportunity to look at
14 the jury instructions?

15 MR. SANFT: Yes, Your Honor.

16 MR. DIGIACOMO: We do. The State has one additional one.

17 THE COURT: Okay.

18 MR. DIGIACOMO: I'm looking for it now, but I'll email over.
19 I'm sure Mr. Sanft won't complain.

20 THE COURT: And I'm sure you agree with the order that they
21 were put in.

22 MR. SANFT: Yes.

23 MR. DIGIACOMO: By definition I disagree because I'm the
24 one who ordered the first one but.

25 MR. SANFT: I do have one housekeeping matter.

1 THE COURT: Sure.

2 MR. SANFT: With regards to the detective that's up on the
3 stand --

4 THE COURT: Oh, hang on.

5 [Colloquy between the Court and the Court Recorder]

6 THE COURT: Go ahead.

7 MR. SANFT: All right. Due to the testimony yesterday by the
8 detective with regards to the video of the interview with Mr. Kemp, I don't
9 have the -- the way it's set up in terms of like with the -- with the stuff on
10 the bottom, where they're going through the transcript as they're doing
11 the actual interview, and I know there's been some mention about the
12 transcript not being 100 percent correct, I'm not disputing that, but I still
13 would like an opportunity to point to the detective in several parts of that
14 interview. So I brought an additional printout of the transcript for his --
15 just for his review so he can be refreshed.

16 MR. DIGIACOMO: Yeah, I don't have a problem with that.
17 He'll know when -- it's pretty obvious when they say bouler instead of
18 boulder. And they say --

19 MR. SANFT: Right.

20 MR. DIGIACOMO: -- you know, they get things that are
21 obviously wrong.

22 THE COURT: Okay.

23 MR. SANFT: Right.

24 MR. DIGIACOMO: I think it's pretty obvious.

25 THE COURT: All right.

1 MR. SANFT: So as a result, I don't know -- do I just give the
2 book to -- when I'm ready to cross, and I'm getting into this, if I decide to
3 use the book, or if he doesn't remember, do I just approach or do I have
4 your bailiff approach the stand?

5 THE COURT: Just to show him the transcript, is that what you
6 mean?

7 MR. SANFT: Well, yeah, I mean, just to look through it. I
8 mean, I guess at some point he's going to just have it up there to read
9 through it; right, so.

10 THE COURT: Yeah, we can just give it to him and have it up
11 on the witness stand.

12 MR. SANFT: Okay.

13 THE COURT: Is there anything else?

14 MR. SANFT: No, that's it.

15 THE COURT: Any other housekeeping matters? Okay.

16 All right. Then let's bring the jury in.

17 THE MARSHAL: All rise for entry of the jury.

18 [In the presence of the jury]

19 THE COURT: Good morning, ladies and gentlemen, welcome
20 back. We're going to resume the trial this morning.

21 Let's call back our detective from yesterday.

22 **BRECK HODSON**

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

25 THE CLERK: If you please have a seat and state and spell

1 your first and last name for the record.

2 THE WITNESS: Breck Hodson, B-R-E-C-K; H-O-D-S-O-N.

3 THE COURT: And I understand the State had concluded their
4 direct examination; is that correct?

5 MR. DIGIACOMO: That's correct.

6 THE COURT: All right. Mr. Sanft, any cross-examination?

7 MR. SANFT: Yes, Your Honor.

8 THE COURT: All right.

9 **CROSS-EXAMINATION**

10 BY MR. SANFT:

11 Q All right. Detective, now just to make sure I understand, your
12 role in what you do as a detective is to determine whether there's
13 enough evidence for, say, probable cause.

14 Would that be fair?

15 A That's correct.

16 Q Okay. Now, during the time that we heard this video
17 yesterday of Je'cory Kemp, there was the word "truth" that was thrown
18 out there over and over and over again; right?

19 A Yes.

20 Q Okay. And would it be fair to say that that's really what you're
21 looking for is the truth?

22 A That'd be correct, yes.

23 Q All right. 'Cause probable cause is a legal definition and it
24 doesn't mean much to, you know, ordinary people, but with regards to
25 truth I think we could all understand what that means; right?

1 A Yes.

2 Q So in this case, just to go back to it, when you had -- when you
3 had first met Je'cory that was when he was arrested on the day he gave
4 the interview; right?

5 A That's correct.

6 Q Okay. And on that day you were working this case and who
7 was your partner again that worked the case with you?

8 A Detective Mitchell Dosch.

9 Q Bosch?

10 A Dosch

11 Q Dosch.

12 A D-O-S-C-H.

13 Q Okay. And just to let the jury know, detectives typically work
14 in pairs, you work as a team; right?

15 A That's correct.

16 Q Okay. However, even within the team there's one person who
17 would be basically like say the primary detective or the primary person
18 signing off on everything or you both sign off on stuff?

19 A We both sign off on stuff.

20 Q All right. And what that means to the jury, once again, is that
21 as a primary detective, primary officer, the buck stops with you in terms
22 of the investigation; right?

23 A Correct.

24 Q There's no other detective out there running a concurrent
25 investigation as you're running your investigation; right?

1 A Yeah.

2 Q Okay.

3 A There shouldn't be.

4 Q Right.

5 And when I say, "team", in terms of you and
6 Detective Dosch, it also spreads out throughout anybody else who's had
7 any involvement in this case, so from the first responder to the scene of,
8 you know, the suites, all the way up to the people, for instance, even in
9 San Bernardino County, to over here, they're part of the team; right?

10 A That's correct.

11 Q And the team, once again, is to get to the truth?

12 A Yes.

13 Q Okay. Is there anybody else on that -- is there anybody on
14 that team that would not agree with that statement?

15 A Not that I would know of, no.

16 Q All right. Now, in this case, on this particular day, and I -- if
17 you could just -- is it January 10th, 2020, that's the day of the interview
18 with my client; right?

19 A That's correct.

20 Q Okay. And on that day -- the event or the murder had
21 occurred on the 30th, so you had roughly about, what, 11 days, 12 days
22 to work on this before you met with Je'cory Kemp?

23 A That's correct.

24 Q Okay. Now, we've talked a lot about forensics; right, we've
25 had crime scene analyst come in, we've had fingerprint person come in,

1 we've had video come in, on the day that you met with Je'cory, did you
2 have any of those things at your disposal, in terms of results?

3 A No.

4 Q Okay. And that's because, once again, to be fair, that's
5 something that happens -- there's a process that people have to go
6 through and as a result you don't get it immediately; right?

7 A That's correct.

8 Q It's not like in the movies where you say, oh, we found your
9 fingerprint at the scene and boom, boom, boom like that; right?

10 A That'd be correct.

11 Q Okay. Now, but you did have some foot work; right, you had
12 done some things --

13 A Yes.

14 Q -- leading up to the point where you believe that Je'cory Kemp
15 and Tyeshia James were involved in this murder?

16 A That's correct.

17 Q Okay. What things did you have up and to that point?

18 A Primarily the cell phone records and as well as testimony
19 from -- statements from witnesses, other subjects in the complex that
20 we'd interviewed, those things were -- were the primary component what
21 we were putting together at the time.

22 Q All right. So going back to the cell phone records, cell phone
23 records meaning that you had cell phone records of Je'cory Kemp and of
24 Tyeshia James?

25 A That's correct.

1 Q Okay. And you immediately subpoenaed them, telephone
2 companies immediately give you the records, and so you're combing
3 through this data trying to figure out between these dates or whatever;
4 right?

5 A That'd be correct.

6 Q Okay. And then -- but, once again, I mean, phone records, in
7 and of itself, doesn't really tell you anything, it may tell you a connection
8 to another number, but outside of that there weren't text messages;
9 right?

10 A No, you won't receive text messages, the only time that you
11 would receive text messages would be if you had the physical phone
12 and were able to examine the physical phone.

13 Q Okay. So you can't just go up to the telephone company and
14 say, hey, you know what, I'm subpoenaing you for any text messages;
15 you can't do that?

16 A No, what you would get is you would get -- you would get the
17 phone records. So it would show whether a call was made, sometimes
18 it'll give you how long that connection is, sometimes it won't give you
19 how long that connection is. But you'll see the data going through but
20 you won't see exactly what that data is.

21 Q Ah, okay.

22 And in this case did you ever go through any type of cell
23 phone to look at text messages between any of the parties involved?

24 A At this point, no.

25 Q Okay. Now, when you say "this point" are you talking about as

1 of January 10th, 2010 -- or '20, or as of like today?

2 A So at this point, like I said, there's -- like we -- we did not get
3 ahold of certain cell phones. So if we don't have that physical phone, I
4 can't physically look at it. So what I'm basing things off are the records
5 that I received.

6 Q Okay. And would it be fair to say that when Je'cory was
7 arrested he didn't see this coming; right?

8 A As far as --

9 Q The actual arrest.

10 MR. DIGIACOMO: I object to speculation.

11 THE COURT: Sustained.

12 BY MR. SANFT:

13 Q Well, let me ask you this, would it be fair to say when police
14 officers are conducting that kind of arrest that they don't typically call you
15 ahead of time and say, hey, let's set an appointment for next Tuesday,
16 we're going to come over and arrest you, that doesn't happen; right?

17 A No, we did not have any pre-contact with Mr. Kemp before his
18 arrest, no.

19 Q Okay. And as a result sometimes you conduct certain things
20 as a matter of surprise and that is to enhance the protection of
21 everybody involved so that there's no potential harm because surprise is
22 one of those things you could use to your advantage.

23 Would that be fair to say?

24 A Correct.

25 Q Okay. Now, in this case, as you're going through your details

1 here of the cell phone records, what exactly did you have with regard to
2 Je'cory Kemp, in terms of cell phone records, when you met with him on
3 January 10th, 2020?

4 A We could see -- we could see the general areas of where his
5 phone was. We could see measurements to where that device would
6 have been in comparison to the tower that was related to the scene. So
7 those are things that we were looking at that placed him within the area
8 of where the crime had occurred.

9 Q Okay. And just to make sure we're clear, within the area --
10 pretty broad; right, I mean, the area could be -- it could be an apartment
11 complex, it could be a neighborhood, depending on that cell phone tower
12 and how it's pinging off the tower; right?

13 A So when you look at -- there's two different forms of records,
14 so one's going to show you a generalized radio frequency area that
15 would show a connection, and then you have the other set of records
16 that shows you a measurement, and that measurement does put him
17 very close to that scene.

18 Q Sure.

19 It puts him like basically maybe in the general area of the
20 suites or something like that; right?

21 A Correct.

22 Q Okay. Does it put him like actually in the room?

23 A When you look at that arc, a couple of those arcs -- arcs right
24 through the apartment.

25 Q Okay. But, once again, because we're talking about

1 something that's sort of graphical; right, you're actually envisioning in
2 your mind a graph that shows how this arc works; right?

3 A That's correct.

4 Q And as a result we're trying to describe to the jury here an
5 elephant and you and I are two blind guys trying to figure out which parts
6 we're talking about; right?

7 A Correct.

8 Q Okay. But as a result though the arc is what you're talking
9 that's just on a graph that's inlaid on top of the map that shows where,
10 kind of, the signal was coming from; right?

11 A So, again, there's two different records, so you have the H
12 plane, which is that blob you look at, and then the second set of records
13 that has the actual measurement is the one that has that line and then
14 that arc that comes through. And that's -- that's the one I'm referencing.

15 Q Okay. Now, with regards to that arc though, does the arc tell
16 you that my client consented or participated in a robbery/murder?

17 A Does it tell me that information?

18 Q Yeah, does the arc tell you that?

19 A No, no, it just tells me a location.

20 Q Okay, fine.

21 Now, outside of the cell phone records you said that you had
22 spoken to other people at the apartment complex, who did you speak to
23 prior to your interview of Mr. Kemp on January 10th, 2020?

24 A So there were numerous people that lived in the area, okay,
25 that were tenants in that complex that we spoke with, employees, that

1 were aware of these individuals, that we spoke with and interviewed,
2 and that they were people that could identify Mr. Kemp, as well as other
3 people that lived at that unit.

4 Q Okay. So, for instance, we heard testimony from one of the
5 supervisors of the suites earlier and she came and said, yeah, I know
6 who this guy is, he's been here before, something like that; right?

7 A Correct.

8 Q Okay. And then you had somebody else say, yeah, I saw
9 them move something, carry something out of an apartment, going
10 downstairs towards a car, something like that; right?

11 A Correct.

12 Q Now, do you have anybody that said, I saw Je'cory participate
13 in a robbery up and to that point?

14 A No, no one says that.

15 Q Okay. So when you were meeting with Je'cory Kemp on
16 January 10th, 2020, you don't know anything other than the fact that he's
17 actually just there and he may have helped a body go down the stairs
18 into a car; right?

19 A Correct; our purpose of our interview was to find out what his
20 involvement was.

21 Q Right.

22 And would it be fair to say you don't even know if he was even
23 involved in the car being burned and the body being out in the middle of
24 the desert; right?

25 A Again, until the interview, no.

1 Q You don't know that?

2 A Up to the -- up to the interview?

3 Q Right.

4 A Specifically; no, we don't.

5 Q So -- all right. So when you were meeting with Je'cory Kemp
6 your intent is to get basically a confession; right?

7 A Correct.

8 Q I mean you want him to say, yeah, I was there and this is what
9 I did; right?

10 A Yes, we want him to lay out what his participation was at that
11 point.

12 Q And would it be fair to say, based upon your experience as a
13 detective over years, that, you know, a confession is a pretty good piece
14 of evidence that you want to show to a jury?

15 A Correct.

16 Q Because it's -- it takes a lot of the guesswork out of it; right?

17 A Well, it definitely helps your investigation, for sure.

18 Q For sure.

19 And, in fact, in this case, because of so much information that
20 Mr. Kemp gave you it helped you track down all these other individuals,
21 all these other moving parts; right?

22 A Correct.

23 Q Okay. Now, would it be fair to say though that, you know,
24 when you were sitting there and you're talking to Je'cory that when you
25 kept telling Je'cory, You're not telling us the truth, in essence, you were

1 kind of lying to him; right?

2 A No, at this point, like I said, there's things that you can see,
3 again, where people wanted to create distance; correct, if you're
4 involved in something, you're going to want to create distance, you're
5 going to want to minimize your activity in something. And due to my
6 experience over time, you feel when people are starting to minimize
7 things. And as you go through that interview with him, you see he
8 minimizes quite a bit. But as we talk further, more and more of that
9 comes out.

10 Q Okay. And that's -- that's great. I appreciate you doing it.
11 Because I don't think anyone here in this room will disagree with that
12 statement; okay, the idea of minimization; right?

13 A Correct.

14 Q Okay. So but, in essence, though, once again, my question's
15 very simple, at that time that you are telling Je'cory Kemp, You're not
16 telling us the truth, you don't know what the truth is?

17 A We're trying to find that out.

18 Q Correct.

19 So you're basing it upon a feeling and maybe sometimes just
20 based upon just life experience; right, well, you know, maybe you're
21 minimizing what's going on inside that room; right, something like that?

22 A Correct.

23 Q That's what's going on in your head?

24 A Correct.

25 Q Okay. Now, with regards to the -- but, once again, with

1 regards to my statement, with regards to the truth, you believe on some
2 level Je'cory Kemp had something to do with something in that room, he
3 participated in that, whatever it is?

4 A Correct; yes.

5 Q Okay. Now, how many confessions have you had over the
6 course of your experience as a police officer?

7 A Oh, I couldn't tell you an exact number, quite a few.

8 Q Okay. And would it be fair to say that confessions are the type
9 of things that you want to make sure you do right; right?

10 A Yes.

11 Q In fact, we saw some video yesterday where the other
12 detective, Detective Dosch, had stopped in the middle of the interview
13 and said, Hey, you know what, okay, I just want to make sure we're clear
14 we haven't demeaned you, we haven't disrespected you, we haven't
15 yelled at you and called you names, I mean, that's a kind of a way, I
16 think, for everyone to say, Hey, you know what, what we're doing here is
17 kosher and okay; right?

18 A Correct.

19 Q And that you're going along with it Mr. Kemp; right?

20 A Correct.

21 Q Okay. Because, in essence, that would be something that
22 would be of concern maybe to 12 people sitting here in the box; right?

23 A Correct.

24 Q Okay. And, now, with regards to the confessions though,
25 wouldn't you be -- wouldn't you agree though that those confessions

1 have to be clear?

2 A Yeah, I would say that had -- need to be clear.

3 Q Meaning that they would have to be -- that there would be no
4 other interpretation of whatever it is that's being said; right?

5 A Well, that's a broad point; right, that's, again, perception; right
6 for, one; and, number two, when that confession's coming, again, you're
7 going to have minimization. Plus too, you've got to remember, when
8 things happen and transpire, especially something that's -- in this
9 instance; right, there's a lot of moving parts going on during the time of
10 the incident, people's recollection can change and vary.

11 Q Right.

12 And in this case would it be fair to say that Je'cory's giving you
13 information, you're saying, well, well, okay, you're lying to me about this,
14 it wasn't building number 3, it was building number 11. Could it have
15 been building number 3 in his head? How do you know that he was
16 lying at that point?

17 A Well, again, that's where you get the minimization; right, he
18 lived in building 3 but he hadn't lived in building 3 at the time of the
19 incident. So that was an obvious lie. And I knew that based off of my
20 investigation at the scene that he had vital property that belonged to him
21 still inside that unit.

22 Q Sure.

23 Now, do you know if he ever received any mail to that
24 property?

25 A As far as to there, I don't -- I can't recall if he had any bills or

1 anything in his name there.

2 Q Okay.

3 A But, again, there were vital documents that --

4 Q So --

5 A -- pertained to him, as well as clothing that were in there.

6 Q All right. So, once again, I guess the question is, if a person's
7 never using their address, for any other purpose other than just to sleep
8 in this certain area, are you saying at that point you should still be able
9 to remember exactly what the address is?

10 A Most adults will know where they're staying.

11 Q Okay. Now, in addition to that the other question I have is that
12 when you write reports you do it for the same reason; right, you write
13 reports to be as clear as possible; right?

14 A Correct.

15 Q With all the information you have at the time?

16 A Correct.

17 Q And you're doing that for one specific reason, that is to help
18 you in your investigation; right?

19 A Yes.

20 Q Well, actually it's two reasons now.

21 And then the other reason is in the future if you're ever talking
22 to a jury you're talking to them and if you can't really remember
23 something you're like, Oh, wait, I wrote a report, let me refresh my
24 recollection so I can be accurate to the jury as to what happened; right?

25 A Correct.

1 Q And you do that because you have hundreds of cases --

2 A Correct.

3 Q -- over the span of your career; right?

4 A That's correct.

5 Q Okay. Now, with regards to the -- to the idea here of truth
6 telling, going back to that idea again, are you where the buck stops,
7 meaning are there other rogue reports out there roving around in this
8 case that you don't know anything about?

9 A So there's reports that come in from San Bernardino County
10 obviously because those detectives began their initial investigation, then
11 there are -- you have every, every investigative section that assisted us
12 there are reports that they generate as well.

13 Q Okay. So, for instance, a Declaration of Arrest Report, is that
14 something that you would have seen as part of your investigation,
15 putting together the files so you could submit that at some point to the
16 District Attorney's Office?

17 A Yes.

18 Q Okay. And that's something that you would have reviewed
19 and it's your responsibility to make sure that that's in the file for the
20 District Attorney's Office; right?

21 A That's correct.

22 Q Okay. So when you had met with Je'cory -- and, I'm sorry, let
23 me --

24 MR. SANFT: Your Honor, may I present this to --

25 THE COURT: Sure.

1 MR. SANFT: I'm just going to do this ahead of time.

2 THE COURT: The marshal will hand it to the witness.

3 BY MR. SANFT:

4 Q Sir, what I'm giving you is a copy of the transcript and I want
5 you to take a look at it real quick and just to see if you recognize that first
6 before we begin.

7 Good?

8 A Yes.

9 Q Okay. All right. And so let me turn, first of all, with regards to
10 what I'm talking about right now, if you turn to page 2 with me, at some
11 point you had said to Je'cory, right before you mirandized him you said,
12 You're detained at this point. You're not under arrest. You're being
13 detained. There being detained, anything you and I talk about you have
14 Miranda rights to.

15 Do you recall that?

16 A I do.

17 Q Okay. Was that a lie or was that the truth?

18 A At the time he was detained we're still investigating.

19 Q Okay. Now, you are aware though that in your Declaration of
20 Arrest you indicate that he and Tyeshia was actually arrested at the time
21 at the --whatever the location was that they were at, 5950 Barbosa
22 Drive.

23 A Okay.

24 Q Are you aware of that?

25 A Yes.

1 Q Okay. So are you saying that this report is wrong or you're
2 saying -- and not the truth, are you saying that this statement here that
3 you made was wrong and not the truth?

4 A Well, in this instance there is leeway allowed to; right, when I
5 conduct interviews with subjects, suspects; right, that allow me to use
6 that deception to further my investigation.

7 Q Yeah, but you're not -- you're not interviewing a client right
8 now or any person, you're talking to me in court under oath.

9 A Okay.

10 Q All right. So as a result, what I asked you earlier was, was this
11 true or was this true, what you -- what this Declaration of Arrest says is
12 true or is this what you're saying true, which one is it?

13 A So the truth is both because at the time that he's in custody;
14 right, he's being detained and he was arrested.

15 Q So basically you -- what you put in the report is that he was
16 arrested at the scene, when he was detained, and what you told him
17 later -- what you told him later really wasn't the truth? And, once again, I
18 want to make sure I'm fair, you also are telling --

19 MR. DIGIACOMO: Objection, argumentative.

20 MR. SANFT: No, I'm cross --

21 THE COURT: Finish up the question, let me hear.

22 BY MR. SANFT:

23 Q What you're also telling the jury though is, in essence, just
24 correct me if I'm wrong, that you can use some subterfuge; right, you
25 can say some things that aren't true to help you try to elicit more

1 information; fair?

2 A That is correct.

3 Q Okay.

4 MR. SANFT: Is that fair?

5 BY MR. SANFT:

6 Q All right. So, now, with regards to the -- so with regards to
7 the -- that statement though, and I want to make sure we're clear, at that
8 point you're not telling the truth to Je'cory; right?

9 A That'd be correct.

10 Q Because you believe you have a right to do that?

11 A Yes.

12 Q Okay. Now, in addition to that is you are taught techniques on
13 how to interview people; right?

14 A That's correct.

15 Q Is that beyond what you do when you're in the police
16 academy?

17 A Yes.

18 Q Okay. So that's a separate sort of -- well, I'm sure you get
19 some discussion, some training while you're in the academy about how
20 to talk to people; right?

21 A That's correct.

22 Q But when you become a detective there's a certain heightened
23 sense of, okay, this is more technique 'cause you're going to have more
24 in depth sort of conversations with people; right?

25 A Yes, there's more training that comes with that, yes.

1 Q Okay. And in this particular case the training that you had in
2 this case is pretty obvious from the video; right?

3 A Yes.

4 Q Okay. And correct me if I'm wrong here; right, so when we
5 watched the video you first walked in -- was that you, first of all?

6 A Yes.

7 Q Okay. You walked in first, you sat down, little bit short, little bit
8 rough, business-like to the point. Would that be a fair description of
9 what you were doing in the video up until the time Detective Dosch came
10 in?

11 A Correct.

12 Q Okay. Detective Dosch comes in and then at that point it's, for
13 better use of a word, warm and fuzzy; right?

14 A Okay.

15 Q He's more of a friend, he's more talking to you, hey, let's have
16 a conversation; right?

17 A Correct.

18 Q Okay. And the common vernacular bad cop/good cop, good
19 cop/bad cop; right, the idea of building trust you have somebody there
20 to, kind of, contacts with the person that you want to build trust with, that
21 kind of thing?

22 A Every detectives got their different style. My style is different
23 than Detective Dosch's.

24 Q Sure.

25 A There's techniques that he uses, there's techniques that I use,

1 that's not to say that those techniques aren't interchangeable or
2 change. In this instance there was no -- there was no pre-planning of
3 the way that Detective Dosch comes in.

4 Q Right.

5 So there's not like a dress rehearsal and a script; right?

6 A No.

7 Q Okay. But, once again, the intent is pretty clear, you want to
8 elicit some sort of level of trust with the person so that they can open up
9 to you about what actually happened?

10 A Correct.

11 Q Okay. Do you know what the difference is between a direct
12 question and a leading question?

13 A Yes.

14 Q Okay. And that's part of your training; right, is to talk about,
15 hey, telling someone what to say is different from hearing what they're
16 saying; right?

17 A Correct.

18 Q Okay. Now, in this case you had said -- okay, you were in this
19 room. Do you know how long Je'cory was in that room prior to you
20 interviewing him?

21 A He was in there for quite a while.

22 Q About two and a half hours; would that be fair?

23 A That'd be correct.

24 Q Okay. And the entire time he's hooked up to that thing that's
25 on the side there that you see in the video?

1 A That's correct.

2 Q He's not like just sitting in the room secured, like he actually is
3 hooked up to that thing?

4 A That's correct.

5 Q Okay. Can you describe for the gentlemen and ladies of the
6 jury kind of the dimensions of that room, how big it is?

7 A The exact dimensions, I couldn't say. I'd say approximately
8 10 by 8.

9 Q Okay. And it's a little bit interesting when you look at the video
10 the table is actually up in the corner of that room, it's not dead center in
11 the room. Did you ever observe that before?

12 A I mean, it's noticeable, you can see it.

13 Q I mean, there's -- but the camera angle to it, for instance,
14 there's nothing behind like underneath that camera angle that says, Hey,
15 we're putting like shelves on here of stuff; right, I mean, it's literally just
16 that room, that table, those two chairs, and it's in that corner?

17 A That's correct.

18 Q Okay. And when you're -- when you sat down you sat down
19 exactly opposite to Mr. Kemp and then Mr. Dosch came in and sat down
20 actually on the head of the table closer to Mr. Kemp.

21 A Okay.

22 Q Well, at some point Detective Dosch reaches out and like, kind
23 of, touches him; right?

24 A He does, yes.

25 Q Is he a kinesthetic guy, you know, kind of a touchy-feely sort

1 of guy, like, Hey, you know what, if I touch you, we're going to form a
2 bond. Is he that kind of guy based upon your experience?

3 A He is.

4 Q Okay. And so as a result he's doing that but he's doing really
5 for the intent of getting a confession; right?

6 A Yes, he's doing it to establish rapport with Mr. Kemp.

7 Q Sure.

8 Now, when this is going on in that room can you tell me what
9 the temperature is like in that room?

10 A The exact temperature, no. I mean, it's climate controlled. It
11 wasn't hot. It wasn't cold. We will -- usually if it's -- if that room is warm
12 when we get in there, we'll turn the air down. We want to make it
13 comfortable.

14 Q Okay. Have you ever sat in that room for two and a half hours
15 chained to that thing before?

16 A Have I -- yes, I have.

17 Q You've sat in there chained to that thing for two and a half
18 hours?

19 A During multiple interviews, I've been in there for a number of
20 hours in that room.

21 Q No, but I'm asking a very specific question, have you ever
22 been chained to that wall in that way that Mr. Kemp was?

23 A Oh, have I? No, I have not.

24 Q Okay. And then at some point when you begin the interview
25 with Mr. Kemp, Detective Dosch comes in and then you guys talk; right?

1 A That's correct.

2 Q Okay. Now, I guess one of the techniques that's used at
3 some point is maybe some light laughter, some joking, that kind of thing;
4 right?

5 A Correct.

6 Q And in this case you can see that there --at some point there
7 is some light laughter, some joking about something?

8 A Correct.

9 Q And that's, once again, part of the technique; right?

10 A It's part of -- part of having conversations with people.

11 Q Sure.

12 A Like a lot of times you can't control those things 'cause
13 that's -- it takes you where it goes depending on the subject's response.

14 Q Yeah.

15 A In that instance Mr. Kemp had gotten relaxed and he had
16 good rapport, established with -- specifically Detective Dosch, I think,
17 when you're referencing the laugh.

18 Q But, once again, it's an effort; right, I mean, it's not -- it's one
19 of those things where there's an end game to why the laugh is
20 happening, why the joke is happening; right, the idea is "I want to get the
21 confession"; right?

22 A Absolutely, we want -- we want to obtain as much information
23 at that time as possible.

24 Q 'Cause, I mean, I would imagine, and I don't know the answer
25 to this question, so maybe I shouldn't ask it on cross, but

1 Detective Dosch hasn't shared a laugh with my client since that
2 interview; right?

3 A Not that I'm aware of, no.

4 Q Now, in terms of the testimony, or the confession that my
5 client gave, somebody asks the question, Hey, okay, tell us what
6 happened, and then there's some discussion as to what happened.

7 And if you could turn with me to page 7.

8 And this -- the transcript, the way it's phrased, there's some,
9 maybe some mistypes in here in terms of word choice by the
10 transcriptionist. So if you see something that seems out of place, just let
11 us know.

12 But with regards to the discussion, your question was, Okay.
13 So I want to know what happened over there at the Sienna Suites. What
14 I want to know is -- what I want you to do is try to help yourself at this
15 point.

16 Is that technique?

17 A It is.

18 Q Because in essence, I mean, what you want him to do is
19 confess to a murder; right?

20 A Well, I want him to confess to what his role in this situation
21 was and at this point we don't know who our shooter is in the
22 investigation

23 Q Sure.

24 And with regards to that last part, the next line down just from
25 that, what I just read, said, By being truthful with me; okay.

1 And I guess the question is, and, once again, the problem is at
2 this particular point you don't know what the truth is and you're just
3 telling him, Hey, I want to know what the truth is; right?

4 A Correct.

5 Q You're bluffing?

6 A Yes.

7 Q Okay. Now, you go down here at the end of this and you say
8 something along the lines, You don't seem like a bad person to me. At
9 some point in the future, I think Detective Dosch says, Hey, you know
10 what, you don't have tattoos. I don't know what your background is.

11 Those are all sort of -- well, actually, I think it's you. That's
12 part of the technique; right, is to say, Look, hey, you're not a bad guy, we
13 just want to know the truth, tell us the truth?

14 A Correct.

15 Q Okay. Now, at some point after that he does tell you; right, he
16 tells you what he -- what he says?

17 A Yes.

18 Q So with regards to what he says, he goes through and he
19 says, Yeah, well, it was, something happened, it was a drug deal and all
20 of a sudden somebody got shot, and blah, blah, blah; right?

21 A Correct.

22 Q That's that minimization that I think you talk about, the idea
23 that, okay, there's got to be more to it than just that; right?

24 A Correct.

25 Q But you don't know for sure?

1 A No, that's what we're trying to find out.

2 Q Okay. And it's not like -- and I want to be clear too because
3 sometimes there's some discussion about FBI agents being like human
4 lie detectors, you guys aren't human lie detectors; right?

5 A No.

6 Q There's no training that you guys have to say, Oh, if I -- if the
7 person that is asked the question looks up to the right, then he's
8 accessing the left part of his brain, which means he's being creative,
9 which means he's lying.

10 You're not doing any of that stuff; right?

11 A No, I mean, there's all kinds of techniques and theories out
12 there and training that you can receive. You know, am I a human
13 detector? No, I'm not -- I'm not going to claim that.

14 Q Okay. And if you can just flip with me over to page 17, and
15 continue on, and the discussion goes about you appreciating, I think it's
16 like four lines, five lines down, you appreciating him being honest, you've
17 been forthright, and then at that point he talks specifically about what
18 happens on that day; right?

19 A Correct.

20 Q And it goes through for the next little while here, the jury will
21 be able to see the video, he's actually discussing things like Sayso, and
22 Sayso's brother.

23 I mean, these are people you don't even know anything about.

24 A Correct; just monikers at this point.

25 Q Okay. And he's talking about, you know, the guy with the

1 dreads, and, you know, and he's saying exactly what's happening inside
2 of that room; right?

3 A Correct.

4 Q That's his very first discussion with you?

5 A Yes.

6 Q And then at that point -- I guess my question is is why isn't that
7 the truth?

8 A Well, again, there's -- you're going to go over these things
9 several times, that's something we're going to do; right, be thorough,
10 much as -- the same thing you're going to repeatedly ask me a lot of the
11 same questions over and over; right, to try and get and establish a level
12 of truth; right. So we're going to go over those details several times.

13 Specifically in homicide investigations most people just don't
14 willingly tell you every little detail. And on top of that too; right, we're
15 asking someone to go back and recall things from something that was
16 traumatic and as we go over those things we're hoping that that recall
17 gives us more detail.

18 Q Thank you.

19 All right. If you can flip over with me to page 25.

20 A Yep.

21 Q At some point during the discussion that you have, and the
22 confession that you have with Mr. Kemp, he talks specifically -- the
23 question was then asked about Sayso; right, there's some intent here at
24 this point, like, hey, Sayso might be a prime person of interest to us.
25 Something like that; right?

1 A Correct.

2 Q Okay. And then at that point there's some discussion here
3 about Je'cory basically saying something to do with what Sayso was
4 doing there. And I think that's the first time -- at least that educated you
5 and Detective Dosch as to the plan; right, the idea of who's talking about
6 what and when does that plan start to formulate?

7 A Correct.

8 Q Okay. And in this case this happens the night before based
9 upon what Mr. Kemp is telling you; right?

10 A Correct.

11 Q Specifically he says here, you asked the question, What time
12 did Sayso come over that morning?

13 And Mr. Kemp says, uh, yes, he came over, he came over
14 pretty early. Um, because I know, um, the night before he was talkin'
15 about it and then -- and I'm sure at that point, now, you're like, oh, the
16 night before -- and then 'cause he, uh, Sayso came over the night before
17 and he said, oh, here's what Herman did, so when did we get 'em?
18 They start talkin' about it.

19 Right?

20 A Correct.

21 Q So he's saying -- does he ever, in that very beginning part, say
22 we started talking about it?

23 A Does he say we; no, he doesn't say we.

24 Q So one of the things that you do during the course of the time
25 that you spent with Mr. Kemp is you asked him about one word and that

1 word is "role"; right?

2 A Correct.

3 Q What does role mean to you?

4 A Role is what your, in a sense, job, or what your activity was
5 going to be. In this instance, he's laying out a conspiracy to commit a
6 robbery, which is multiple people involved in that situation so. I didn't
7 know specifically what his -- what his part is in that conspiracy.

8 Q And would it be fair that when you are trained as a police
9 officer you are trained in the law, not necessarily to the level of, say, an
10 attorney, but you understand, you know, the elements of the crimes to
11 which you might run across when you're a police officer; right?

12 A That's correct.

13 Q Okay. And that includes robbery?

14 A Yes.

15 Q And that also includes murder?

16 A Yes.

17 Q And that also includes felony murder; right?

18 A Yes.

19 Q Okay. So when you're having this conversation with Je'cory
20 you understand the idea of what felony murder means?

21 A Yes.

22 Q What is felony murder?

23 A So felony murder is -- is in that conspiracy, that group where
24 multiple people are taking part in illegal activity and that results in the
25 murder, the homicide of another individual.

1 Q Okay. Meaning they start off intending on doing one thing and
2 then it ends up being with someone dying and as a result they're
3 charged with murder?

4 A Correct.

5 Q Okay. Now, in this case you asked the question, What was
6 your role supposed to be in all that; right?

7 A Correct.

8 Q Okay. And that's really what you wanted to know is like, okay,
9 what did you do, basically is what you're saying --

10 A Yeah.

11 Q -- what was your job; right?

12 A Correct.

13 Q Okay. And in the beginning what does Mr. Kemp tell you?

14 A Mr. Kemp minimizes as much as he can at that point; right.

15 Q Okay.

16 A He talks about opening the door. He talks about being
17 present when this is discussed. He talks about just being there.

18 Q Okay. So, in essence, that's what he says; right?

19 A Yes.

20 Q Can't even tell ya, I was just there, I was just there; right?

21 A That's correct.

22 Q Okay. And then, once again, you press; right, you ask the
23 question, the next page, on page 26, You had to have a role, you had to
24 have a role; right?

25 A Correct.

1 Q You're pressing.

2 Once again, you say, You not lookout, were you the lookout,
3 you're the person out there, you know, making sure no one comes up to
4 the -- up the stairs, something like that; right --

5 A Correct.

6 Q -- offering him some type of job?

7 And with regard to that he says not even that; right, I wasn't
8 even the lookout?

9 A Correct; he's -- in my opinion at that point he's minimizing his
10 role.

11 Q And then, once again, you believe that to be true, that's your
12 truth in your head, is that you believe that Je'cory was actually
13 minimizing as he's talking to you?

14 A Correct.

15 Q Okay. And then, once again, you ask the question, You're all
16 supposed to be there in case of somethin' -- tryin' to fight; right,
17 meaning, once again, you're giving him another job, another role; right?

18 A Correct.

19 Q And, once again, he says, no; right?

20 A Correct.

21 Q And if it's not getting -- I'm just going right off the transcript.

22 A No, no you're fine.

23 Q Okay. So, in essence, look -- and how does he explain it? He
24 just says, We're all sitting in a room, I didn't feel like I had anything
25 specific to do. I just sat there and watched.

1 Right?

2 A Correct; that's what he's telling us.

3 Q Okay. And, once again, that's something that the jury can see
4 in the video as well; right?

5 A Yes.

6 Q Okay. So, in essence, that's what he was saying in the
7 beginning?

8 A Correct.

9 Q Now, flip with me over to -- now, you're spending some time
10 with him, you're going over details, and then if you flip with me page 33,
11 Sanyo comes back into the conversation and the idea was is that, Hey,
12 you know, he was talking about getting, you know, make a little plan and
13 everything and then he was going to go feed the kids and then come
14 back.

15 And then basically Je'cory says to you, on page 34 at the top,
16 the third line down, he didn't believe Sanyo; right, he said, I don't
17 believe him honestly, I didn't believe it was going to happen, any of this.

18 Right?

19 A Correct.

20 Q In your mind, based upon what you believed to be true, even
21 though at the time you didn't know anything, is he's lying, he's
22 minimizing, he's mitigating his role; right?

23 A Correct.

24 Q Okay. But he's telling you over and over again he's being
25 consistent at this point that, Hey, I had no role, I had no job, and I didn't

1 believe this to be true, like it was going to actually happen; right?

2 A Correct; that's what he's saying, yes.

3 Q Okay. Now, just to be clear to the jury, whose house or whose

4 residence was this?

5 A It was rented in Kemp's girlfriend's name.

6 Q Okay.

7 A So Ms. James.

8 Q Okay. So -- but Kemp lived there as well with his girlfriend;

9 right?

10 A Correct.

11 Q Okay. A.J. didn't live there; correct?

12 A No.

13 Q And Sanyo didn't live there?

14 A No.

15 Q Okay. Page 36, you asked the question specifically about the

16 girls, you know, did the girls know this was going to happen; right?

17 A Yes.

18 Q And then Je'cory said, uh, the exact.

19 And then you clarified to say, Not the shooting part but just.

20 And I'm assuming what you were trying to say the robbery;

21 right --

22 A Correct.

23 Q -- not the shooting?

24 And the answer that Je'cory gave is, Yeah, yeah, they knew --

25 they knew, 'cause like we said we all kinda -- they all talk.

1 Right?

2 A Correct.

3 Q Okay. Payso and Sayso talked about the whole thing. We
4 were just all there or whatever.

5 Okay?

6 A Yes.

7 Q Now, let me go back here, obviously we're reading off a
8 transcript, jury will have an opportunity to look at the actual video on this
9 particular statement, when you read it, the first way that I read it, Yeah,
10 they, yeah, they knew -- they knew, 'cause we -- we -- like I said, we all
11 kinda -- they all talk.

12 Okay?

13 A Mm-hmm.

14 Q You read it that way it sounds like gibberish, maybe a little bit
15 weird, whatever, but the phrase is, if you were to look at the -- once
16 again, based upon the video, "they all talk", what does that mean to you,
17 based upon your experience as a detective when he says "they all talk"?

18 A So, in my experience, I've got a room full of people that are
19 discussing a robbery and this person is present, this person is a part of
20 that conversation but they're trying to minimize. That's how I interpret
21 that statement from him.

22 Q Okay. So when the phrase is, "they all talk"; right?

23 A Correct.

24 Q You're looking at the viewpoint of meaning everyone, including
25 Je'cory, is having a conversation on how to rob this guy?

1 A Correct.

2 Q Okay. But you're not looking at necessarily from any other
3 perspective, just that one perspective 'cause that's your truth; right?

4 A Again, you know, when you look at -- again, experience; right,
5 where I've got people plotting something, so there's a plan of a robbery,
6 we're going to take this person's weed, which is the statement that he
7 makes, and you're in that room you're going to want to separate yourself
8 from that conversation when you're talking to the police. That's a normal
9 reaction. I've seen that a lot over the course of the years.

10 Q Sure.

11 A And, again, that's a discussion that's happened. So is he the
12 primary plotter in that? We don't know that. But he's a participant in that
13 conversation.

14 Q Once again, you don't know that though; right?

15 A Again -- correct. That's -- and that's why we're asking these
16 questions.

17 Q So, once again, I could be sitting in a room with you and not
18 say a word but because I'm in the room you think I'm a participant?

19 A Again, multiple people in a room where illegal activity is being
20 plotted and planned, that makes you a participant.

21 Q Gotcha.

22 A You're part of that conspiracy by being a part of that.

23 Q So you're saying just being merely present is enough for you
24 to say that you're guilty of a crime?

25 A Well, that you -- that you have a part, you have a role, you

1 don't -- he doesn't leave. He never takes -- he never says I hear this
2 discussion and I decided that I don't want any part of this and I leave.
3 He never takes that opportunity.

4 Q Well, let me ask you this though, fast forward now, you're here
5 in court, we're having a pleasant conversation in front of these people,
6 what exactly was Je'cory's role?

7 A Well, so, when you look at his role in this he opens the door;
8 correct, he lets Mr. Anderson in, which is the statement he makes.

9 Q Okay.

10 A Later in that discussion when we asked him, you know, what --
11 what would you have done had he gone to leave? He tells us that he's
12 there; he would have kept him from going.

13 So he knew -- he knew that the initial plan was to take that
14 marijuana from Mr. Anderson.

15 Q Well, that's, I guess, that's why we're going through this
16 transcript because I want to make sure the jury understands; okay?

17 A Correct.

18 Q All right. Because obviously we're going to disagree on that
19 point.

20 But let's go back here, so, in essence, I just want to make
21 sure, you're saying that his role was to open the door; right, and be
22 present?

23 A That's what he tells us; correct.

24 Q Okay. Now -- let's see here, if you flip with me over to page
25 63 -- actually, no, I'm sorry, 74, I apologize, Detective,

1 Okay. 74, once again, I think Detective Dosch at this point
2 starts asking the same question, What was your role; right?

3 Now we're deep into this interview, this is 120 page transcript,
4 we're at page 74; right?

5 A Correct.

6 Q So you're going back again to that question because my
7 guess is at that particular point neither you nor Detective Dosch, and you
8 tell me if I'm wrong, didn't feel like you had enough there, like he didn't
9 really say enough to say, I was there and I participated.

10 Would that be fair to say?

11 A Again, we're trying to get as much information as we can.

12 Q Okay. All right. So you were there and you asked the
13 question again, What is your role?

14 And, once again, he just said, Just to be there.

15 Right?

16 A Correct.

17 Q Now, the detective then says, very notably, you know,
18 Everyone gets a role. I spent 5 and -- 5 and to 12 -- 12 years --

19 A I believe that's supposed to be 5 and a half.

20 Q -- as a robbery detective.

21 Do you remember that?

22 A Yes.

23 Q Okay. And so he tells Je'cory, Everyone gets a role; right?

24 A Correct.

25 Q Okay. Now, it goes -- now, you have to understand something

1 now it went from "what was your role" to "everyone gets a role", meaning
2 it went from a question to a statement to Je'cory; fair?

3 A Fair.

4 Q Okay. And then Je'cory says, I understand.

5 And then at that point what does the detective do? He just
6 says, look, it could be small, you could be the gun guy, you could be the
7 shooter, you could be there for the extra muscle in case this thing goes,
8 whatever wrong, because even if they're unarmed, there's a fight that's
9 not gonna last long.

10 Right?

11 A Correct.

12 Q He gives him, was it that, three choices? So the first choice
13 you could be the gun guy, second choice you could be the muscle, that
14 guy the muscle; right?

15 A Mm-hmm.

16 Q Or the third choice, I think earlier, was lookout; right?

17 A Correct.

18 Q Did you ever give him the fourth choice of maybe you didn't
19 have a role or no role?

20 A No, no, we didn't. We don't offer him that, no.

21 Q What's that?

22 A No, that was not offered.

23 Q Okay. Because, once again, your truth is he had a role; right?

24 A Correct.

25 Q And so you're operating off that truth; right?

1 A Correct.

2 Q And the reason why you keep asking the question over and
3 over again is because you hadn't gotten exactly what you needed for
4 that truth; right?

5 A Well, no, again, we're trying to get the -- as much detail as
6 possible. If Mr. Kemp had no role, he could have left when the girls
7 leave; correct? And he doesn't.

8 Q No, he could have, yeah, you're right. But I don't know if he
9 needed to or not, if he had to. But let's go through this.

10 So later down this particular page here, page 75, you asked
11 again, or Detective Dosch asked again, What was your role; right, you
12 keep hammering on this role thing?

13 A Correct.

14 Q Because even up and to that point you don't get the answer
15 that you're looking for; right, in this confession?

16 A Well, there's more to the case just outside of the robbery;
17 correct, there's the shooting, then we have the cleanup portion, and then
18 we have the disposal of the body. So there's -- there's --

19 Q Oh, we're --

20 A So there's -- there's --

21 Q -- yeah, we're going to get there.

22 A -- there's more -- there's more questions.

23 Q For sure. Yeah, we'll get there.

24 But in terms of the actual shooting itself; okay, once again,
25 what does he say in terms of -- well, actually, let me take that back

1 'cause he did say something that was kind of interesting,
2 Detective Dosch basically made my client look at him; right, look at me --
3 what does he say? -- just look at me; okay, just be honest; right?

4 A Mm-hmm.

5 Q Meaning that if he -- look at him face to face that the truth was
6 going to come out; right?

7 A Correct.

8 Q First it's the hand on the shoulder; now it's the face to face.
9 And we're talking in a very short, I mean, distance, we're talking within
10 maybe a couple of feet; right?

11 A Correct.

12 Q So at that particular point Je'cory says the following, My role,
13 like I said, it was never discussed or said.

14 Right?

15 A Correct.

16 Q Okay. But I guess this is the part where you start thinking,
17 okay, what he says next is actually what I wanted to look for in terms of
18 my truth, your truth, the truth that you were looking for; right?

19 A Well, again, not so much my truth but what the truth is.

20 Q Sure.

21 But here's what he says, but if I was there for it to be extra
22 muscle or whatever, then I guess that's what, 'cause it was never
23 discussed.

24 I guess the words I'm looking for here that are important is the
25 word "if." What does that word "if" mean to you if it's meant -- if it's in the

1 sentence?

2 A It's possible.

3 Q But does that mean, yes, I have a role in this crime?

4 A It's not definitive, no.

5 Q Okay. And then the word "guess, I guess," what does that
6 mean?

7 A Again, it's not committing to either yes or no.

8 Q Okay. Then the question by Detective Dosch is, You were
9 never given an assignment, question mark.

10 And what does my client say?

11 A He claims no.

12 Q He says, no, not at all; right?

13 A Correct.

14 Q I mean, it's right there in the transcript.

15 A Correct.

16 Q He didn't claim any -- no, he just said, no, not at all.

17 And then here's the question, What do you think your role was
18 going to be; right?

19 A Yes.

20 Q What do you think your role is going to be? Now you're asking
21 him to guess or to speculate, is what we would like to say --

22 MR. DIGIACOMO: Objection, argumentative.

23 THE COURT: Sustained. Rephrase the question.

24 MR. SANFT: Okay.

25

1 BY MR. SANFT:

2 Q So when a person asks the question, What do you think your
3 role is going to be, what does that mean to you?

4 A Yeah, at this point we're -- we believe there's more information
5 there so we're trying to get that out of him.

6 Q Meaning?

7 A He's still minimizing to me and to Detective Dosch at that
8 point; hence, he's asking those questions.

9 Q Okay. But I guess my question really wasn't answered and
10 that is, What does that question mean to you? When someone asks the
11 question, What do you think your role is going to be?

12 A It's an opinion. We're asking your opinion.

13 Q Thank you. That's good.

14 Now, once again, because you have leeway as a police officer
15 you can lie to people sometimes to get to the truth; right, to your truth;
16 right?

17 A Correct; it's technique.

18 Q Okay. So when Detective Dosch says, Look, robberies got
19 nothin' on murder; right? So -- so -- it there -- we're like planets, uh,
20 away from each other. Right; meaning has nothing to do with the
21 murder, we're just talking about the robbery, in essence he's lying about
22 that; right?

23 A Yeah, he's minimizing -- he's trying to minimize it for
24 Mr. Kemp.

25 Q Okay. So it works when it's -- when Detective Dosch is

1 minimizing it's good -- or lying, it's good, and when somebody else is
2 minimizing that's bad; right?

3 MR. DIGIACOMO: Objection, argumentative.

4 THE COURT: Sustained.

5 MR. SANFT: All right.

6 BY MR. SANFT:

7 Q At what point -- you said here that he had said basically, you
8 know, I was part of this thing and blah, blah, blah. Is that the -- is that
9 what we just read, is that the part that you said, okay, this is where he
10 admits that he's part of this role or whatever?

11 A Can you clarify the question.

12 Q I know that was a bad question, sorry.

13 Was that -- when he said that last portion with
14 Detective Dosch, is that what you're talking about in terms of like, okay,
15 this is the aha moment?

16 A Not necessarily. I mean, again, we're still -- we're still --
17 there's more components to that, so obviously. And this goes on for
18 quite a while, still, I believe, almost -- I can't specifically say. I mean, it's,
19 what, a whole other hour I believe when Detective Dosch starts
20 questioning as well.

21 Q I know we were -- we were there for it. We saw it.

22 But let me ask you this though, so, in essence, what you want
23 to basically explain to the jury is that the next part of this is the taking of
24 the body, take the body down to California, burning the car with the
25 body, that stuff; right?

1 A Correct. We need all that.

2 Q Well, let's talk about that then, so how do you know that
3 Je'cory Kemp is the one that carries that body out -- by the way, does he
4 carry the body out of the apartment?

5 A They -- they dragged the body out.

6 Q Okay. Who drags the body out?

7 A Kemp and James.

8 Q James, meaning --

9 A Ms. James.

10 Q -- Tyeshia?

11 A Yes.

12 Q Okay. So they drag that body out and then at some point who
13 puts the body in the car?

14 A Mr. Kemp does.

15 Q Okay. So he carries the body.

16 How do you know that?

17 A Well, he tells us.

18 Q Okay. And then who drives the car with the body in it?

19 A Mr. Kemp does.

20 Q How do you know that?

21 A Well, if you watch the video, when they pull up in front of
22 Huteson's home, and also based off of his admission that he's the one
23 that drives that vehicle, when you look at those two things combined that
24 appears to me to be Mr. Kemp.

25 Q Well, just make sure we're clear, he says to you that he drives

1 the car; right?

2 A Correct.

3 Q Okay. So, I mean, getting the video later is kind of overkill
4 'cause you know who was driving the car that night, it was Mr. Kemp;
5 right?

6 A Well, it helps confirm that.

7 Q Okay. So even though he's admitting to a crime to you you
8 still have to confirm that; right?

9 A Well, that's part of the investigation; correct, I mean, it would
10 be a failure on my part; right, to not look at things as they come up.

11 Q Sure.

12 But at that particular moment, on January 10th, 2020,
13 Mr. Kemp is telling you I'm the one that pulled that body out of the thing,
14 I'm the one that took the body with Tyeshia downstairs, I'm the one who
15 had the body in the car, I'm the one who drove the car; right?

16 A Correct; at that point, yes.

17 Q Okay. But you didn't have any other information besides what
18 Mr. Kemp said?

19 A Correct.

20 Q Okay. So --

21 A Well, we knew physically that body had been removed that
22 way. We knew physically that that body had been placed in that vehicle
23 in that trunk. We had that physical evidence.

24 Q Yeah, that's called physics; right?

25 A But then Mr. Kemp's the one that states that he's the one that

1 physically does that.

2 Q Correct; he's the one who says, I'm the person doing this?

3 A Correct.

4 Q Right?

5 And then with regards to the car being driven out to California,
6 Je'cory Kemp is the one who told you that?

7 A Correct.

8 Q And then he also tells you at the end that he's the one that
9 lights it on fire?

10 A That's correct.

11 Q Puts the gas on it; lights it on fire; right?

12 A Correct.

13 Q So he didn't minimize any of that?

14 A That portion, no, he did not.

15 Q Okay. And as a result of that, as he's going through this
16 discussion about what he did in this case, once again, information you
17 never knew before and all of a sudden he's just letting you know, he's
18 telling you; right?

19 A Correct.

20 Q But your goal here, because you don't repeat yourself as to,
21 okay, the burnt car again, are you sure you're the one who burnt the car;
22 right, you don't say that multiple times?

23 A Correct.

24 Q You don't say, are you sure you're the one who took the body
25 down the stairs, are you sure it wasn't anybody else, you don't say it like,

1 are you sure that wasn't you?

2 A No, I believe I do ask if anyone else does help him.

3 Q Well, of course, of course.

4 A And then I make reference the fact that he has to do all that
5 work himself while Hickman watches.

6 Q Yes.

7 But, I guess, the question is, at the end of the day, is you're
8 looking for other people involved, but ultimately you don't ever question
9 again when he says, I took the body, I cleaned up the mess, I took that
10 body, drove it out to the desert, lit it on fire; right, you never question
11 that, you say, okay, great, that fits within my truth; right?

12 A Well, that fits with what me had.

13 Q Okay. But with regards to the issue of the role that he played
14 before the shot was fired at A.J., you questioned him multiple times,
15 backwards and forwards, about his role; right?

16 A Correct.

17 Q Okay. And I know I was here yesterday, two and -- two hours,
18 is that what it was?

19 A I think it's a little -- I think it's a little over that.

20 Q Okay. Just one final question, Your Honor -- I'm sorry, Your
21 Honor, I'm looking at you.

22 A I appreciate.

23 Q All right. Here's the final question, would it be fair to say, once
24 again, is that, you know, you do have to be accurate; right, you do have
25 to make sure that everything is precise; right?

1 A As precise as I can be; correct.

2 Q Sure.

3 I mean, that's the reason why you use video to help kind of
4 capture what's in front of you because that's better than writing a report,
5 is when you see it on video?

6 A It definitely helps.

7 Q Okay. And then with regards to looking at something you
8 know that, at the end of the day, there would be a time that you would be
9 in front of a jury, like this jury?

10 A Correct.

11 Q Talking specifically about this thing?

12 A Correct.

13 Q And you want to make sure that whatever information you
14 have is precise, exact; right?

15 A As best as I can, yes.

16 Q Okay.

17 MR. SANFT: I have no further questions, Your Honor.

18 THE COURT: Any redirect?

19 MR. DIGIACOMO: Yes, Judge.

20 **REDIRECT EXAMINATION**

21 BY MR. DIGIACOMO:

22 Q Detective, I want to start at the time of the -- at the beginning.
23 Mr. Sanft was asking you questions about what you knew and what you
24 didn't know when you went and you took mister -- pardon me, you had
25 the Criminal Apprehension Team take Mr. Kemp into custody, did you

1 know who was staying in that particular room?

2 A The room where he's arrested or the room of the --

3 Q The crime scene.

4 A The crime scene we knew -- we knew of certain subjects that
5 were staying there. We knew of four people specifically.

6 Q And you had their phone numbers; correct?

7 A Correct.

8 Q And I forgot to ask this yesterday, Mr. Kemp's phone number
9 on January 10th, where was it located -- where was it showing it was
10 pinging off towers?

11 A It was showing in Los Angeles, California area.

12 Q Okay. So at the time that you go looking -- or the Criminal
13 Apprehension Team is looking, his phone is actually with Mr. Hickman;
14 correct?

15 A That's correct.

16 Q Okay. But you also had Mr. Hickman's phone at that point,
17 the 716 number; correct?

18 A Correct.

19 Q And you had looked at that and seen that Mr. Hickman's
20 phone had been in the area of the fire where the body is found?

21 A Correct.

22 Q Okay. So you knew that?

23 A Yes.

24 Q You knew the apartment had been fully cleaned up?

25 A Yes.

1 Q And you knew that the people, the four people that were
2 staying in that apartment, hadn't been back to that apartment since the
3 first of the year?

4 A That's correct.

5 Q So did that give you some probable cause to think maybe
6 Mr. Kemp would have some information that you might want to know
7 about?

8 A Yes.

9 Q And, thus, you took him into custody; correct?

10 A Correct.

11 Q And Mr. Sanft made a big deal about detention versus arrest?

12 A Correct.

13 Q When you use the term -- or when you tell Mr. Kemp he's
14 detained, that means he's in custody; correct?

15 A Correct.

16 Q When you technically arrest him, where do you take him?

17 A To the Clark County Detention Center.

18 Q So when you're writing the report, he was arrested at this
19 house, it's where he was taken into custody, but physically that
20 Declaration of Arrest gets filed at the Clark County Detention Center;
21 correct?

22 A Correct.

23 Q There have been times when you've taken somebody into
24 custody, they've given you an explanation that you think maybe they're
25 not involved in the crime, they leave that interview room and don't go to

1 jail; correct?

2 A That's correct.

3 Q And so when you use that term, "detained" it's a legal term
4 that you're using with him; correct?

5 A Yes.

6 Q Now, obviously it's better to tell someone they're detained
7 then they're arrested 'cause they're more likely to talk to you; correct?

8 A That is correct.

9 Q So it's a technique?

10 A Yes.

11 Q Now, when you go in there you don't know a lot about what's
12 going on and Mr. Sanft said you don't know if maybe he's telling you the
13 truth about room 3303. Do you remember that?

14 A Correct.

15 Q Now, when you first ask Mr. Kemp where he had been staying
16 prior to Shanika's house, where does he tell you he was -- the last place
17 he stayed before Shanika's house?

18 A He starts describing another daily, weekly building, the
19 Sportsman's Manor.

20 Q 5600 Boulder Highway; correct?

21 A Correct.

22 Q Is that a clue to you that perhaps he is not going to be fully
23 honest with you?

24 A Yes.

25 Q Now, after that, when you tell him I know you were at the

1 Sienna Suites, that's when he tries to tell you it's room 3303?

2 A Correct.

3 Q And that was a clue to you that he's still not being completely
4 honest with you; correct?

5 A Yes.

6 Q And then you -- well, let me ask you this, how often in your
7 career have you walked in a room, sat down with somebody who was
8 involved in a robbery/murder, and they just said to you, yeah, look, we
9 all planned a robbery and decided to kill the guy and shot him.

10 Has that ever happened?

11 A No.

12 Q Right; it's not something that happens.

13 In fact, prior -- the reason Mr. Kemp is in this room for two and
14 half hours is why, why is he sitting in that room for so long before you go
15 in to talk to Mr. Kemp?

16 A Because we'd started our initial interview with Ms. James prior
17 to him.

18 Q Why did you start your interview with Ms. James?

19 A We started with her, we, at the time, felt that she would be
20 more likely to provide information rather than him.

21 Q And how did that work out?

22 A It worked out the opposite.

23 Q She lied to you for two and a half hours?

24 A Correct.

25 Q Okay. So then you went in and you talked to Mr. Kemp?

1 A Correct.

2 Q Okay. Now, there was all these questions about, you know,
3 the role, the role, and all these -- you keep asking him what was your
4 role, what was your role; right?

5 A Correct.

6 Q Okay. So he's telling you, I'm present for the description of a
7 plan to form a robbery but -- let me back up. Before he tells you that,
8 before he tells you that the night before there was a whole conversation,
9 he actually describes this incident without telling you that there was a
10 conversation the night before; correct?

11 A Correct.

12 Q And, in fact, when he tells you about the situation that
13 happens, where A.J. gets killed, he tells you he participates in that
14 event?

15 MR. SANFT: Your Honor, I'm just going to object to this as
16 being leading, the entire time.

17 MR. DIGIACOMO: That's fine.

18 THE COURT: Sustained. Rephrase the question

19 BY MR. DIGIACOMO:

20 Q Let me ask you this, before you ever get to the questions of
21 roles, does Mr. Kemp tell you anything about what he did during the
22 course of the robbery?

23 A He does.

24 Q What does he tell you?

25 A He tells us that he opens the door, that he allows A.J. to come

1 in, and then he describes when the gun comes out him trying to get A.J.
2 to put his gun away.

3 Q Does he say something about telling A.J. it's not like that?

4 A Yes.

5 Q Right?

6 Now at the time he hasn't told you that he knows it is like that;
7 correct?

8 MR. SANFT: Objection, Your Honor, leading again.

9 MR. DIGIACOMO: All right.

10 THE COURT: Sustained. Rephrase the question.

11 BY MR. DIGIACOMO:

12 Q He hasn't yet told you anything about the night before?

13 A Correct.

14 Q Right?

15 So let me ask this question, if you are aware that a robbery is
16 going to occur, and then you participate in the robbery, is that a clue to
17 you?

18 A Yes.

19 Q Okay. It's a clue that as a participant he probably was part of
20 that conversation?

21 A Correct.

22 Q And so when you're asking all these questions of him about
23 what role did he play, you're asking that because you had clues from
24 him?

25 A That is correct.

1 Q What does he tell you about not wanting witnesses to the
2 event?

3 A He describes that the girls, meaning Ms. Murphy and
4 Ms. James, are told to leave, specifically he had referenced the fact that
5 they would say something.

6 Q He uses the term, "they didn't want any witnesses"?

7 A Correct.

8 Q Okay. If he was a witness, what would you expect him to
9 have been told?

10 A To leave as well.

11 Q And so was that a clue to you that perhaps he's not being fully
12 honest with you?

13 A Yes.

14 Q The only other area I want to go to is Mr. Sanft made a big
15 deal about not questioning taking out the body, driving the body out to
16 the desert, pouring gasoline on him, pouring gasoline twice, head to toe
17 on the body of the victim, and being the person that lit the match, why
18 didn't you question that as minimization?

19 A 'Cause that -- that information was very specific and it had
20 matched what we had physically on the scene and forensically as well.

21 Q If -- you can understand why someone doesn't want to tell you
22 why they were -- they participated in a robbery, but can you think of a
23 reason why someone would admit to lighting a body on fire, if they
24 didn't?

25 A No, that -- that was odd.

IN THE SUPREME COURT OF THE STATE OF NEVADA

JECORY KEMP,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Docket No. 83383

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Michael Villani, District Judge
District Court No. C-20-346920-1

APPELLANT'S APPENDIX
VOL. 3 OF 3

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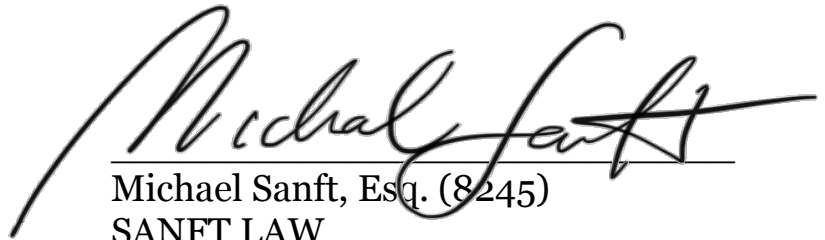
CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 29th day of December, 2021, a copy of the foregoing Appendix was served by electronic filing as follows:

District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155

Nevada Attorney General
100 N. Carson St.
Carson City NV 89701

DATED this 29th day of December, 2021.

A handwritten signature in black ink, appearing to read "Michael Sanft", is written over a horizontal line.

Michael Sanft, Esq. (8245)
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Attorney for Appellant JeCory Kemp

1 Q And even though he makes all those admissions to you about
2 what happens afterwards, at the time doesn't he tell you something
3 weird about leaving with one guy but coming back with a different guy?

4 A He does.

5 Q So at the time you didn't know that he wasn't being fully
6 accurate about that situation but you now know that even then he's still
7 not being fully accurate?

8 A That's correct.

9 MR. DIGIACOMO: Thank you. I have nothing further.

10 THE COURT: Any recross?

11 MR. SANFT: No, Your Honor.

12 THE COURT: Any questions by our jurors? Hearing no
13 questions.

14 Thank you, Detective, for your testimony.

15 THE WITNESS: Thank you.

16 THE COURT: You are excused.

17 Next witness for the State.

18 MR. DIGIACOMO: Assuming the clerk and I agree that all
19 exhibits marked have been offered and admitted, the State would rest.

20 THE COURT: All right. Thank you.

21 Ladies and gentlemen, the State has rested their case in chief.

22 Mr. Sanft, will you be calling any witnesses in your case?

23 MR. SANFT: Your Honor, if I could just have a quick -- a
24 quick break.

25 THE COURT: Sure.

1 Ladies and gentlemen, let's come back at 10:30; all right.

2 So during this morning recess you must not discuss or
3 communicate with anyone, including fellow jurors, in any way regarding
4 the case or its merits, either by voice, phone, email, text, internet, or
5 other means of communication or social media.

6 You're not to read, watch, or listen to any news or media
7 accounts or commentary about the case. You're not to do any research,
8 such as consulting dictionaries, using the internet, or using reference
9 materials.

10 You're not to make any investigation, test a theory of the case,
11 recreate any aspect of the case, or in any other way investigate or learn
12 about the case on your own.

13 And you're not to form or express an opinion regarding this
14 case until this matter's submitted to you.

15 We'll see you back at 10:15.

16 THE MARSHAL: All rise for the exit of the jury.

17 MR. DIGIACOMO: Judge, did you say back at 10:15?

18 UNIDENTIFIED SPEAKER: Yeah, he did.

19 MR. DIGIACOMO: That's two minutes from now.

20 UNIDENTIFIED SPEAKER: Yeah.

21 THE COURT: No, 10:30.

22 MR. SANFT: 10:30?

23 THE COURT: 10:30.

24 MR. DIGIACOMO: 10:30, oh, okay.

25 [Outside the presence of the jury]

1 THE COURT: And, Mr. DiGiacomo, did you have an additional
2 jury instruction you wanted to --

3 MR. DIGIACOMO: I sent it to Cory.

4 THE COURT: Okay.

5 MR. DIGIACOMO: It's only one line. I don't have instruction
6 paper in the courtroom.

7 THE COURT: Okay.

8 MR. DIGIACOMO: So hopefully he can add it to --

9 MR. SANFT: I don't have an objection, Your Honor, it's the
10 self-defense instruction about felony murder.

11 THE COURT: Okay.

12 MR. DIGIACOMO: Yeah, someone doesn't get to claim
13 self-defense in a felony murder.

14 THE COURT: All right.

15 [Recess taken at 10:14 a.m.]

16 [Proceedings resumed at 10:34 a.m.]

17 [Outside the presence of the jury]

18 THE COURT: We're on the record now. We're outside the
19 presence of jury panel.

20 Mr. Sanft, did you and your client have an opportunity to
21 discuss whether or not he's going to exercise his right to testify in this
22 case?

23 MR. SANFT: Yes, Your Honor.

24 THE COURT: And will he be testifying?

25 MR. SANFT: He will.

1 THE COURT: Okay. And will you be calling any other
2 witnesses besides your client?

3 MR. SANFT: No, Your Honor.

4 THE COURT: Okay. All right.

5 MR. SANFT: And, Your Honor, just as a matter of protocol, will
6 he be wearing a clear mask since he's testifying up on the stand?

7 THE COURT: Yes.

8 Marshal, we'll need a clear mask for Mr. Kemp.

9 THE MARSHAL: Absolutely.

10 [Pause in proceedings]

11 THE MARSHAL: Is he going up there now?

12 THE COURT: Yeah, we can have him go up there now and
13 you can go ahead and get the jury.

14 Will the parties be ready for closing today?

15 MR. DIGIACOMO: Absolutely. All you have to do is -- we'll
16 settle the instructions, go to lunch probably when this is done, and then
17 read 'em and argue.

18 THE COURT: All right.

19 THE MARSHAL: Is she going to swear him in now?

20 THE COURT: No.

21 THE MARSHAL: Wait for the jury?

22 THE COURT: Go ahead and have a seat, sir.

23 Let's bring the jury in and we'll be ready to go.

24 [Pause in Proceedings]

25 THE MARSHAL: All rise for the entry of the jury.

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[In the presence of the jury]

THE COURT: All right. Welcome back, ladies and gentlemen.

The State has rested.

Mr. Sanft, will you be calling any witnesses in your case?

MR. SANFT: Yes, Your Honor, at this time we call Je’cory
Kemp.

THE COURT: All right. Mr. Kemp is here. Mr. Kemp, the clerk
will swear you in.

JE’CORY KEMP

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

THE CLERK: Please have a seat and state and spell your first
and last name for the record.

THE DEFENDANT: Je’cory Kemp, J-E, apostrophe, -C-O-R-Y,
Kemp, K-E-M-P.

THE COURT: Go ahead, Counsel.

DIRECT EXAMINATION

BY MR. SANFT:

Q Je’cory, you’ve heard a lot of testimony over the last couple
days?

A Yes.

Q About you?

A Yes, sir.

1 Q Okay. Let me just cut right to -- quick here, the question I have
2 is is that did you know that there was going to be robbery of A.J. the day
3 before it happened?

4 A I did not.

5 Q Okay. And on the morning that it occurred, did you still know
6 that there was going to be a robbery of A.J.?

7 A Yes, I did.

8 Q Okay. What was your part in all of that?

9 A I didn't have a part.

10 Q Okay. Because the question is is that this apparently was
11 taking place in your home; right --

12 A Right.

13 Q -- your place; right?

14 A Yes, it was.

15 Q Okay. And there was some question about you answering the
16 door, being the doorman?

17 A Right.

18 Q Okay. Why would the State of Nevada call you the doorman?

19 A Because in the household, where we were selling weed,
20 marijuana, I was always the one opening the door, making most of the
21 sales, yes, I was always the man at the door.

22 Q Now, on this particular day though, when this robbery was
23 being planned out, were you asked by anybody in that group to be the
24 doorman to open up the door for A.J.?

25 A No.

1 Q Okay. So when you tell the detectives that you're the one who
2 opens the door, why is that?

3 A Because when the time happened to come, I -- whether it was
4 him or not, I was just always opening the door. And when I heard the
5 knock, I just came from my position, like I'm always doing, and open the
6 door.

7 Q Now, you need to explain to the jury why would you be in a
8 room knowing that a crime is about to be committed?

9 A Honestly, I just really had nowhere else to go and it was my
10 only place. And also, at the same time, as you guys know, the females
11 were to have [indiscernible], because, you know, they were considered
12 witnesses, but also because, you know, they, you know, more likely to be
13 telling what was going on. So I didn't want to make it seem like, oh, I
14 couldn't be around the situation or handle the situation or whatnot. I just
15 was there. I didn't want to do anything or nothing but I just was there and
16 didn't want to make it seem like I was some kind of weakling or
17 something, you know, so.

18 Q Now, at some point you do you remember a detective had
19 asked you why didn't you call police?

20 A Yes.

21 Q What was your explanation to the police officer?

22 A Because I was afraid of basically implicating myself, putting
23 myself into the position, and basically being where I'm at now, being
24 implicated into this murder, you know, I didn't want to have no parts of
25 that.

1 Q Okay. Were you afraid of being a snitch?

2 A At the time, yes, I was.

3 Q Okay. And that's the reason why you didn't call police up until
4 the time you actually talked to them?

5 A Yes.

6 Q Now, you had been asked multiple times about your role, and
7 at the end of your conversation with detectives you had said, I guess, you
8 know, I guess I did this, I guess I was there to stop him from leaving,
9 something like that; right?

10 A Yes.

11 Q Why would you say that?

12 A Because honestly I really didn't know what my position was. I
13 felt that if I did have a position, was really I didn't have one. It wasn't
14 specified or anything. I felt maybe if he were to try to take off and run or
15 something, then I would have to kind of block his path or the doorway or
16 something. I wasn't sure. So I just gave him that as, you know, my only
17 option of what I thought, you know, was my choices, you know.

18 Q Meaning that you were -- I mean, were you just guessing on for
19 the sake of the question or were you telling him what you were expected
20 to do with A.J.?

21 A No, I was guessing because of the question he asked me.

22 MR. SANFT: I have no further questions, Your Honor.

23 THE COURT: Any cross-examination?

24 MR. DIGIACOMO: Yes, Judge.

25

1 **CROSS-EXAMINATION**

2 BY MR. DIGIACOMO:

3 Q Mr. Kemp, I'm going to ask you just a couple of questions. If
4 you're confused by anything, just let me know. If I ask a bad question,
5 tell me to rephrase it; all right?

6 A Okay.

7 Q Okay. So let's see if we can agree on certain things; okay?

8 A Okay.

9 Q You were living in 11309 with Little, your girlfriend, and
10 Ms. Murphy; correct?

11 A Yes, sir.

12 Q And everything you said about what rooms they were -- they
13 were in the back room and you guys would sleep on the couch, all that's
14 true; correct?

15 A Yes, it was.

16 Q And you and Little supported yourself by selling weed?

17 A Yes.

18 Q All right. And you sold it out that front door; correct?

19 A Yes, we did.

20 Q And Sayso was a friend of Little's first, but he's somebody you
21 guys knew?

22 A Yes, he was.

23 Q And that's Mr. Davis?

24 A Yes.

25 Q And you didn't really know Mr. Woods; correct?

1 A No, not at all.

2 Q Was that the first time you met him the morning of the
3 homicide?

4 A I've seen him a few times 'cause I've had to go to where
5 Mr. Davis lived and his brother was there quite a few times, so I'd see -- I
6 would see him but I've never really spoke to him.

7 Q And Sayso's business was to sell weed?

8 A Yes, it was.

9 Q Your girlfriend talked about there was a problem with A.J.,
10 between Sayso and A.J., that Sayso owed A.J. two racks or \$2,000.
11 Was that something you -- was she describing the truth?

12 A Yeah, yeah, she was correct, yes.

13 Q So you knew Sayso had a problem with A.J.?

14 A Yes, that's what I've heard.

15 Q She also said that you guys all had a problem with A.J.
16 because of something A.J. said to Juanita and Mackeisha about being
17 prostitutes?

18 A I won't say that per se had a problem with it, it's just, you know,
19 again, how she said it when -- it was a problem because it was his girl,
20 everybody kind of felt like, you know, you know, it was kind of like in a
21 sense their problem, you know, we kind of had to try to, you know, deal,
22 not really deal with it but we just felt that we -- it was something because
23 we would kind of consider ourselves a little family so, you know.

24 Q So you guys weren't happy with A.J. because of the situation?

25 A Not at all.

1 Q So does that mean you weren't happy with him?

2 A I mean, I was -- I didn't have no problem with him at all. But
3 because of the situation, I just kind of felt it was just disrespectful but I
4 wasn't like pissed off at him about it or anything like that.

5 Q And the day -- or the day this homicide happens, you and Little
6 still have product left, you have a half pound of marijuana left; correct?

7 A Yes, we did.

8 Q But you're having some problems selling it; correct?

9 A Yes.

10 Q And you even say in that statement it's 'cause A.J.'s selling
11 weed cheaper?

12 A Yes.

13 Q So that was a problem for you guys?

14 A I can't say specifically if it was because he was selling the
15 weed cheap, but that's -- we only bought it from him 'cause he had the
16 cheaper weed. The weed that Payso was getting from his other dealers,
17 distributors, however you want to call them, they had it a bit of a higher
18 price so that's why he started kind of buying from A.J. because he had
19 just cheaper weed.

20 Q And then you could reduce your prices and then sell more
21 weed?

22 A Right, exactly.

23 Q Okay. So am I correct that the -- that in the days leading up to
24 this that there is a conversation where Sayso says that he is going to -- or
25

1 him and Davon have a conversation in your presence about ripping,
2 robbing A.J. of his weed?

3 A Yes.

4 Q All right. And as you said in the statement, you thought it was
5 just going to be a simple little robbery?

6 A Yes.

7 Q Okay. And you also said I didn't specifically get told what my
8 role is; correct?

9 A Correct.

10 Q And you also get told what I thought -- or what you say is, what
11 I thought is, hey, if this guy goes to run, I may have to stop him, but I
12 don't ever get told that?

13 A Right.

14 Q You just assumed that was what they would expect you to do?

15 A Right, yes.

16 Q Right?

17 A Yes.

18 Q And knowing all of this, when A.J. comes over the door --
19 opens the door, you know that A.J.'s about to get robbed?

20 A Yes.

21 Q Right?

22 And you're in that room; correct?

23 A Yes, I was.

24 Q And when A.J. pulls his gun 'cause he's getting robbed; right?

25 A Yes.

1 Q You say to A.J., hey, it's not like that; correct?

2 A Correct.

3 Q But you know it is like that?

4 A Not with the guns involved; no, not at all.

5 Q Oh, so, when you're telling A.J., hey, put that gun down, just let
6 yourself get robbed, you don't think you're helping?

7 A I didn't think of it as that, no.

8 Q Oh, okay. You'd agree with me that when you're telling A.J.,
9 hey, put the gun away, you're telling him, hey, just submit to this robbery?

10 A Not really, I was just not trying to have nobody get shot period.

11 Q Okay. What do you mean, I'm trying to not get anybody shot
12 period, you don't tell Hickman to put the gun away?

13 A Well, because at the time, when I'd seen A.J.'s gun pulled out,
14 I didn't even know Payso, Davon, didn't -- I didn't see his gun out until I
15 looked over at the last minute.

16 Q So why don't you -- when you do see Hickman why don't you
17 tell Hickman, hey, hey, hey, this is too much, put that gun away? Why is
18 it you tell A.J. it's not like that?

19 A Because it was -- it was already too late before -- by the time --
20 like I said in the statement, by the time I walked -- kind of walked up
21 towards A.J. and told him, hey, you know, it's not even like that, and he
22 wasn't listening to me, and I backed up, a shot goes off and I look and
23 Payso has a gun already in his hand. I didn't even -- like I said, I didn't
24 know he had the gun with him.

25

1 Q Let me ask you this, why is it you thought it wasn't going to be
2 like that?

3 A Because, like I said, with the fact that we had Sayso and his
4 brother hiding out in the room and me and Payso was sitting in the front,
5 Payso was going to talk to A.J. about the weed and Sayso and his
6 brother was supposed to come out, and I was figuring that they was
7 supposed to just come and snatch up the weed and kind of push him out
8 or whatever or anything, but, no, no guns period.

9 Q You figured four guys was enough to take A.J. of his weed, you
10 wouldn't have to worry about it?

11 A Right, right.

12 Q Okay. So then the shot goes off and you keep saying sittin' but
13 then you keep changing to standing in your statement. A.J.'s actually
14 sittin' in the chair when he gets shot; isn't he?

15 A No, no, no, he was sitting -- he first came -- when he came in
16 he was sitting down, but once Sayso and his brother comes out the room
17 then he comes, gets up.

18 Q Okay. Well, you heard the medical examiner's testimony;
19 correct?

20 A Yes.

21 Q The shot goes in here --

22 A Mm-hmm.

23 Q -- and it lodges back here; right?

24 A Yes.

25 Q And A.J.'s five-foot-ten?

1 A Yes.

2 Q And that gun is at least two or three feet above his shoulder
3 when he's shot?

4 A Right.

5 Q So tell me which one of these guys is over seven feet tall?

6 A Nobody is.

7 Q Okay. So you'd agree with me that A.J.'s got to be much lower
8 than where the shot came from?

9 A I mean, he wasn't but.

10 Q Okay. So A.J. was standing when the shot came out?

11 A Yes, he was.

12 Q Okay. So A.J.'s gurgling his life away and you decide to move
13 his car?

14 A Not right away, no.

15 Q Okay. Well, all right, so A.J.'s dead, you decide to take his
16 car?

17 A After I was told to, yes.

18 Q Oh, well, I mean, the defense of "I did this because my buddy
19 asked me to" that's not really a defense, you recognize that; right?

20 A Correct.

21 Q All right. So you moved his car or you take his car down to get
22 burned. Do you remember that?

23 A Yes, I did.

24 Q Okay. When you take his car, you also take his marijuana
25 cartridges?

1 A Yes.

2 Q You even take his hat and his power cord as well, don't you?

3 A Not sure about the power cord, but I do remember I did take
4 the hat.

5 Q Were you thinking, hey, he doesn't need these anymore, I'll
6 just help myself?

7 A Kinda, yes.

8 Q You recognize that taking advantage of a dead guy's property
9 is still a robbery; right?

10 A At the time; no, I did not.

11 Q Okay. Now, why did you lie about Flaco?

12 A I lied about Flaco in the beginning because, again, I just wasn't
13 trying to implicate too many different people. I mean, in a sense I wasn't
14 trying to really say who he was, but at the same time the more I kept
15 talking it just seemed like it was kind of stupid to not really, you know,
16 mention him, you know, so. But by this time I already kind of formed this
17 story that we already had went out to the desert with one friend and I just
18 kinda just was like since it's possibility that somebody already knows that
19 Flaco was involved eventually so I just kinda roundabout with it.

20 Q So am I getting this right, you're telling me, once I form a story
21 I'm going to stick to it?

22 A That's not what I'm saying.

23 Q Well, I mean, that's what you just told me; right, is, hey, at
24 some point I realized this is a stupid lie but I never corrected it with the
25 detectives?

1 A Well, yes.

2 Q Right?

3 A Correct.

4 Q And you said, I mean, I kind of led with assuming it was a lie,
5 that was an utter lie about two different guys driving you down, following
6 you down with a car; correct?

7 A Correct.

8 Q And the other thing I found -- or thing I find a little odd about
9 your story after the crime, is if -- you say that at some point Davon is
10 going to keep that car. Do you remember saying that?

11 A Yes.

12 Q Like on the ride out there you think Davon's going to keep the
13 car to burn the body, on the ride out there you think Davon's going to
14 take the car back?

15 A Right.

16 Q What was the need for Flaco in the first place if Davon was
17 ever going to keep that car?

18 A Because in the beginning he was going to keep the car but
19 Flaco had, like I said, he strolled up with us before, you know, drove us --
20 drove us out towards the desert and I followed behind him, and I really
21 wasn't too sure why he, you know, was really all there the whole point, in
22 the beginning, he just showed up, he said, oh, I'm waitin' for the homie
23 and he's coming or whatever. And so we waited and when he showed
24 up that's when he passed me the gas can from him and we just explained
25 that we're -- I'm going to follow them in his car out to the -- to where they

1 was supposed to be going because he still wasn't exactly sure where
2 they was gonna head.

3 Q Well, that wasn't my question, my question was if Davon tells
4 you I'm going to keep the car and we're going to go out here and burn the
5 body and I'm going to keep the car.

6 A Right.

7 Q What's the purpose of Flaco following -- or you following
8 Flaco?

9 A That's what I'm saying, I'm not sure because -- I guess he
10 didn't -- wanted him to take him, to have two separate cars. I wasn't
11 quite sure what the reasoning was for that.

12 MR. DIGIACOMO: Thank you, sir.

13 THE COURT: Any redirect?

14 MR. SANFT: No, Your Honor.

15 THE COURT: Any questions by our jurors? We do have
16 questions. So, ma'am, please write it down on a piece of paper with your
17 juror number and hand it to the marshal.

18 All right, Counsel, please meet with me in the jury room.

19 [Bench conference recorded -- not transcribed]

20 THE COURT: Let me make sure, were there any other
21 questions by our jurors? Raise your hand. No other hands, all right.

22 Mr. Kemp, you understand you're still under oath?

23 THE DEFENDANT: Yes, sir.

24

25

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

2 THE COURT: Okay. We have a question from one of our
3 jurors, first question is, Did you or anyone prevent A.J. from leaving the
4 apartment or the kitchen?

5 THE DEFENDANT: Say it -- can you repeat that again.

6 THE COURT: Did you or anyone prevent A.J. from leaving the
7 apartment or the kitchen?

8 THE DEFENDANT: I didn't prevent A.J. from leaving the
9 kitchen. But as I said in my statement to the police Sayso's brother
10 shoved him and kind of pushed him back towards the kitchen because I
11 believe he was trying to leave out from the kitchen or make a way out.
12 So, no, not me but Sayso's brother did.

13 THE COURT: And the next question, sir, is when the
14 discussion about the robbery occurred, what did you say during that
15 conversation?

16 THE DEFENDANT: I didn't say anything. I just sat back and
17 listened.

18 THE COURT: Mr. Sanft, any follow-up questions to the juror's
19 question?

20 MR. SANFT: No, Your Honor.

21 THE COURT: Any follow-up, Mr. DiGiacomo?

22 MR. DIGIACOMO: No.

23 THE COURT: Any additional questions by our jurors? No
24 additional questions.

25

1 Sir, thank you for your testimony, go ahead and have a seat
2 with counsel.

3 MR. DIGIACOMO: Judge, can we approach before you do
4 that?

5 THE COURT: Sure.

6 Is this for a scheduling issue?

7 MR. DIGIACOMO: It's a scheduling issue.

8 THE COURT: Okay.

9 [Bench conference not recorded]

10 THE COURT: All right. Mr. Sanft, any additional witnesses for
11 the defense?

12 MR. SANFT: No, Your Honor. We rest at this time.

13 THE COURT: All right. Mr. DiGiacomo, any rebuttal witnesses
14 for the State?

15 MR. DIGIACOMO: No.

16 THE COURT: Okay. Ladies and gentlemen, in just a few
17 moments here we're going to read -- I'm going to read to you the jury
18 instructions that apply to this particular case. We're just finalizing these
19 right now. We should be able to start reading those to you within 15
20 minutes. We'll read those to you, we'll take the lunch break, and then
21 we'll come back with closing argument; okay. So come back at 11:15; all
22 right. Again, wait outside the courtroom.

23 During this morning recess you must not discuss or
24 communicate with anyone, including fellow jurors, in any way regarding
25 the case or its merits, either by voice, phone, email, text, internet, or

1 other means of communication or social media.

2 You're not to read, watch, or listen to any news or media
3 accounts or commentary about the case. You're not to do any research,
4 such as consulting dictionaries, using the internet, or using reference
5 materials, make any investigation, test a theory of the case, recreate any
6 aspect of the case, or in any other way investigate or learn about the
7 case on your own. And you're not to form or express an opinion
8 regarding the case until it's submitted to you.

9 See you back in about 15 minutes.

10 THE MARSHAL: All rise for the exit of the jury.

11 [Outside the presence of the jury]

12 THE COURT: All right. Counsel -- we're outside the presence
13 of the jury panel -- we need the *Bowman* instruction.

14 Mr. DiGiacomo is it in here? I don't think I saw that.

15 MR. DIGIACOMO: Which one?

16 THE COURT: The one about doing internet research. It's
17 referred to as the *Bowman* instruction.

18 MR. DIGIACOMO: The *Bowman* instruction?

19 THE COURT: Right.

20 MR. DIGIACOMO: Why did Bowman used to do that?

21 THE COURT: It's pretty much the admonishment I've given
22 every time.

23 MR. SANFT: Oh, that one.

24 THE COURT: Yes.

25 MR. SANFT: It should be in there now.

1 THE COURT: Is it in here? I don't think I --

2 MR. SANFT: I thought -- no?

3 THE COURT: Is it in there?

4 MR. SANFT: No, we've never -- no, it wasn't in there.

5 MR. DIGIACOMO: No, I -- that's not in our stock packet,
6 Judge, and it's not a special.

7 THE COURT: Can you get -- can you send one over to the law
8 clerk?

9 MR. DIGIACOMO: I don't even know what instruction --

10 MR. SANFT: It's the one that they read, the admonishment.

11 THE COURT: Right.

12 MR. DIGIACOMO: Yeah, do you have that admonishment
13 somewhere you can give your law clerk? I don't have that
14 admonishment.

15 THE COURT: Let me call my law clerk.

16 And then -- let me go in Judge Gonzalez' chambers, I'm going
17 to get my law clerk to pull that up.

18 [Pause in proceedings]

19 THE COURT: All right. Counsel, I've got the instructions here,
20 what I'll do is I'll just put 'em on the record now, my staff is going to make
21 the copies, when the copies are made the jury will come in, I'll read 'em,
22 we'll take the lunch break.

23 MR. SANFT: Yes, Your Honor.

24 MR. DIGIACOMO: If we're going to put it on the record, we
25 need the defendant; right?

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THE COURT: Right.

[Pause in proceedings]

THE COURT: All right. Counsel, I'll just -- I'm going to announce the instructions here, with the numbers, and then ask you if you want -- if there's any objections, et cetera.

Page 1, obviously, is instruction 1.

Instruction number 2 is if in these instructions.

Number 3 is the third Superseding Indictment.

Number 4 is to constitute the crime charged.

Number 5 says the evidence which you are to consider.

Number 6, a conspiracy.

Number 7, it is not necessary.

Number 8 is when several parties.

Number 9, where there is slight evidence.

Number 10, a conspiracy.

Number 11, one person joins -- once a person joins is 11.

12, murder is.

13, malice aforethought.

14, express malice.

15, the prosecution.

16, murder of the first degree.

17, willfulness.

18, deliberation is the process.

19, a deliberate determination.

20, premeditation.

1 21, premeditation, another one.
2 22, the law does not.
3 23, the true test.
4 24, there are certain kinds of murder.
5 25, the right of self-defense.
6 26, while a guilty verdict must be unanimous.
7 27, in case the defendant is accused.
8 28, murder in the second degree.
9 29, when it is impossible.
10 30, every person who.
11 31, substantial bodily means.
12 32, a person who willfully.
13 33, in order for you to find the defendant guilty of first degree
14 kidnapping.
15 34, robbery is.
16 35, robbery may.
17 36, an accomplice.
18 37, you are instructed.
19 38, a deadly weapon.
20 39, the State's not required to have recovered it.
21 40, if more than one person.
22 41, when two or more persons are accused. That's 41.
23 42, a guilty verdict must be unanimous.
24 43, mere presence.
25 44, the defendant is presumed innocent.

1 45, a witness who has special knowledge.
2 46, credibility.
3 47, the fact that a witness has been convicted.
4 48, although you are to consider.
5 49, in arriving at your verdict.
6 50, during the course of the trial, and that's the *Bowman*
7 instruction.

8 51, when you retire.

9 52, now you will listen.

10 Okay. State, are you familiar with instructions 1 through 52?

11 MR. DIGIACOMO: Yes, Your Honor.

12 THE COURT: Any objection to those instructions?

13 MR. DIGIACOMO: No.

14 THE COURT: Are you requesting any additional instructions?

15 MR. DIGIACOMO: No, Your Honor.

16 THE COURT: Any objection to the verdict form?

17 MR. DIGIACOMO: No.

18 THE COURT: All right. Mr. Sanft, are you familiar with
19 instructions 1 through 52?

20 MR. SANFT: I am, Your Honor.

21 THE COURT: Any objection to those instructions?

22 MR. SANFT: I do have one concern, I apologize, there was
23 anticipation that I was going to cross Tyeshia on the fact that she had
24 taken a deal, and; therefore, she was an ex-felon or she had a felony on
25 her record, but there was no question that was asked of her of that. So

1 outside of that, my client is the only one that's testified that would
2 potentially have a record. He -- there was never a discussion about that
3 'cause he doesn't have one.

4 So I'm worried that this instruction might infer that somehow he
5 does a record and I just -- I'm a little bit concerned about that. I knew this
6 was going to go in based upon Tyeshia's testimony but that never came
7 out so.

8 THE COURT: Do you want that excluded?

9 MR. DIGIACOMO: If he wants it excluded, I don't necessarily
10 have a problem with that, we have to just renumber 'em.

11 MR. SANFT: It's 47, Your Honor, so it's at the end of the stack
12 anyhow so.

13 MR. DIGIACOMO: I just -- you know, the fact that she entered
14 a plea, while it's not technically a conviction, I left it in there, whatever the
15 Court's pleasure.

16 THE COURT: If you want it out, I'll take it out, Mr. Sanft.

17 MR. SANFT: I just don't want to infer that somehow my client
18 has a felony on his record.

19 THE COURT: Well, I don't think the State is going to argue
20 that your client --

21 MR. SANFT: Right. But the mere fact that it's in there I think
22 could be enough to lead down that path. So as a result, I'm asking for 47
23 to be stricken. Sorry about that.

24 [Colloquy between the Court and the Law Clerk]

25 THE COURT: Marshal, just tell 'em 10.

1 MR. SANFT: Your Honor, just an additional thing real quick --
2 the marshal can leave -- I've also reviewed the jury verdict form, I have
3 no objection to that.

4 THE COURT: Okay.

5 [Pause in proceedings]

6 THE MARSHAL: All rise for the entry of the jury.

7 [In the presence of the jury]

8 THE COURT: All right. Welcome back, ladies and gentlemen
9 of the jury. I am now going to read to you the jury instructions. We have
10 given you your own packet there, if you just want to just listen to me read
11 those or you can follow along, and you'll have these instructions with you
12 during your deliberations. After I read the jury instructions, we're going to
13 take the lunch break and then we'll come back for closing argument by
14 the attorneys; okay?

15 [The Court reads the instructions to the jury]

16 THE COURT: Ladies and gentlemen, we're now going to take
17 our lunch break, after the lunch break then you'll hear closing argument
18 by the attorneys and then deliberate this case. So please leave your
19 notes and these jury instructions on your chair.

20 Ladies and gentlemen, during this lunch recess you must not
21 discuss or communicate with anyone, including fellow jurors, in any way
22 regarding the case or its merits, either by voice, phone, email, text,
23 internet, or other means of communication or social media.

24 You're not to read, watch, or listen to any news or media
25 accounts or commentary about the case. You're not to do any research,

1 such as consulting dictionaries, using the internet, or using reference
2 materials.

3 You're not to make any investigation, test a theory of the case,
4 recreate any aspect of the case or in any other way investigate or learn
5 about the case on your own.

6 You're not to form or express an opinion regarding this case
7 until this matter is finally submitted to you.

8 So we'll see you back at 1:15. Have a good lunch.

9 [Outside the presence of the jury]

10 THE COURT: Counsel, at the break we're going to make -- I'll
11 have my staff make a correction on jury instruction number 1, line 14, it
12 said penalty hearing, and when I read it I said trial or case. So we're just
13 going to change that language on page -- on line 14 and 15.

14 Okay?

15 MR. SANFT: Yes, Your Honor.

16 MR. DIGIACOMO: Yes, Your Honor.

17 THE COURT: And we'll make sure that the jury has a
18 corrected page 1.

19 MR. DIGIACOMO: I can't believe Mr. Sanft didn't catch that,
20 Judge.

21 MR. SANFT: It's a big word --

22 THE COURT: I'm sorry?

23 MR. DIGIACOMO: I can't believe Mr. Sanft didn't catch that.

24 THE COURT: Or the State.

25 MR. DIGIACOMO: The Court's instructions.

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[Recess taken at 12:15 p.m.]

[Proceedings resumed at 1:24 p.m.]

THE MARSHAL: All rise for entry of the jury.

[In the presence of the jury]

THE COURT: All right. Welcome back, ladies and gentlemen,
go ahead and have a seat.

State, are you ready for your closing?

MR. SCARBOROUGH: I am, Judge. Thank you.

THE COURT: All right, go ahead, Counsel.

CLOSING ARGUMENT BY THE STATE

MR. SCARBOROUGH: I thought it was a simple, little robbery.
Two locations, multiple states, seven people involved, crime scene
cleanup, cleaning up the blood, cleaning up the apartment, dragging the
body downstairs, leaving a blood trail, and driving that out to California to
torch not only the car but the victim in his own car.

Yes, Mr. Kemp agreed and participated in what he thought was
going to be a simple, little robbery. Well, that simple, little robbery turned
out to be a kidnapping and a felony murder. So as a result of this event,
he faces these charges. He faces conspiracy to commit robbery, murder
with use of a deadly weapon, first degree kidnapping with use of a deadly
weapon resulting in substantial bodily harm, and robbery with use of a
deadly weapon.

Now, before we adjourned for lunch you were handed a packet
of instructions, and what I'm up here to do is to explain some of the
concepts that are given to you in that packet to shed a little light and to

1 make you understand and to help you understand some of the law that
2 you're going to be deliberating with when you go back.

3 So what we're going to start with is what a conspiracy is --
4 folks, it all starts and almost ends with this -- so a conspiracy is an
5 agreement between two or more people for an unlawful purpose.

6 Now, the crime here is the agreement to do something. Now, if
7 for some reason you were to believe that the robbery or kidnapping or
8 felony murder took place here, the fact that you have ample evidence
9 that there was the agreement to rob A.J., that's the crime in and of itself,
10 the conspiracy, the agreement; okay?

11 So when you think about conspiracy and you think about intent
12 it's not necessary to show and express a formal agreement. And I put a
13 quote by Mr. Kemp, who took the stand and you heard in his statement, It
14 was never discussed, meaning talking about his role in the conspiracy
15 and the aiding and abetting in this robbery and this kidnapping.

16 Well, the law allows you to deduce facts from the evidence that
17 we give you in order to understand his intent. Because, ladies and
18 gentlemen, not every case you're going to have some notarized, written
19 agreement, I, Davon Hickman, also goes by Little and Payso, hereby
20 agree to my role as blank, sign and date. I, Je'cory Smooth Kemp, agree
21 to do this role, sign and date. You're not going to get some notarized
22 contract about these agreements. So what the law allows you to do is
23 you can infer from the circumstances the role and the agreement that the
24 individuals, particularly this defendant, plays in this event.

25

1 So let's talk about what some of the circumstances are, and
2 that's in your instruction packet as well, presence, companionship,
3 conduct before, during and after the offense are all these circumstances
4 that you can infer one's participation. And, moreover, you can
5 understand the role that Je'cory Kemp played in this event.

6 So let's talk about some of that, so what's the agreement that
7 you know now based on the evidence and the testimony, well, Marion
8 Anderson goes by A.J., he sells weed. Payso, Davon Hickman,
9 negotiates the two pound purchase from A.J., asks A.J. to go to 11309,
10 and then all the players come into play. Kemp, Payso, Sayso, and
11 Sayso's brother Woods, remain in the apartment. Tyeshia and
12 Mackeisha leave the apartment because they don't want them to witness
13 the events that transpire.

14 Along the agreement Kemp is the regular doorman. Now, he
15 got up here and he told you that himself, listen, I answer the door, that's
16 what I do, in that apartment I answer the door, and that's a part of his
17 role. It's not just turning a doorknob and saying, well, I just, I let him in, I
18 knew he was going to get robbed, I thought four guys was enough in the
19 room to perpetrate the robbery, that I just turned a knob. No, that's not
20 why he turned, that's not why he was the doorman. That's because it
21 was his regular duty. That's because that's what he was there to do all
22 the time.

23 And if someone else opens the door, things get a little
24 suspicious. So everything has to be normal, like it always was.

25

1 So meanwhile while Kemp fulfills his role, Payso is still in the
2 living room to do the deal. Sayso and his brother they hide in the back,
3 they're supposed to come out and ambush A.J. and to steal the weed.

4 Well, in terms of the conspiracy that's the plan, the factors that
5 I had just talked to you about before, how about presence and
6 companionship? Well, you have all the evidence that you need beyond a
7 reasonable doubt to determine that all of these individuals, especially
8 Je'cory Kemp, was present and that he was operating in the same course
9 of action to perpetrate this robbery; right? You know that from Tyeshia,
10 who took the stand, and you know that from Mr. Kemp's statements both
11 on stand and to the detective.

12 Now, counsel's questions are not evidence, I will remind you,
13 but you heard defense counsel asking, well, hey, he admitted to a crime,
14 I mean, what more do you need to do if he admitted to the crime? Well,
15 detectives and officers don't just take the word for it, they investigate the
16 case, they learn the facts, and then they corroborate them with the
17 evidence that we introduce.

18 So what is that evidence? Well, you have cell tower hits from
19 Je'cory Kemp, that's where my colleague went through the phone
20 records and explained that arc, the location, the time at the apartment, at
21 the time of the homicide you have the same cell tower hit from Tyeshia
22 James, same cell tower hit from Little, Payso, Davon Hickman, from
23 Sayso and from Flaco. You have those same hits. So that's
24 corroborated testimony.

25

1 You hear the statements that are made by both Tyeshia James
2 and Je'cory Kemp. There's evidence to back it up. The statement alone
3 isn't just the only pieces of evidence that you can use to evaluate. Not to
4 mention going through the videos at the Sinclair, at the Breeze Rite, that
5 gas station and the stores nearby, you see them there, you know that
6 they're there and you know that testimony that there are facts that are
7 true from the statements that they make.

8 So you have that there's presence and companionship; right,
9 they're all there, that evidence shows it, the statements match up. But
10 what about the conduct before, during, and after? Well, talking about the
11 conduct before I think no one can forget everyone gets in their places on
12 December 30th, 2019, but, oh, there was the false alarm. Remember that
13 in Je'cory's statement when he says, yes, someone knocks, and then
14 everyone scrambles, everyone goes and gets into their places, the two
15 people get into the back room, oh, it was just another customer.

16 That right there, in and of itself, is abundantly -- makes it
17 abundantly clear that he knew what was going on. You can't forget that
18 practice dry run, the oops, just a regular guy that we're not trying to rob.

19 So that was before A.J. comes over with the weed. And who
20 answers the door? Who doesn't just merely turn that knob? It's Je'cory
21 Kemp. Again, he's there to make it all seem normal. It ain't like that. It
22 ain't like that. No, but it was. It was like that.

23 And so you hear the details about how A.J. only brings a
24 certain amount of weed and then he gets confronted, then Sayso and his
25 brother come out of the room and now A.J. is armed and thinks

1 something is wrong. And what Je'cory Kemp does is tries to convince
2 A.J., hey, man, don't defend yourself against this robbery, hey, man put
3 the gun away, that's not how it is, don't defend yourself, don't do anything
4 stupid. Meanwhile Sayso pushes him into the kitchen to keep him in
5 there while this is all going down.

6 So A.J. draws the gun and keeps it to his side, again, Kemp
7 tries to tell him to put it away. Well, Payso shoots A.J. and A.J. dies of a
8 gunshot wound in the apartment. Well, we know what goes down during.
9 Well, he died of a gunshot wound, which I'll go over. But that right there,
10 folks, I mean, there's the deadly weapon involved, there's the firearm
11 involved. You heard the coroner talk about the evidence of the gunshot
12 wound being the cause of death. But we'll go over a deadly weapon. But
13 that right there should be in the back of your mind.

14 So we see what went down during the robbery. And we see in
15 this photograph the remnants of what actually happened after because
16 we all know what happened after, the coordinated series of acts to not
17 only perpetrate the robbery but then to cover it up, to hide the evidence,
18 to clean everything up, to dispose of the body, that's what goes down
19 after.

20 Now, how do you know all that as well? Well, there's cell tower
21 hits too that we went through; right? Those cell tower hits in the
22 California desert at around 3:00, close to 4:00 a.m. Well, there's Little,
23 Payso, Davon Hickman's phone.

24 So you know the statements that were made by Je'cory Kemp
25 were true in that regard. He was out there with him.

1 Well, you know Flaco's phone is out there too. So that's also
2 true as well, where Flaco comes out to drive and to help them out. So
3 you know those are corroborated.

4 So now that you have the companionship and you have
5 evidence of the companionship and the presence and the course of
6 conduct before, during, and after, now you've got to shift to the liability.
7 How are people liable? How are defendants liable underneath this theory
8 of liability, as well as aiding and abetting?

9 Now, these next concepts are -- they're going to blend together
10 a little bit but they're similar in a lot of regards; okay?

11 So conspiracy liability, you're liable for the conspiracy when
12 several parties knowingly and with criminal intent join together. That
13 crew, that I just highlighted, well they all joined together in some form or
14 fashion to do this robbery, to cover it up, and to hide and take the
15 proceeds from the robbery. They all did it.

16 Now, what's very important for conspiracy liability, as well as
17 aiding and abetting, each is criminally responsible for the acts of his
18 co-conspirator committed in furtherance of a conspiracy. Each is
19 responsible.

20 Folks, the law tells you the act of one is the act of all. He
21 agreed to do the robbery, he took part in the robbery, anything that
22 happens as a result of the robbery, that he took part in, he is absolutely
23 held accountable for under the law. Absolutely.

24 So now to kind of get a scope on it and to give you some other
25 perimeters involved in conspiracy liability, to be fair a defendant can't be

1 liable under conspiracy theory of liability unless the defendant also had
2 the intent necessary. Which essentially is kind of the heart of the matter
3 right now; right, where Mr. Kemp is claiming, well, listen, I didn't know
4 that it was going to be a murder. I didn't know there was going to be a
5 gun even though I knew that there were going to be four people and I
6 thought that was enough, even though we did a practice run, even
7 though I discussed it with people, or I was just merely present when they
8 were discussing it the day before.

9 But a defendant can be guilty of the conspiracy if you find that
10 he didn't have the intent necessary, which you shouldn't find given all the
11 evidence. But that's just a limitation.

12 Now, from a conspiracy, once they join it he remains a member
13 until he withdraws from it. Meaning, just saying, hey, listen, you know, I
14 didn't do much. I mean, I turned the doorknob and then I told him it
15 wasn't like that. I didn't know.

16 No, no that's -- one, that's minimization; and two, that's not a
17 defense under the law. That is not a defense under the law just to say,
18 ah, you know, I kinda didn't do this, I kinda didn't do X, Y, Z. I did this but
19 not this. No.

20 What you have to do and what you hear, again, questions from
21 counsel aren't evidence, but what you hear is why didn't you call the
22 police? Why didn't you leave? Those, folks, are what he should have
23 done to withdraw but he didn't. Leaving, calling the police, getting out of
24 there, stopping, kind of, the purpose of this conspiracy.

25

1 Well, we know what action that he took; right? We know what
2 action he took. He admitted to that. He took the car out, burned the
3 body, burned the car. We know the actions that Je'cory Kemp took. And
4 so you know his liability under this theory, this conspiracy theory.

5 I thought it was a simple, little robbery. Well, just to orient you
6 to that, well, let's talk about what a robbery is, that's a straightforward
7 concept, a robbery is the unlawful taking of property against his will by
8 means of force or violence; aka, pointing the gun at somebody, making
9 sure that they can't get back to their property or not leave or anything like
10 that, that's a robbery. The force must be used to obtain and retain the
11 possession, prevent, overcome resistant -- or prevent or overcome
12 resistance to the taking. Again, stopping him from resisting, it ain't like
13 that, put your gun down, come on, don't worry about it, inviting him over
14 to the house and making sure the four guys are there. So that's what a
15 robbery is.

16 And moving from a conspiracy to aiding and abetting, once he
17 plays his role and opens the door and acts and plays his part of, hey, it's
18 all cool, man, hey, man, it's not like that, hey, put the gun away, hey,
19 don't worry about this guy shoving you into this room, hey, don't defend
20 yourself against this robbery, man, just let it happen, just let it happen.
21 Once he plays any role like that, that's where it turns into aiding and
22 abetting. He took part.

23 So you have all the instructions on the aiding and abetting law.
24 I'm going to highlight some for you now. All persons concerned in the
25 commission of the crime directly or actively, whoever directly or actively

1 commits the act, who knowingly and with criminal intent aid and abet, or
2 who advise and encourage its commission. If any one of those capacity
3 directly, indirectly, if he's there, if he helps, if he encourages it, fulfilling
4 his role of being the normal guy at the door, they're all equally guilty.
5 Everyone involved, any role that they played, they're guilty. The act of
6 one is the act of all.

7 So, moreover, the State isn't really required to prove that what
8 precisely the defendant actually committed and how he aided and
9 abetted we have -- the State has. But that, again, is just to align your
10 understanding of the aiding and abetting law.

11 Now, say you were to go back and you actually have some
12 discourse amongst each other and say, well, I actually think he did this
13 role. Well, I think he was involved, but I actually think he did this. Well, I
14 believe him on this fact but maybe not this other fact.

15 Well, the law tells you that while a guilty verdict must be
16 unanimous you don't need to be unanimous into -- as to the means or the
17 theory of liability. In other words, you don't need to decide if he directly
18 or indirectly or encouraged it, or anything like that. You all -- six of you
19 can agree on one theory and six of you can agree on the other, and as
20 long as you all believe he was involved in the crime he's guilty. And
21 that's what the evidence all shows you. He was involved in the
22 agreement to rob and he was involved in the robbery.

23 Now, I told you I would get to the deadly weapon. Now, a
24 deadly weapon, I'm going to just breeze over it, I mean, it's any
25

1 instrument if used in the ordinary manner contemplated by its design and
2 construction will likely cause substantial bodily harm or death.

3 There was a gun involved, the victim died of a gunshot wound,
4 the State doesn't have to recover the weapon and bring it into court and
5 publish it for everyone to see because the law accounts for people
6 getting rid of guns. So that's just the deadly weapon.

7 Now, in terms of aiding and abetting with a deadly weapon, if
8 more than one person commits the crime, and one of 'em uses the
9 deadly weapon, you can absolutely, like I've been saying, convict
10 someone who doesn't have the deadly weapon in their hand of the same
11 offense. And here's why, an unarmed offender uses a deadly weapon
12 when the unarmed offender is liable for the offense. Conspiracy, aiding
13 and abetting, he knew what was going to go down. I thought it was a
14 simple, little robbery.

15 But it's also when the unarmed offender had knowledge of the
16 use of the deadly weapon. Now, it's true Je'cory Kemp took the stand,
17 he was like, I didn't -- I didn't see the gun, I saw A.J.'s gun and then all of
18 a sudden bang, there was a shot that went off.

19 But keep in mind when Tyeshia was on the stand and she
20 talked about whether or not there was a gun in that apartment, there was.
21 And remember the detail when Davon Hickman, Payso or Little, doesn't
22 have the gun. Remember where that gun was. It was with Je'cory Kemp
23 underneath that couch. Why? Because that's what he's doing in there.
24 That's their enterprise.

25

1 So he knew the deadly weapon was going to be there. And
2 keep in mind, not to mince words, but he didn't say when he was on the
3 stand, well, I didn't know Davon Hickman ever had a gun. No, he said, I
4 didn't see Davon's gun until I heard the bang. I just saw A.J.'s. I thought
5 four people would be enough physically to perpetrate the robbery and to
6 make him part with his property.

7 So beyond thinking it was a simple, little robbery now we go
8 into a kidnapping. So a kidnapping is every person who willfully seizes,
9 confines, and I highlighted these words, inveigles, entices, and decoys,
10 someone with the intent to detain or for the purpose of committing a
11 robbery. What does that all mean? Well, the law doesn't require the
12 person being kidnapped to be carried away for a minimal distance.

13 Now, when you think of a kidnapping it's not, you know Law
14 and Order, SVU where a van pulls up to the side of the road, it opens up,
15 they jump out, they bind and gag somebody and take them away. I
16 mean, that's a kidnapping but that doesn't cover every type of kidnapping
17 under the law.

18 You can lie to someone to lure them to a location, which is
19 what happened in this instance. You can lie to someone and say, hey,
20 man, let's negotiate this big deal, why don't you come to my house, I'll
21 buy some weed off of you. I get you here under those circumstances, let
22 you think that you're going to make some money, and then once you get
23 into the house now all of a sudden the game changes, the door closes,
24 you're getting robbed, and then all of a sudden you're shot. That's a
25

1 kidnapping. When you lie to someone to lure them to a location,
2 absolutely, that is a kidnapping.

3 Related to that is substantial bodily harm results during the
4 acts the defendant is guilty of first degree kidnapping resulting in
5 substantial bodily harm.

6 I'm not breaking any news to you here. There was quite a bit
7 of substantial bodily harm done in this instance. So you have that
8 element. The deadly weapon usage is the same logic that I had just
9 explained to you about the knowledge and intent of use. Je'cory Kemp
10 knew that weapon was there. He knew it was going to be used. And so
11 the defendant can be liable for kidnapping resulting in substantial bodily
12 harm.

13 Now, there's a body of law and there's an instruction that you
14 have that talks about a kidnapping versus a robbery.

15 Now, if you think about it just generally, any type of robbery
16 somewhat involves like a restriction of movement; right? And that kind of
17 relates to a kidnapping as well, restricting someone's movement, keeping
18 them in a location, luring them somewhere and preventing them from
19 leaving. That's along the same lines as a kidnapping. And robbery kind
20 of has those basic type of elements in it. But what this tells you is that in
21 order for you to find the defendant guilty of first degree, in addition to a
22 robbery, it lists these five factors that you can consider.

23 So just to briefly go over them, and I'll explain some, that any
24 movement of the victim was not incidental to the robbery.

25

1 Now, what they're saying is what I just explained in terms of
2 every robbery kind of has like an element of restricting movement and
3 keeping someone in a location. And what this law allows you or wants
4 you to inquire about is whether or not that restriction of movement was
5 just a part of the robbery.

6 Well, in this case what you want to ask yourself is what if they
7 told A.J. to meet them downstairs, where he actually had a shot of getting
8 away. What if they met on the first floor of that apartment complex,
9 where you saw where the stairs led and there was a parking lot, he kind
10 of had a shot to realize and sniff something out and to back up and he
11 had an open space.

12 Well, no, that makes it non-incidental to the robbery; right?
13 They could have committed a robbery without doing that. Which goes to
14 number two, any incidental movement of the victim substantially
15 increased the risk of harm.

16 That's the point; right? The point here is to move your victim to
17 a location that creates such a distinct advantage that the risk of harm to
18 that person is a lot more increased as if -- rather than someone just
19 pointing a weapon at 'em on the sidewalk of the street.

20 And absolutely his risk of harm substantially increased when
21 they lured him over, they lured him over to that smaller room, with four
22 people in the corner room, absolutely that created a more -- a substantial
23 risk.

24 Going to three, that any incidental movement of the victim
25 substantially exceeded that to require to complete the robbery.

1 These kind of blend together. It's the same thing that I was just
2 saying around -- did they need to bring him up to the room to rob him? I
3 mean, no, they didn't, they could have robbed him right on the first floor.
4 They could have robbed him as he's getting out of his car. I mean, he
5 worked there. They knew where he was. They could have cornered him
6 in any other area but they didn't. They didn't. They lured him up to that
7 apartment under the guise of drug transaction.

8 That the victim was physically restrained and such restraint
9 substantially increased the risk of harm. Well, you heard Je'cory Kemp
10 say that Sayso shoved him into kind of the kitchen area. And absolutely
11 he was physically restrained. That door that Je'cory Kemp opened and
12 closed behind him restrained that victim in that apartment.

13 And, lastly, the movement or restraint had an independent
14 purpose or significance. Like I said before, it was to corner him. It was to
15 create the distinct advantage that they would have already had if they just
16 pointed a gun at him on the street. No, they wanted him cornered. They
17 wanted to get his weed.

18 Now, when you're thinking about it take a look at the
19 apartment, look at that door and look at the living room, and then going
20 into the back door. That's a small area for four guys, four guys to pop out
21 and ambush A.J. Which Je'cory Kemp said, well, I thought four would
22 have gotten it done. I thought four dudes would have gotten it done
23 when he was trying to deny the usage of the weapon.

24 So now that you have all those offense, I want to run you
25 through what leads to the felony murder. When they agree to rob A.J.

1 and when Je'cory Kemp takes part in that agreement, that's a conspiracy
2 robbery. When he takes part in that robbery, under any of those aiding
3 and abetting theories and pursuant to the conspiracy like he did, that's
4 robbery with a deadly weapon.

5 When they lured A.J. to the apartment to complete that robbery
6 and acted like everything was normal and I'm the doorman and it's not
7 like that, well, that's a kidnapping.

8 And when A.J. dies as a result of the robbery and kidnapping,
9 that is a first degree murder.

10 Let's talk about what murder is, murder is the unlawful killing of
11 a human being, with malice aforethought, either express or implied.

12 Now, I'm going to narrow your focus -- okay, so malice
13 aforethought is an intentional doing of a wrongful act -- it's intentionally
14 killing somebody -- without legal cause or excuse or what the law
15 considers adequate provocation.

16 Now, what that means is there's no self-defense element when
17 someone is trying to prevent themselves from getting robbed. It's not A.J.'s
18 fault that he got shot. So don't mince concepts and think that there was
19 adequate provocation because he comes in and A.J.'s armed, and, no,
20 he was about to get robbed. He's allowed to defend himself when he's
21 about to get robbed. So just because he pulls the gun out because he's
22 about to get robbed and he gets shot, that's not his fault. That's not
23 adequate provocation at all. That's why that is thrown in there.

24 I'm going to narrow your focus right now and get to the heart of
25 the matter, there's two types of first degree murder, murder which is

1 perpetrated by means of any kind of willful, deliberate, and premeditated
2 killing, and then there is felony murder.

3 Felony murder is a kind of murder which carries a conclusive
4 evidence of premeditation and malice aforethought. Meaning that any
5 killing which is committed in the perpetration or attempted perpetration of
6 a robbery or a kidnapping, it's a first degree murder under the law. It
7 doesn't matter whether or not it was intentional, unintentional, or even
8 accidental. It doesn't matter.

9 That's why I started with the conspiracy, that's why I went into
10 the robbery and his role because once Je'cory Kemp agreed to rob A.J.
11 and take part in it, and once he actually took part in that robbery and did
12 nothing to withdraw himself, he is absolutely responsible for everything
13 that happened as a result of that robbery and kidnapping whether or not
14 he wanted him to die or not. It's a felony murder.

15 We know A.J. is dead and is it the result of a robbery and
16 kidnapping? Yes. That's it, folks, in term of the felony murder rule, if
17 you're participating in a felony and someone dies and you played a role
18 in the felony, you're on the hook. It's a first degree murder. The law
19 doesn't tell you anything otherwise and you're to find him guilty.

20 The act of one is the act of all. You heard him try to minimize.
21 You heard him try to distance himself from this event. Yes, I knew there
22 was a robbery. He got up and said it. I knew there was a robbery. I
23 fulfilled my role. I opened the door 'cause that's what I do. I told him it
24 ain't like that. I saw his gun and told him to put it away. And then I just
25

1 heard the bang. That's what happens when you plan and try to commit a
2 robbery, people die. And that's what happened in this case.

3 So, yes, to wrap it all up, I mean, he did think it was going to be
4 a simple, little robbery, and he played that part too. Well, it turns out that
5 robbery then turned into a kidnapping and then felony murder.

6 You have the evidence to back up all the statements and it's
7 undeniable that when you go back there you should find him guilty on all
8 counts.

9 Thank you.

10 THE COURT: Thank you, Counsel.

11 Mr. Sanft, are you ready for your closing?

12 MR. SANFT: Yes, Your Honor.

13 **CLOSING ARGUMENT BY THE DEFENSE**

14 MR. SANFT: It's kind of interesting doing a trial during COVID
15 time and one of the reasons why it's kind of interesting is because first of
16 all I don't get to see your faces and you don't get to see mine. The
17 reason why we had the witnesses wear these things on their faces is to
18 allow you at least some semblance of the ability to like look at their face
19 and help you weigh, determine credibility; right? But it's not how it should
20 be. One of these days we'll go back.

21 But one of the things that I've learned over the time is that, first
22 of all, murder trials typically don't take this fast, first things first. Usually it
23 takes a lot longer. But you have a very good prosecution team and
24 they're very efficient with what they do.

1 And, quite honestly, at the end of the day what I told you at the
2 beginning is what I'm telling you now and that is there isn't a lot to it --

3 [Colloquy between Defense Counsel and the Marshal]

4 MR. SANFT: But basically what we're looking at now is the
5 way that -- did you just like completely like screw up my mojo?

6 THE MARSHAL: She couldn't hear you.

7 MR. SANFT: I'm just -- I'll get back into it. Let me think here. I
8 was on a roll. Let me just see where I was at.

9 The bottom line is is that what I told you in the beginning is
10 exactly what I'm telling you now. There's only one key element, one key
11 question you have to ask yourself. Even though he knew, meaning
12 Je'cory Kemp knew that this thing was going to go down, did he do
13 anything in furtherance of the conspiracy? That's it.

14 Everything that the State has talked about up and to this point
15 is great. But ultimately that really doesn't matter. The definition of
16 murder, the definition of felony murder, the definition of first degree
17 kidnapping can -- just really doesn't matter.

18 What you have to answer is the one question, did Je'cory
19 Kemp do anything in furtherance of this problem?

20 The reason why I bring it up that way and it's kind of a weird
21 way to put it; right? Because you would think somehow defense
22 attorneys would be like, oh, no, my client never did it at all. Well, that's
23 kind of not what happened here.

24 And the reason why this trials been so quick has been because
25 of the fact that you have Je'cory Kemp's own statements to detectives

1 right after he got arrested to help make you make a determination as to;
2 okay, what was his role in all this.

3 Now, even though we may be talking about this, and going
4 over what I believe is the evidence, ultimately at the end of the day your
5 notes, your recollections, and these jury instructions is what you're going
6 to take back. So if I say something that's contrary to what you recall,
7 then what you recall governs, not necessarily what I'm saying here up on
8 the stand today; okay?

9 In addition to that, these jury instructions are the law, so if I
10 were to say the law or the jury instructions, it's the same thing. And
11 sometimes it gets a little difficult. It's almost like you want to have an
12 index here to kind of know where things are at.

13 So if you could just turn with me real quick to your jury
14 instructions, jury instructions number 6 through 11 are all about the
15 conspiracy. So if you just want to put a little notation off to the side that'll
16 help you with your deliberations, those instructions specifically go to the
17 conspiracy aspect.

18 Jury instructions number 12 through 29 go to the murder, the
19 charge of murder. So that'll help you guys later when you're going
20 through all this.

21 Jury instructions number 30 through 33 are about the
22 kidnapping.

23 And then jury instructions number 34 and 35 are about the
24 robbery, the law in the State of Nevada for the conspiracy, the murder,
25 the first degree kidnapping and the robbery; all right?

1 Now, turn with me real quick, if you could, jury instruction
2 number 2, the State got up in their opening and they have an opportunity
3 at the end to close this case, meaning that they are the ones who have to
4 convince you that they've proven their case beyond a reasonable doubt.

5 But the law that's contained in instruction number 2 says, if
6 you're reading it through with me, if, in these instructions, any rule,
7 direction, or idea is repeated or stated in different ways, no emphasis
8 thereon is intended by me and none may be inferred by you. For that
9 reason, you are not to single out any certain sentence or any individual
10 point or instruction and ignore the others, but you are to consider all the
11 instructions as a whole and regard each in light of all the others. Okay?

12 One thing that you didn't hear from the State, and I'm going to
13 be interested in the rebuttal, it's one of the instructions that they never
14 touched on at all. So let's get to that instruction first because I want to
15 make sure you have all the instructions, what the law says here in the
16 State of Nevada.

17 The first instruction is the instruction with regards to -- 43, this
18 instruction says as follows: mere presence at the scene of a crime or
19 knowledge that a crime is being committed is not sufficient to establish
20 that a defendant is guilty of an offense -- so just being there doesn't
21 mean anything -- unless you find beyond reasonable doubt that the
22 defendant was a participant and not merely a knowing spectator.

23 What have we learned so far about his case? The State of
24 Nevada says he was a knowing -- or he's a participant. What does
25 Je'cory Kemp tell you? I'm a knowing spectator.

1 The next line in here, just to be fair, however, the presence of a
2 person at the scene of a crime and companionship with another person
3 engaged in the commission of the crime and a course of conduct before
4 and after the offense are circumstances which may be considered in
5 determining whether such person directly committed or aided and
6 abetted in the commission of that crime.

7 Here's the weird thing about what we're doing here, I don't
8 know if you remember but like after the first time we met for the jury
9 selection and then we had that first day of like testimony, how many
10 times did I actually get up and cross anybody on anything; right? I would
11 assume at some point you guys are like why is he even here? Get up,
12 no, no cross, sit back down. It's because the first day of testimony we
13 had was all about the San Bernardino people that showed up; right?
14 What did they testify to? Car burning, body on the side of -- of the car,
15 that's it.

16 When you look through your charges, the charges in this case
17 for Je'cory, you will not find charges on lighting a car on fire, burning a
18 body, anything along those lines. All of Je'cory's charges are before it
19 happens. It's the robbery, it's the conspiracy to commit robbery, it's the
20 first degree kidnapping, and it's the murder. There's no charges, there's
21 nothing for you to consider with regards to what happens after A.J. dies.

22 So as a result of that what you have is, and this is a pretty
23 good point, is everything before the car burning is the relevant stuff that
24 you need to consider.

25

1 Now, here's the thing, under this particular instruction they say
2 in here, for instance, before and after the offense, meaning you can
3 consider a course of conduct before and after the offense, that are
4 circumstances that may be considered in determining whether a person
5 was directly involved, or whatever the case is; right?

6 So I anticipate the State may get up here and say, well, look,
7 everything he does after the fact is to help his friends, who they just
8 robbed and killed this guy.

9 But what testimony do we have to that? Je'cory Kemp's.

10 One of the biggest issues that we have here -- and so as a
11 result of that, just so -- before I get off this, you have to divide 'em, you
12 can't sit there and say, okay, San Bernardino has something to do with
13 what's happening here today and the allegations made against Je'cory
14 Kemp.

15 But one of the biggest issues that I think that we have here is
16 the issue of truth. The question that I made to the detective over and
17 over again was the question of your truth. He questioned Je'cory Kemp
18 with an understanding and intent to get Je'cory Kemp to say that he
19 participated. He wasn't looking for truth.

20 The interesting thing about it is Je'cory gets up and tells you
21 his truth. In fact, he tells the detectives his truth.

22 So the question is, whose truth do you believe? Well, you say,
23 well, we want to put our faith in law enforcement so that means that we
24 always will, you know, we will always accept their truth. If they tell us that
25

1 something is true, then we're going to accept that as true. Fine, there are
2 people that actually understand and believe that, that's fine.

3 But outside of Je'cory's testimony, what evidence do you have
4 of inside of that house or that apartment that anything went down? It's all
5 Je'cory that's telling you what's happening. Detectives even told you
6 they gave -- he gave all this information.

7 So what's the difference then between when Je'cory says, um,
8 yes, I took the body, no one wanted to help me, I went downstairs with it,
9 got it into the car, cleaned up the house, drove the body out to California,
10 and burned the body.

11 And detective said, that's the truth, you're not minimizing that?

12 But then he says, well, I was at -- I was there, I didn't plan it, I
13 wasn't participating in it, I didn't have anything to do with it other than the
14 fact that I knew it was going to happen, and I opened the door because
15 that's what I always do, I always open the door, this is my place, this is
16 my house, this is what I always do. That somehow means he's
17 minimized his role in the beginning.

18 How do you sit there and say, yeah, that makes sense to me,
19 competing ideas of truth; right?

20 Well, what else do we have besides Je'cory's own testimony
21 that would help the State prove that actually their version of the truth is
22 actually the truth? What forensic evidence do we have to support any of
23 what they're saying about Je'cory actually intending to be part of this and
24 knowing this is what's going to happen in terms of the robbery and then
25 afterwards?

1 What do we have for forensics? Nothing. So you can't do that,
2 you can't use that as potentially things here. I mean, cell phone records
3 are great, but it doesn't mean anything if we know that he was already in
4 that apartment.

5 What else do we have? We have the testimony of Tyeshia
6 James; right? She gets up there, she testifies, and what does she say?
7 She says they were talking about a robbery. But who is they?

8 One of the things that you're going to see, if you go back to
9 that video again, is how many times the question is asked was there a
10 robbery, was a robbery planned, blah, blah, blah, over and over and over
11 again. You're going to find that in that video.

12 Here's the thing that's interesting, words matter, words are
13 important. A confession needs to be as clear as possible. It would have
14 been a lot better for the State to show you evidence that said that Je'cory
15 said, I helped plan the robbery or I planned the robbery or I volunteered
16 to do something for the robbery. You are not going to find any evidence
17 of that.

18 So what you do instead is you sit and you say which version of
19 the truth do I believe? The one where the guy basically readily gave up
20 everything and admitted to things that honestly are crimes? Or do you
21 listen to the State of Nevada because they're now guessing, they're
22 speculating as to what happened inside of that room?

23 There's another instruction, if you could turn with me, and this
24 is instruction number 44, this is the instruction on beyond a reasonable
25 doubt.

1 And first and foremost is the State has to prove to you each
2 and every element of the crime beyond a reasonable doubt, meaning
3 each crime has certain elements and the only element you have to
4 consider here is the element of intent with regards to Je'cory.

5 But the second part is this, in the second paragraph it says, a
6 reasonable doubt is one based on reason. It is not mere possible doubt
7 but is such a doubt that would govern or control a person in the more
8 weighty affairs of life. If the mind of the jurors, after the entire
9 comparison and consideration of all of the evidence, are in such a
10 condition that they can say they feel an abiding conviction of the truth of
11 the charge, there's no reasonable doubt. Doubt to be reasonable must
12 be actual, not mere possibility or speculation.

13 Usually the State of Nevada would get up here on rebuttal and
14 say, you know what, defense attorney didn't read you the last line here,
15 doubt to be reasonable must be actual, not mere possibility or
16 speculation.

17 But their entire case is built around the idea of speculation and
18 possibility, not actual. They fill in the blanks for Je'cory. And one of the
19 things that they do here, to help fill in the blanks with Je'cory, is they sit
20 here and they go, you said you were a part of this.

21 When Je'cory said, I knew what was going to happen, I didn't
22 do the planning, I was there because I was there, that's it. I opened the
23 door like I always open the door.

24 So let's talk about the door, it's interesting on some level that
25 the door becomes the predicate after, the thing that triggers his

1 involvement. When -- it's interesting because the previous time he opens
2 the door, before A.J. walks in, is when he's conducting his business.
3 That's it. He's conducting his business. Somebody knocks on the door,
4 he opens the door, there's a transaction, he closes the door. He's the
5 doorman. That's what he does. That's what he always does.

6 So the question then becomes is if that's something you
7 always do, and you're not told to do it but you do it anyhow, does that
8 make you a co-conspirator? Does that -- is that the act that we're talking
9 about here that says, okay, now you're part of this group, now you're part
10 of this shenanigan that's going to happen here in a second? That's the
11 real question, really, about the act.

12 Now, would it be easier for the State of Nevada to prove their
13 case if he was opening someone else's door. Say they were going to
14 A.J.'s house and he opened the door 'cause he's the doorman. He
15 opens the door at A.J.'s house. Yeah, that's -- that's definitely an act
16 where you can say beyond a reasonable doubt he definitely was part of
17 the conspiracy. But can you say beyond a reasonable doubt that him
18 opening that door is the act that says that he's part of this conspiracy?

19 If I could have you turn back with me over to jury instruction
20 number 3, and just real quickly I'm going to skim through this with you,
21 but 3 talks about -- these are the elements, these are the things that you
22 have to have the State of Nevada prove to you beyond a reasonable
23 doubt and each one is separate of itself, meaning just because you think
24 that they've satisfied some of 'em, they have to satisfy all of the
25

1 elements, each essential element beyond a reasonable doubt for each
2 part of it. They're all listed in here.

3 But the one element that you need to pay attention to is the
4 element of intent, did he have the intent of doing this stuff? And that
5 really is found in jury instruction number 4, so if you turn with that to me,
6 it says, to constitute the crime there must be -- there must exist a union
7 or a joint operation of an act forbidden by law and an intent to do the act.

8 The intent with which an act is done is shown by the facts and
9 circumstances surrounding the case; right? Well, let's see what kind of
10 acts do we have? The State of Nevada is going to say, look, the State --
11 the acts after obviously demonstrates that he was part of this thing
12 because he's taking the body, he's taking it downstairs, putting in the car,
13 he's driving away, blah, blah, blah.

14 The State of Nevada may also say that the video you saw
15 yesterday of my client dancing in a convenience store 30 minutes after
16 the shooting occurs also demonstrates that he had the intent, that he was
17 happy, he was joyous that this was all going down.

18 Once again, the issue then becomes what was the intent
19 before? What elements do we have before of his intent? The mere
20 presence, instruction number forty -- whatever -- 43. That's really what
21 you should be considering. Because does opening the door demonstrate
22 the intent that he wanted to be part of this whole thing?

23 Instruction number 6, I'm delving just really quickly into
24 conspiracy 'cause I think this one is the most important out of the three
25 aspects here. Second paragraph, mere knowledge or approval of, or

1 acquiescence in, the object and purpose of a conspiracy without an
2 agreement to cooperate in achieving such object or purpose does not
3 make one a party to the conspiracy.

4 The State of Nevada is correct, there is -- you can look for the
5 agreement, it doesn't have to be a tacit, legal document written in stone
6 or captured on video. You can talk about that based upon the conduct of
7 the parties, the inference of the parties.

8 But when someone is standing there how do you do that? How
9 do you determine that that person standing there is part of the
10 conspiracy?

11 Say if me and my friend and one other person was hanging
12 out, we're going to a bar, and we walk into the bar and then -- I get into
13 the bar, I tell my friend that I'm going to punch my other friend in the face.
14 Why, because that's juvenile things that college dudes do; right? It's not
15 that I'm in college but if I was that's probably one of the things I'd
16 probably do. So I go up to the guy and I hit him. And I don't punch him, I
17 just slap him in the face, let's do it that way. Well, right there I've
18 committed a battery; right? I've committed a battery. My friend, the other
19 friend, is in the room while it's happening, does he become a conspirator
20 to the fact that he knew that was going to happen?

21 Say me and my friend we walk into the bar without the third
22 guy and I tell my friend, hey, you know what, when so and so shows up
23 I'm going to smack him, slap him in the face. And the guy shows up and
24 I slap him in the face. Does that first guy, my friend who walked in with
25

1 me into the bar, is he a co-conspirator to the slap -- to the battery?
2 That's what they would want you to believe.

3 Now, if I walked into the bar with my friend and I told my friend
4 I don't really want to smack my other friend Ben, I want to smack him in
5 the face. And my other friend Jess says, let me call him, have him come
6 by the bar. Ben shows up to the bar, I slapped him in the face. Well,
7 then at that point you do have a conspiracy, you have a conspiracy right
8 then and there.

9 That's the thing that we're talking about. And if you can't
10 articulate that thing in this case beyond a reasonable doubt, you have no
11 conspiracy and you don't have anyway, at least the State of Nevada
12 doesn't, of proof beyond a reasonable doubt that my client should be
13 responsible for any of these crimes. Because there's no conspiracy,
14 which means at that point he's not conspiring to do the robbery, which
15 means under the felony murder rule he's not conspiring to commit a
16 murder -- or responsible for a murder, and he's not conspiring for the
17 kidnapping. That simple.

18 Now, in closing, sometimes things are really about a matter of
19 perspective; right? And the video that was shown to you yesterday really
20 I think on some level is a video that I want to make sure that we're clear
21 about. You've had every opportunity to observe Je'cory's demeanor and
22 you've been able to see him on the stand, you've been able to see him
23 on video, and you've also heard from Tyeshia about who he is, the kind
24 of person he is, kind of a quiet guy, he likes to make people happy.

25

1 The dancing part, if that's ever shown to you in rebuttal,
2 because I don't know if it is or not, I'm just kind of projecting it, if that
3 dancing video comes out, the question that you have to ask yourself is
4 why? Why is he doing that 30 minutes after the fact? Is he doing that
5 because he's celebrating that he just got some money or whatever it is
6 that they -- I don't -- I don't even know if they got any money out of this,
7 maybe some weed. I mean is he dancing like that because he's happy
8 'cause that happened to a person? Or is he doing it because of the fact
9 that he just doesn't want his girl to be upset or freaked out because
10 something hugely tragic just happened?

11 When he talks to detectives he tells detectives I didn't think this
12 was real. He goes back up to the apartment to get some things out of the
13 apartment and he sees the body laying there and he says, wow, this just
14 happened.

15 The State would want you to believe that their perspective is
16 the one. And so I got this --

17 Can I put the Elmo on real quick?

18 [Pause in proceedings]

19 MR. SANFT: All right. I was trying to look up something where
20 two different competing sort of perspectives on what is happened; right?
21 So you have a guy in this picture, the guy that's on the island is thinking,
22 oh, my goodness, there's a guy with a boat, I'm saved. The guy that's on
23 the boat is like, oh, my goodness I'm getting to land, I'm safe.

24 Same sort of thing with this; right, they're both looking at the
25 same thing and they're both technically right.

1 The problem in this case with regards to what happened with
2 Je'cory, and whatever reaction you want to put on the back end, is it's a
3 way for the State to try to inflame you and inflame your passions to get
4 you out of the idea of thinking logically and get you into the idea of getting
5 angry about this. Said, hey, someone did die, you just watched a man
6 die and you're out there dancing like that?

7 The reason why they showed you that video had nothing more
8 to do than to try to inflame your passions, to get you to bleed into the idea
9 that, hey, maybe the car in San Bernardino does have something to do
10 with his intentions and what he knew beforehand.

11 I'm only asking you to think dispassionately, to take your
12 common sense and use it in identifying the fact that do not fall for the
13 impassioned plea that somehow because of the fact that he's doing what
14 he's doing after the fact that means somehow that he ever intended and
15 participated in the beginning.

16 And once you do all that, once you make those decisions and
17 you hold the State of Nevada to its burden beyond a reasonable doubt,
18 the only answer to the question is not guilty to the conspiracy. Once
19 that's been answered, then everything else is not guilty because there's
20 nothing else that he should be held responsible for.

21 Thank you.

22 THE COURT: Thank you, Mr. Sanft.

23 Mr. DiGiacomo, are you ready for your rebuttal argument?

24 MR. DIGIACOMO: I am.

25 THE COURT: All right.

1 **REBUTTAL ARGUMENT BY THE STATE**

2 MR. DIGIACOMO: Every trial, whether criminal, civil, pretty
3 much any proceeding that happens in this courthouse, Mr. Sanft eluded
4 to it during the questioning of Detective Hodson, it's about a search for
5 the truth. What is the truth of what happened? It's not
6 Detective Hodson's truth. Not even Je'cory Kemp's truth. It's not Mike
7 Sanft's truth. Jory Scarborough's or Marc DiGiacomo's. There's only
8 one truth, one truth and one truth only and that's your job. Your job is to
9 determine what that truth is.

10 And I'm going to suggest to you, and get to this, that the truth is
11 something a hell of a lot more sinister than some bad robbery gone bad
12 here. This is a straight killing of an individual. But be that as it may,
13 there's also a job to do. 'Cause once you decide what the truth is you
14 have to decide is there enough evidence, did Mr. Scarborough and I
15 establish the case beyond a reasonable doubt?

16 And you know when I stand up here at this point in time after
17 listening to the lawyer's talk, Mr. Sanft yesterday with detective, or maybe
18 it was this morning, with Detective Hodson is asking what it is, and I'm
19 thinking, God, this is like Clinton what does the word "is" mean? Us
20 parsing language in jury instructions back and forth and it reminds me of
21 the saying that Shakespeare says the first thing we do is kill all the
22 lawyers because we've made this so complicated at this point.

23 Mr. Kemp is maybe the first defendant I've ever had who not
24 only confessed to a robbery in front of you but he confessed to a robbery
25

1 on the stand. And yet we're sitting up here still arguing about whether or
2 not he was involved in a robbery.

3 And Mr. Sanft even tried to read you the jury instruction, it's 43.
4 Mr. Scarborough didn't read this to you because it's pretty evident. Mere
5 presence at the scene of a crime or knowledge that a crime is being
6 committed is sufficient to establish a defendant is -- is insufficient to
7 establish the defendant is guilty of offense unless you can find beyond a
8 reasonable doubt the defendant is a participant and not -- it's not a
9 knowing spectator -- it's merely a knowing spectator.

10 This is a very limited defense. If Mr. Kemp had testified to you,
11 I heard them talking about it, I knew they were going to commit a robbery,
12 I was there, I sat on the couch, I didn't move the entire time, I did
13 absolutely nothing whatsoever, they killed the guy and then I left the
14 apartment. He'd have the defense of being a mere spec -- knowing
15 spectator. The moment he does any act, whatsoever in furtherance of
16 the crime, as a matter of law he is guilty of robbery and first degree
17 murder. Simple, no question about it.

18 Now, this case really is a felony murder case, I mean, it's pretty
19 simple when the guy fully confesses to being a participant in the robbery.
20 He can't open that door if he knows A.J.'s going to be robbed. And this
21 whole, I didn't intend for the robbery to happen. That's a little bit like
22 everybody who has kids when, you know, hey, you just hit your brother.
23 But daddy I didn't mean it. Okay, it doesn't matter whether or not you
24 meant it or not, you did it. You knew that someone was going to get
25 robbed and you let 'em in the apartment, as a matter of law it's a robbery.

1 And the moment he pulls the gun and you go, whoa, whoa,
2 whoa, it's not like that. Whoa, you've just inserted yourself in the middle
3 of a robbery on the side of the bad guys. And then when I asked him the
4 question, well, I thought it was a simple robbery 'cause four guys -- who
5 are the four? -- Kemp, Hickman, Woods, and Davis. Four guys is enough
6 to overcome. He admits it. Yeah, I figured four guys was enough to
7 convince that guy that he shouldn't resist the robbery.

8 You had him fully confess on the stand, that's why the
9 cross-examination stopped, it's like, well, what else do you ask him now?
10 He just confessed to felony murder on the stand. Nothing. He fully
11 confesses in this case not to being a participant.

12 And Mr. Sanft's wrong, let's say he didn't agree at the front end
13 to engage in this robbery. You heard him talk about, knew they were
14 going to do it, and he's sitting on the couch and he knows A.J.'s coming
15 to that door, and the knock on the door comes. Even if he's not part of
16 the conspiracy, he has knowledge that there's going to be a robbery, he
17 opens that door. The law requires him to say, I'm not opening that door,
18 you guys want to go get the door, that's fine, but I'm not doing it. I'm not
19 helping in any way. I'm not participating in any way. You don't get the
20 defense of a mere knowing spectator while doing acts.

21 And Mr. Sanft's suggestion to you that all that stuff that
22 happens in San Bernardino is just to prejudice you and upset you and
23 make you think. No. The instruction says you do -- you look at what
24 somebody does after the crime is committed to kind of infer they were
25 part of it. And what person drives a car out to San Bernardino, pours

1 gasoline over it head to toe, pours gasoline in the car, then goes back
2 and pours more gasoline, and it almost sounds like he's proud of it when
3 he lights it on fire. That's a guy who wasn't involved whatsoever in what
4 caused this person to be dead? In what world does that kind of common
5 sense use?

6 This case is, as a matter of law on the testimony, a first degree
7 murder.

8 Now, we have some rules, so what I say is not evidence, what
9 Mr. Sanft says is not evidence, and there's good reasons for that; right?
10 Mr. Sanft started off his closing with this is exactly what I told you in
11 opening. Not exactly. Mr. Sanft told us in opening that his client didn't
12 even know there was going to be a robbery. Well, that because painfully,
13 obviously untrue. And so on the stand today it became, I knew it was a
14 robbery but now I'm just a mere spectator. He got that wrong because
15 he actually participated.

16 So what I say here about the circumstances of the case, that's
17 not evidence either. But it's food for thought 'cause Mr. Kemp makes it
18 sound like, oh, man, it's just some simple robbery of a drug dealer, and I
19 didn't know it was going to go that bad, so kind of feel bad for me that I'm
20 in this situation. Basically, I participated because I thought it was just
21 going to be a simple robbery and then it turned into a murder. But I'm
22 going to suggest to you that's not it.

23 And think about all the facts you know; right? It's not just
24 Tyeshia James saying Mr. Kemp was actively engaged in the
25 conversation that occurred between him and Sayso and Little, it's not just

1 that but he says it, and he said it in the statement and today he kind of
2 waffled out of it a little bit, the reason they're mad at A.J. is they have
3 weed, him and his business partner; right, you can't leave that out.

4 Mr. Scarborough and I, we work together; right, so when he
5 has a witness up here and he's saying I'm going to show you State's
6 Exhibit Number 49, he doesn't have to -- I don't have to agree to put up
7 49, I'm working together in this process with him, and so I just type in 49
8 and it pops up on the screen.

9 So but think about it? These guys can't make any money. And
10 Sayso's \$2,000 into. And so they've got a problem with A.J. And how is
11 that problem solved by just ripping A.J. off? It's really not. Their problem
12 is is that he's selling weed too cheap and so he's lured over to the
13 apartment.

14 And think about this, the robbery is complete the moment
15 Sayso walks out the door -- or walks out the back room. And a juror
16 asked this question, like, well, did somebody do something? And he
17 admits in both the statement and here, well, yeah, Woods pushed him
18 back. But the robberies already complete because you know that the
19 moment he walks through the door and drops that bag on the ground,
20 Hickman has the bag and he sees the one pound in there. So they
21 already have his property.

22 So why isn't A.J. free to leave? Why do they care that he's
23 trying to get to the door and he's trying to get out? Why are there four
24 guys trying to hold him there when they already have his property?

25

1 And then you think about the nature of this wound to A.J.
2 Think about it. It's got to be two feet away and enters his neck up here
3 and it comes out here and A.J.'s five-foot-ten. A.J.'s not standing, unless
4 there's somebody laying in the ceiling shooting out of the ceiling down at
5 A.J. He's sitting in the chair.

6 And then think about the blood. He tells you the forensics don't
7 matter. Oh, the forensics matter a whole heck of a lot. All that blood is
8 on the ground and it's on the bottom of the chair. It is all right there in the
9 kitchen.

10 So I'm going to suggest to you, ladies and gentlemen, that the
11 robberies already done, he could have been free to leave, but he wasn't
12 allowed to leave. And why wasn't he allowed to leave? Well, these guys
13 aren't exactly masked up. They're doing it to a guy who works at this
14 particular location and he's still going to be a problem after the robberies
15 over.

16 So does anybody legitimately think A.J.'s walking out of that
17 apartment? No, he's never walking out of that apartment.

18 And then think about all the cleanup that happens at the scene.
19 They don't flee this apartment forever. The rent's paid. Their stuff is still
20 in there. They leave all their paperwork in there and everything else.
21 Yeah, they get away from the scene for a while but they don't just
22 completely take everything that identifies them back to here.

23 And then what do they do with the body? And I still don't really
24 understand what Flaco's involvement here is if he's telling the truth; right?
25 They get this body, they take it all the way out of state, and they torch the

1 car and the body. What is that purpose of doing that? Why not just
2 cleanup the apartment, take all the stuff that identifies us, and get out of
3 there? Why do all of this? It's because it's a planned thing. And Tyeshia
4 said it too. She said, you know, the -- or he said it as well, you know,
5 we're going to make it look like he just disappeared and he's gone and he
6 left work.

7 You know, because the defendant gave a statement and
8 suddenly in this case somehow turned upon his statement as to decide
9 whether or not he's guilty or not guilty, you can do that 'cause just from
10 his statement alone he fully confesses to a felony murder.

11 But that ain't the truth of what this is. They decided they were
12 getting rid of the competition. That's what this crime is about. That's who
13 Mr. Kemp is. And why he's so happy inside that convenience store? It
14 ain't 30 minutes later, it's less than 20 minutes later he's in that
15 convenience store and you can see.

16 And, in fact, there is a facial shot. I didn't play it for you. But if
17 you want to in the back room, it's 1:37, I think it's file F, the one I didn't
18 play for you. There's a facial shot of Mr. Kemp and how goofy and happy
19 he is. That's a guy who's celebrating a job well done. Not a question
20 about it.

21 So when you look at the evidence you have to ask yourself,
22 why does a guy who has things -- who tells the police what he told the
23 police, why is he still lying at the end of the interview? And you know he
24 is. He admits it here on the stand today that I'm still lying about some
25 stuff involved here. I'm lying about Flaco's involvement. I'm lying about

1 all kinds of things that you hear within that statement. He never fully tells
2 the truth. He's minimizing his conduct, as the detective says.

3 Well, if you're minimizing that your defense is, I'm only involved
4 in felony murder, you really have to ask yourself what this crime really is.
5 This was a vicious homicide of an individual.

6 And tell me what evidence there is that A.J. had a gun, other
7 than his word? There's no evidence of that.

8 And tell me whether or not if you had knowledge that he was in
9 a room with A.J., and he never even -- he keeps his mouth shut. He's in
10 a room with three other guys, A.J. gets shot, he cleans it up. He buys the
11 garbage bags. He carries the body downstairs. He puts the body in the
12 trunk and he drives the car.

13 Tell me what would make you think that Hickman's the
14 shooter? Yes, he says that.

15 And so for purposes of deciding whether or not there's
16 sufficient evidence to convict him of this crime, you should use that
17 statement. But don't fool yourself to think that he's telling you the full
18 truth. Don't fool yourself into thinking that somehow this is some sort of
19 accidental crime. This is a vicious homicide. A vicious homicide
20 perpetrated by four people. And the guy who's on that videotape, and
21 the guy who testified on that stand had zero emotion, complete and no
22 empathy whatsoever for the fact that a human lost his life in that room.

23 That's the person you're judging here today. That's the
24 person, the lens, the perspective, as Mr. Sanft wanted to talk about, you
25 should be looking at this evidence from. What type of person? What do

1 we think that means? What common sense conclusions can we draw
2 from that situation? That's Mr. Kemp. Mr. Kemp is a murderer.
3 Mr. Kemp is a robber. Mr. Kemp is a kidnapper. And certainly he
4 engaged in a conspiracy with these three individuals to kill A.J. or to rob
5 A.J.

6 Thank you.

7 THE COURT: All right. Thank you, counsel.

8 Ladies and gentlemen, because of our COVID precautions
9 normally we would send you to the jury room, unfortunately that room's
10 not that big that we can have the social distancing. So the jurors will
11 deliberate in this room. All of us will leave the room. You'll be here in
12 private. The marshal is going to place himself outside that door there.
13 So if anyone needs a break, needs something, for anything, has any
14 question about anything, just knock on the door, the marshal will answer
15 the door and find out what your question is, then he'll communicate that
16 to me as well as the attorneys; okay. So feel free to turn your chairs
17 around or however you feel comfortable with your social distancing in this
18 area.

19 In this type of case we have two alternates. We always have
20 alternates in cases 'cause in the event during the trial, or even during
21 deliberations, if a juror for some reason becomes incapable or unable to
22 continue to perform their duties, then we need an alternate to step in and
23 then we would resume the jury deliberations. And so we always have
24 alternates in these cases. The alternates do not go in and deliberate with
25 you, unless, like I said, someone has to be excused for some reason.

1 And so Stephanie Jones and Elizabeth Alvarez you have been
2 selected as alternates in this matter. So before you leave, we need to
3 get your phone number and if you have, you know, text, you know, cell
4 phone, maybe email, et cetera, get that information. You're going to be
5 under the same admonishment that we've always given you. Because in
6 the event one of the other jurors becomes disqualified for some reason
7 we will call you back and you'll have to come back in and resume
8 deliberations with the panel.

9 And so for Ms. Stephanie Jones and Elizabeth Alvarez, during
10 this break you're not to discuss or communicate with anyone, including
11 fellow jurors, in any way regarding the case or its merits, either by voice,
12 phone, email, text, internet, or other means of communication or social
13 media.

14 You're not to read, watch, or listen to any news or media
15 accounts or commentary about the case. Do any research, such as
16 consulting dictionaries, using the internet, or using reference materials.

17 You're not to make any investigation, test a theory of the case,
18 recreate any aspect of the case, or in any other way investigate or learn
19 about the case on your own.

20 Again, you're not to form or express an opinion until this matter
21 is resolved. Again, you may be called back so.

22 I'm going to go ahead and excuse you. Just wait outside the
23 front door for the marshal, he's going to get your contact information; all
24 right?

25

And at this point we are adjourned for the jury to start deliberation -- yes, and we need to swear in the marshal and the other -- the two marshals here to take charge of the jury panel.

[The Court Clerk swore in the officers to take charge of the jury
during deliberations]

THE COURT: All right. Thank you.

So we're -- I'm going to direct all the attorneys and everyone else -- no, actually, I'm sorry, we're going to have at this point -- the mechanics of this that's -- I'm going to have the jury take a seat outside just for five minutes, stay close to the door, and then we'll call you back in after we clear out.

Okay. So during this very brief recess, before you come back in, again, you're not to discuss or communicate with anyone, including fellow jurors, in any way regarding the case or its merits, either by voice, phone, email, text, internet, or other means of communication or social media.

Read, watch, or listen to any news or media accounts or commentary about the case. Do any research, such as consulting dictionaries, using the internet, or using reference materials.

You're not to make any investigation, test a theory of the case, recreate any aspect of the case, or in any way investigate or learn about the case on your own.

Again, you're not to form or express an opinion regarding this case until it's submitted to you when you come back in for deliberation.

1 THE MARSHAL: Just leave all your belongings here, just
2 leave everything, you all will come back in here.

3 All rise for the exit of the jury.

4 [Outside the presence of the jury]

5 THE COURT: All right, Counsel, if you want to come on
6 through the back way. And then if we hear anything, we'll contact you.
7 Make sure you have given my court clerk your contact phone numbers,
8 please.

9 MR. DIGIACOMO: We all have.

10 MR. SANFT: Yes, Your Honor.

11 [Proceedings recessed at 2:42 p.m.]

12 [Proceedings resumed at 4:42 p.m.]

13 THE MARSHAL: All rise for entry of the jury.

14 [In the presence of the jury]

15 THE COURT: Hi, welcome back, ladies and gentlemen.

16 All right. I understand that we have a verdict.

17 Who is our foreperson?

18 Ma'am, would you please hand the verdict form to the marshal.

19 All right. The clerk will now read the verdict.

20 THE CLERK: District Court, Clark County, Nevada, the State
21 of Nevada versus Je'cory Kemp, Case Number C-20-346920-1,
22 Department 17.

23 Verdict, we, the jury in the above entitled case, find the
24 defendant, Je'cory Kemp, as follows: Count 1, conspiracy to commit
25 robbery, guilty of conspiracy to commit robbery.

1 We, the jury in the above entitled case, find the defendant,
2 Je'cory Kemp, as follows: Count 2, murder with use of a deadly weapon,
3 guilty of first degree murder with use of a deadly weapon.

4 We, the jury in the above entitled case, find the defendant,
5 Je'cory Kemp, as follows: Count 3, first degree kidnapping with use of a
6 deadly weapon resulting in substantial bodily harm, guilty of first degree
7 kidnapping with use of a deadly weapon resulting in substantial bodily
8 harm.

9 We, the jury in the above entitled case, find the defendant,
10 Je'cory Kemp, as follows: Count 4, robbery with use of a deadly weapon,
11 guilty of robbery with use of a deadly weapon.

12 Dated this 8th day of April, 2021, Anita Tam, foreperson.

13 Ladies and gentlemen of the jury, are these your verdicts as
14 read so say you one so say you all?

15 THE COURT: Is that your verdicts, ladies and gentlemen?

16 [The Jurors in unison: Yes.]

17 THE COURT: Does either side wish to have the jury polled?

18 MR. DIGIACOMO: No, Your Honor.

19 THE COURT: Mr. Sanft?

20 MR. SANFT: No, Your Honor.

21 THE COURT: All right. Thank you.

22 The defendant is to be held without bond at this point and he
23 has a sentencing date as follows.

24 THE CLERK: Sentencing date will be May 28th at 8:30.

25 THE COURT: All right. Thank you.

1 Ladies and gentlemen, on behalf of the court system and the
2 parties, I wanted to thank you for your service for this trial. As I
3 mentioned before we know that jury service may not be always the most
4 convenient thing for you to perform, but, again, without individuals such
5 as yourselves willing to serve, our system of justice does not work.

6 So, again, on behalf of my courtroom, I appreciate all of your
7 services. You are released from your admonishment at this time. So you
8 can talk to whomever you want. Sometimes after a trial the attorneys
9 might want to talk to you, just ask what did you like about the case, what
10 you didn't like about the case, or anything similar to that. No one's going
11 to question the wisdom of your decision. You're free to speak with them
12 or not. It's strictly up to you.

13 And so you are excused from this case. If you do wish to
14 speak with the attorneys, you can talk to them in the hallway if you would
15 like. Otherwise, you do have my thanks.

16 You can keep the jury instructions, if you want, or just put 'em
17 on your chair and we'll dispose of them for you.

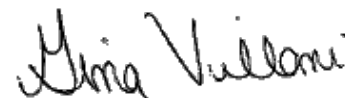
18 And, again, thank you very much. And have a great day.

19 THE MARSHAL: All rise. Department 17 is now adjourned.

20 [Proceedings concluded at 4:46 p.m.]

21 * * * * *

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

24 

25 Gina Villani
Court Recorder/Transcriber

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

@ 4:43pm

APR 08 2021

BY, 
SAMANTHA ALBRECHT, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-20-346920-1
VER
Verdict
4950667



VER

THE STATE OF NEVADA,
Plaintiff,

-vs-

JECORY KEMP,
Defendant.

CASE NO: C-20-346920-1

DEPT NO: XVII

VERDICT

We, the jury in the above entitled case, find the defendant JECORY KEMP, as follows:

COUNT 1 – CONSPIRACY TO COMMIT ROBBERY

(Please check the appropriate box, select only one)

- ☒ Guilty of Conspiracy To Commit Robbery
☐ Not Guilty

We, the jury in the above entitled case, find the defendant JECORY KEMP, as follows:

COUNT 2 – MURDER WITH USE OF A DEADLY WEAPON

(Please check the appropriate box, select only one)

- ☒ Guilty of First Degree Murder With Use of a Deadly Weapon
☐ Guilty of First Degree Murder
☐ Guilty of Second Degree Murder With Use of a Deadly Weapon

- ☐ Guilty of Second Degree Murder
☐ Not Guilty

We, the jury in the above entitled case, find the defendant JECORY KEMP, as follows:

**COUNT 3 – FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
RESULTING IN SUBSTANTIAL BODILY HARM**

(Please check the appropriate box, select only one)

☒ Guilty of First Degree Kidnapping With Use of a Deadly Weapon
Resulting In Substantial Bodily Harm

- ☐ Guilty of First Degree Kidnapping With Use of a Deadly Weapon
☐ Guilty of Second Degree Kidnapping With Use of a Deadly Weapon
☐ Guilty of Second Degree Kidnapping With Use of a Deadly Weapon
☐ Not Guilty

We, the jury in the above entitled case, find the defendant JECORY KEMP, as follows:

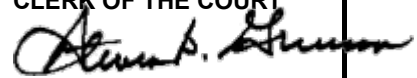
COUNT 4 – ROBBERY WITH USE OF A DEADLY WEAPON

(Please check the appropriate box, select only one)

- ☒ Guilty of Robbery With Use of a Deadly Weapon
☐ Guilty of Robbery
☐ Not Guilty

DATED this 8 day of April, 2021


FOREPERSON



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

JECORY ELES KEMP,

Defendant.

CASE NO. C-20-346920-1
DEPT NO. XVII

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

FRIDAY, JULY 9, 2021

SENTENCING

APPEARANCES:

FOR THE STATE:

MICHAEL J. SCARBOROUGH, ESQ.
Deputy District Attorney

FOR THE DEFENDANT:

MICHAEL W. SANFT, ESQ.

RECORDED BY: KRISTINE SANTI, COURT RECORDER

TRANSCRIBED BY: JD REPORTING, INC.

1 **LAS VEGAS, CLARK COUNTY, NEVADA, JULY 9, 2021, 10:03 A.M.**

2 * * * * *

3 THE COURT: All right. 22 is Jecory Kemp.

4 Mr. Kemp? There he is.

5 Mr. Sanft is here. Mr.--

6 MR. SCARBOROUGH: Joey Scarborough for the State.

7 THE COURT: -- Scarborough is here.

8 Did you have cocounsel? I can't remember.

9 MR. SCARBOROUGH: Mr. DiGiacomo.

10 THE COURT: Okay. Are you handling it today?

11 MR. SCARBOROUGH: Yes, sir.

12 THE COURT: Okay.

13 Mr. Sanft, can we go forward on sentencing?

14 MR. SANFT: We can, Your Honor.

15 THE COURT: All right. I did receive, just for the
16 record, I obviously have the PSI. I did receive numerous
17 letters, letters from the defendant and letters of his support
18 and victim impact letters that have been reviewed today.

19 There was one question I had before we get going.
20 There was a request for a restitution in the amount of 36,000.

21 Did you get that documentation, Mr. Sanft?

22 MR. SANFT: I received the letter from P&P indicating
23 that there was an amendment to their previous presentence
24 investigation report indicating that there was an additional
25 amount. I did not receive the actual documentation supporting

1 that, but at this particular point I won't be objecting to the
2 number.

3 THE COURT: Okay. And, Mr. Scarborough, just for the
4 Court's order, that 36,523.69, who does that go to? Because we
5 have to identify the actual individual.

6 MR. SCARBOROUGH: Yes. So I would like to say it
7 goes to -- it should go to --

8 (Pause in the proceedings.)

9 MR. SCARBOROUGH: So it's going to go to his mother
10 who submitted in her letter, and I just want to touch base with
11 her real quick just make sure that it's correct.

12 (Pause in the proceedings.)

13 THE COURT: Actually, it was not 36,000. It was
14 31,523.69.

15 MR. SCARBOROUGH: That's correct. I think you added
16 the 6,000 because of the Victims of Crime.

17 THE COURT: Right. So there is restitution. It's
18 \$5,000 to the Victims of Crime fund. And then 31,523.69 to?

19 MR. SCARBOROUGH: Gale Bates Anderson.

20 THE COURT: All right.

21 THE CLERK: Can you spell her first name for me.

22 MR. SCARBOROUGH: G-a-l-e.

23 THE COURT: Let me just get my notes together before
24 we start.

25 One of my notes apparently was left on my desk, and

1 my law clerk is getting that now.

2 While we're waiting, I can handle page 2.

3 (Matter trailed at 10:07 a.m., until 10:09 a.m.)

4 (Pause in the proceedings.)

5 THE COURT: All right. We've got everything here.

6 Defendant is hereby adjudged guilty of Count 1,

7 conspiracy to commit robbery;

8 Count 2, Murder with use of a deadly weapon;

9 Count 3, First-degree kidnapping with use of a deadly
10 weapon resulting in substantial bodily harm; and,

11 Count 4, Robbery with use of a deadly weapon.

12 Go ahead, State.

13 MR. SCARBOROUGH: All right. Thank you, Judge.

14 So as I have members of his family present, I'll be
15 conscious about belaboring any of the facts that you saw at
16 trial.

17 But, I mean, we have to be honest here that the facts
18 are somewhat horrifying. Here again we have the robbery that
19 was planned, luring him to the apartment, which the evidence
20 shows, based on the angle of the shot, the victim was sitting
21 down. And then after they murdered him, they took him in his
22 own car, specifically this defendant did, drove him out to
23 California and attempted to burn the body and dispose of all of
24 the evidence. I mean, those are the facts that we're dealing
25 with in this case that you saw.

1 And I'm not going to sit here and say and ask for a
2 life without sentence (sic) or anything along those lines
3 because the evidence doesn't demonstrate that he is the shooter
4 in this case. You saw the trial. You know he was the person
5 who opened the door. He was the one who told and attempted to
6 put our victim at ease, saying, no, it's not like that, don't
7 make any moves.

8 But what he also was was the driver of that vehicle,
9 and he also admitted to lighting that match out in that desert
10 to burn him. And, Judge, that in and of itself demonstrates a
11 level of depraved indifference to life that this Court has to
12 take into consideration aside from the homicide alone.

13 I understand that he doesn't have a lengthy record,
14 and I understand that that's something that can be persuasive
15 to the Court, but I think in this instance I believe the Court
16 should find that minimally persuasive.

17 So to get down to it with the murder with use of a
18 deadly weapon, as I had stated before, I think it's more than
19 appropriate to ask for that 20 to 50 range.

20 As for the deadly weapon enhancement, I understand
21 that by law it has to run consecutive. I'll submit to you as
22 to the time on the consecutive sentence for the deadly weapon
23 enhancement simply because the evidence doesn't show that he's
24 the shooter. I know we convicted him of the deadly weapon
25 enhancement, but I, being conscientious of creating any

1 sentencing disparity should the shooter come to prosecution and
2 then conviction, I think that's an important consideration for
3 Your Honor as well. So again I'll submit as to the deadly
4 weapon enhancement on the murder with use of a deadly weapon
5 charge.

6 As to the conspiracy robbery, the 1 to 6, I think
7 that's a fair sentence on the charge, the 1 to 6. I'll submit
8 that I would recommend that that run concurrent.

9 For the robbery, that's where I think we start to
10 deviate along with the kidnapping. The robbery, the State
11 would ask for the 5 to 15. And during my closing argument,
12 there was a quote that stuck with me repeatedly from Mr. Kemp:
13 I thought it was a simple robbery. Well, it turns out it was
14 anything, but a simple robbery. And based on that statement,
15 he knew when he took the stand and admitted that he knew the
16 robbery was going to go down, I think a 5 to 15 is more than
17 appropriate with a deadly weapon enhancement of a 1 to 15, so
18 making that a 6 to 30 on that.

19 So as of now, pending your discretion on the deadly
20 weapon enhancement, just to keep a tally, we are at 26 to, I
21 believe, 60. I am doing math on the fly. So forgive me if I'm
22 wrong.

23 Now, where I think the time must substantially
24 increase is the kidnapping with use of a deadly weapon
25 resulting in substantial bodily harm.

1 Judge, he admitted to lighting that match. He
2 admitted to putting the victim in his own vehicle after
3 dragging him down multiple flights of stairs, taking him to
4 California. Evidence came out that not only while he took him
5 to California he drove his car, took advantage of whatever was
6 in the car, was listening to music. You saw the confession.
7 It was -- it was indifferent. It was just cavalier. It was
8 reckless. There was no care.

9 But again, along the same lines, while we're not
10 asking for a life without, because I believe, being conscious
11 of any type of sentencing disparity for the other codefendants,
12 and namely the shooter, I think the 15 to 40 term would be more
13 than appropriate. And again I would submit as to the deadly
14 weapon being consecutive to you.

15 So now being at 26 plus the 15, that brings us to a
16 41 I believe on the bottom, and I believe on the top it would
17 be 105 on the top. And again, if my math is off by some
18 numbers, I apologize.

19 And I believe that's an appropriate sentence, Judge,
20 considering all the factors present within the trial,
21 considering that again we have to be reasonable and come to the
22 conclusion that we did not prove nor are we alleging that he
23 was the one who pulled the trigger. In order to avoid any
24 sentencing disparity with the shooter, I think a term of 41 to
25 105 is highly appropriate as our base recommendation. I know

1 there's deviation based on your decisions with the deadly
2 weapon enhancements.

3 But what we saw here was, in the words of my
4 colleague, he wasn't getting out of that apartment alive. He
5 wasn't leaving. They had a problem when they had him come over
6 because they knew him. They weren't letting him get out.

7 And not only that, they wanted to destroy the
8 evidence, and he mutilated the body of a man, quite frankly,
9 you said you've considered all of the submissions by the victim
10 who was surrounded by the warmth of a family, who was a son, a
11 father, a brother, and that's what became of him at the hands
12 of the defendant.

13 I calculated 547 days credit for time served. I
14 added 42 days, I believe, from the PSI as it was prepared in
15 anticipation of the May 28th sentencing. So my submission on
16 credit for time served is 400 -- I'm sorry, 547 days credit for
17 time served. And as a reminder, again, the baseline
18 recommendation from the State's perspective, at minimum, should
19 be the 41 to the 105 term with your judgment being reserved for
20 any consecutive deadly weapon enhancements.

21 I also have four victim speakers who are present and
22 in the courtroom and wish that they would be heard, and I asked
23 that they be heard last.

24 And unless Your Honor has any other questions or
25 concerns, based on that I'll submit.

1 THE COURT: All right. Thank you.

2 And yes, I will hear from the speakers at the end
3 before the Court renders its decision.

4 Mr. Kemp, do you have anything to say before I
5 sentence you?

6 THE DEFENDANT: Yes, Your Honor. I would first and
7 foremost say to the family that I am sorry for what happened to
8 Mr. Anderson.

9 I'm also sorry for my part in the situation that led
10 up to his death.

11 I really don't know much more to say. I mean, the
12 situation that haunts me to this day, you know, I was told
13 by -- by homicide, you know, but, you know, just come clean,
14 you know, to help me feel better, never did. It never made me
15 feel any better. I never got no better sleep or none of that.

16 Despite what the State is saying about me, I have a
17 lot of care for life of anybody. The situation I was just in,
18 I didn't know what to do. I wish I -- I just wish I wasn't
19 there. I wish I would have left and never been a part of the
20 whole situation. I wish I would have never met the other
21 codefendants, you know, but I can't change the past, and I am
22 just, again, sorry for my actions.

23 THE COURT: All right. Anything else, Mr. Kemp?

24 THE DEFENDANT: No, that's, you know, that's all I
25 have.

1 THE COURT: All right. Thank you, sir.

2 THE DEFENDANT: (Video interference.)

3 THE COURT: I'm sorry. I didn't mean to cut you off,
4 sir. Anything else?

5 THE DEFENDANT: Just hope for the best for
6 everything. That's all.

7 THE COURT: All right. Thank you. I will hear from
8 Mr. Sanft and the victim speakers.

9 Mr. Scarborough, can you give me your aggregate
10 again? And I'll hear from Mr. Sanft on his aggregate as well.

11 MR. SCARBOROUGH: Yes, sir.

12 THE COURT: Give me that number again.

13 MR. SCARBOROUGH: Based on my math, the 20 to 50, the
14 5 to -- I'll just -- I had 41 on the bottom, 41 years to on the
15 top of 105.

16 And again I'm a lawyer doing math. So I just want to
17 throw that caveat out there, but that was my baseline. And
18 again, also with your discretion as to the consecutive time
19 given the deadly weapon enhancements that by law have to run
20 consecutive.

21 THE COURT: Correct.

22 MR. SCARBOROUGH: On the robbery and I believe on the
23 kidnapping and the homicide, the murder.

24 THE COURT: All right. Thank you.

25 MR. SCARBOROUGH: Yes, sir.

1 THE COURT: Mr. Sanft.

2 MR. SANFT: Your Honor, obviously based upon the
3 trial that we had in this case, it's pretty clear that when
4 this day were to arrive there's obviously no winners here;
5 right? I mean, you have a grieving family. You have a person
6 who has now died and is no longer going to be with his family.
7 You have an individual by Mr. Kemp who with absolutely no
8 criminal history, according to what I'm reading in this PSI on
9 page 4, outside of one misdemeanor offense for petty larceny in
10 2012.

11 It's interesting to me when you look at the totality
12 of what happened on this particular day, from the viewpoint I
13 think of Mr. Kemp, any reasonable person would have said what
14 are you guys talking about and then walked out the door with
15 his girlfriend; right? Because if you recall, his girlfriend
16 left. In fact, he had said, you know, leave. To me, that's
17 THE time that Mr. Kemp should have just walked out the door.

18 But the bigger problem I think we have over and over
19 again is that when the rubber meets the road and that moment in
20 time comes for you to make the right choice, Mr. Kemp did not
21 make the right choice. He did not leave with his girlfriend.
22 He stayed.

23 And there's a myriad of reasons why that could have
24 happened. Obviously peer pressure is one. These are people
25 that live around him, that are with him, and he's in his own

1 place. This is where he was residing at the time this
2 happened.

3 It's interesting to me that the position that we're
4 taking now in recommending such a high sentence is as if
5 Mr. Kemp pulled the trigger on the guy. As much as the State
6 is being careful about the recommendation to the Court in terms
7 of the aggregate, that's an aggregate and an amount of time
8 that typically is given to someone who is actually with a
9 criminal history points a gun at someone and shoots them. We
10 don't have that here from Mr. Kemp.

11 What do we have that the Court will recall during the
12 course of the trial? We have an individual who doesn't say,
13 no, who doesn't get up and walk out the door, who opens the
14 door for the individual, and the State recites correctly that
15 one of the things that he says that he said to the person who
16 eventually was shot is that, No, it's not like that. Do you
17 know why that all was? It's because of the fact that Mr. Kemp
18 thought, if anything, this was going to be either a dispute
19 over drugs, or they were going to take his drugs from him, not
20 a murder, not a murder.

21 And the problem is is, of course, under the
22 felony-murder rule you are responsible if you decide you're
23 going to go out and commit a crime, like a robbery, and someone
24 gets hurt or killed as a result of that, you are responsible as
25 if it was a regular murder. And we all understand the concept,

1 and we understand and respect the law with regard to that.

2 But with regards to Mr. Kemp, how can we say that
3 that's depraved indifference? The problem is what happens
4 after the fact. It's the taking of the body. It's putting it
5 in the car. It's driving it across to California. It's
6 lighting the car on fire with a body next to it. Those types
7 of things, obviously to any reasonable person, it's very hard
8 to fathom if you just witnessed a crime that you didn't believe
9 was going to be happening.

10 Why would you participate any further by doing all
11 these other things; right? It goes to the issue that the State
12 would say or anybody else would say is like, hey, you know
13 what, you should've known better. What the heck were you
14 thinking to participate and help potentially cover up a crime
15 that just occurred?

16 The problem is with Mr. Kemp is that in speaking with
17 his family and speaking with Mr. Kemp, even in his own words to
18 the detectives when he was arrested and interviewed, you could
19 tell he's not necessarily the brightest bulb in the shed.

20 And on top of it too, he kind of just wants to do
21 whatever it is that people tell him to do. He's not a leader.
22 He's not an instigator. He's the guy that you go tell open the
23 door. He's the guy that you say, hey, drag this body down
24 three flights of stairs, put it into the car, drive it across
25 the border, and then light it on fire. He's that guy.

1 And as a result, what we have here is someone,
2 exactly what the State is saying before, there may be some
3 danger here to a sentencing disparity when you look at the
4 actions of everyone who was involved, he's not the guy with the
5 gun. He's not the guy making the plan. He's not the guy with
6 the decision to pull the trigger on the gun. He's just the guy
7 who's there who opens the door.

8 And considering all things in totality in this case,
9 the fact that, once again, there are no winners here. We have
10 a grieving family. We have a person who has been taken from
11 this earth prematurely, and we have an individual who is going
12 to spend pretty much his predominant adult life in prison
13 because of this choice, with absolutely no criminal history.

14 What I'm asking the Court to do at this point is to
15 sentence him with regard to Count 2 to the fixed term of 20- to
16 50-years with a consecutive 1 to 5 on the use, and then run
17 Counts 1, 3 and 4 concurrent to that.

18 In essence, what would happen while he's in prison,
19 and I think just to be very blatantly clear about this is that
20 the 20- to 50-year sentence does not mean he does 20 years. It
21 means that he starts parole eligibility at 20, and it doesn't
22 mean he's going to get out at 20. It may be 25. It may be 30.

23 But in either event, this young man will spend a
24 significant amount of time in prison to consider all the things
25 that he could have done. And that's the thing about it. It's

1 not -- he could have just literally just walked out that door,
2 and he didn't do that.

3 But he's not the guy that's going to consider pulling
4 the trigger on the gun. He's not the guy that's going to
5 consider making the plan to begin with. He's not going to be
6 that guy.

7 And as a result, I believe that particular sentence
8 in the aggregate amount of 20 to 50 plus the consecutive 1 to 5
9 would meet the demands of justice in this case and send a clear
10 message to Mr. Kemp that, yes, you may not have been the one
11 pulling the trigger, but you should have at least walked out
12 the door and not participated in opening that door and allowing
13 that person to come into the room.

14 And based upon that we'll submit.

15 THE COURT: All right. Thank you. And we have a
16 couple of speakers this morning. Who is our first speaker?

17 MR. SCARBOROUGH: I believe it's still Marian.

18 **MARIAN ANDERSON**

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

21 THE CLERK: Thank you. Please state and spell your
22 first and last name for the record.

23 THE WITNESS: Marian Anderson. M-a-r-i-a-n.
24 Anderson, A-n-d-e-r-s-o-n.

25 THE COURT: All right. Ms. Anderson, thank you for

1 being here. Go ahead and tell me how this has impacted your
2 life.

3 And, Ms. Anderson, I know you have spoken to the DA
4 and probably the victim witness department of their office, and
5 I would say this to all the speakers. Sometimes speakers get
6 into certain tangents, and I do want to hear how this matter
7 has impacted you and your family's life. Okay. So let's focus
8 in so I understand, have a good understanding on the impact
9 that you have felt.

10 THE WITNESS: Okay. First and foremost, I am Jabbar
11 AJ Marion's twin sister. I've been affected each day. I have
12 a whole death in my heart that can never be repaired. I never
13 spend a birthday without my brother, and now I have to. That I
14 have to celebrate alone, days that I can't get out the bed,
15 days that I walk around in a fog because I've never been on
16 this earth without him. I haven't never experienced not
17 spending days with him, birthdays. That was our celebration.
18 That was our tradition, and that was taken from me and him.

19 And I just feel that the most hurtful thing that
20 could have been done was even after the fact, they took him and
21 set him on fire. I live with that pain every day.

22 I see my brother, and I see his eyes, and I see how
23 he feels. He comes to me, and he lets me know I'm okay, but
24 don't be sad, but I can't because all I want is at least
25 another day with him to spend.

1 We were not just twins. We were inseparable. We
2 spent our days just laying around watching TV. That's what
3 type of brother he was. He was a great uncle to my daughter.
4 He always took the time to play with the children, do things
5 with the children, surprise them in our family. Even the kids
6 in the weeklies he would take out on and buy things and help
7 put up bikes and things like that. That's the type of person
8 he was. He may have had things that wasn't always right in his
9 life, but his heart was always in the right place when it came
10 to any of us.

11 I just want you to know that it's a long process, and
12 I will try to heal from this, but right now I'm in a state of
13 shock because no one even thought after he passed away to even
14 call the police so we can have a decent burial so I can see him
15 again. I couldn't even see my brother. I couldn't touch him
16 and let him know that I was okay and for him to go on. We
17 didn't get that closure.

18 And I want closure with all of this because this is a
19 lot, but I also want everyone that was involved to pay for what
20 they've done because you didn't have to do that to him. He
21 would have gave you what it was. He loved his life.

22 And, you know, it pains my mother sometimes. I don't
23 want to see my mother because I see the pain in her eyes, and I
24 know it's hard to look at me some time and know he's not there.
25 She carried us. We're eight minutes apart.

1 And my nephews, my sister, my family. We all have
2 suffered this great loss, even people that's not here. I just
3 want you guys to take that in consideration and do what's best
4 for the courts and the law.

5 Thank you.

6 THE COURT: Thank you, ma'am.

7 MR. SCARBOROUGH: I believe, Judge, the next speaker
8 would be Brandon.

9 **BRANDON WALLACE**

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

12 THE CLERK: Thank you. Please state and spell your
13 first and last name for the record.

14 THE WITNESS: Brandon Wallace. B-r-a-n-d-o-n. Last
15 name, W-a-l-l-a-c-e.

16 THE COURT: Go ahead, sir.

17 THE WITNESS: Your Honor, a mentor, a friend, a
18 grandfather, a father, a protector, and advisor and a hero.
19 These are invaluable things that were taken with no regard from
20 my younger brother and me. No more phone calls. No more
21 holidays. No father to be there at my brother and I's college
22 graduation.

23 No grandfather to be at my son and daughter's
24 elementary and middle school and high school graduation. No
25 grandfather to take my kids for ice cream and movies on the

1 weekends.

2 And no father to look to when I buy my first house or
3 to give me advice on the big decisions in my life.

4 These things to some are meaningless, but to others,
5 like myself and my brother, was everything we held onto dearly.
6 We understood the value of a man comes from within and not by
7 what he can do or give you.

8 This man has taken away something that has no price.
9 And spending the rest of his life in prison for this horrendous
10 and treacherous act does not even come close in comparison to
11 what he has so viciously taken from my family and me.

12 My father was a kind and humble person whose smile
13 could lift a room, and he had the spirit of a king and the love
14 and compassion of any decent human being. We spent multiple
15 hours every other day on the phone, and one of his greatest
16 passions was his love for teaching his sons new things. The
17 wisdom and love I received from him daily is something you
18 can't replicate. It's something if you will be lucky enough to
19 ever experience with another individual, let alone their own
20 father, and I have witnessed him help not only myself but
21 others countless of times. And on March 14 of 2018, he saved
22 my life.

23 Watching this man take the stand and have the
24 audacity to minimize his involvement in any way is disgusting
25 and proof that you are a reprehensible person. The so-called

1 doorman drove my father's car to a desert and burned my
2 father's body. This is somebody I would not want into the
3 streets of my or any community.

4 And with that that's all I have to say.

5 THE COURT: Thank you, sir.

6 MR. SCARBOROUGH: And the next one will be Rolanda.

7 **ROLANDA ANDERSON**

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

10 THE CLERK: Thank you. Please state and spell your
11 first and last name.

12 THE WITNESS: Rolanda. R-o-l-a-n-d-a. Anderson,
13 A-n-d-e-r-s-o-n.

14 Thank you, Your Honor, for allowing me to speak
15 today. I am speaking on behalf of my mother, my nephew, my
16 family and myself.

17 This last year and a half has been extremely
18 difficult for myself and my family. Losing my brother in such
19 a horrific way has caused all of us physical, emotional
20 distress. We all have been trying to cope with my brother's
21 murder the best that we can, but the actions of Jecory Kemp and
22 others have literally shattered our family. Just listening and
23 watching the graphic photos and testimony of this trial is
24 extremely difficult.

25 In actuality, there are no words to describe our

1 emotion and what we have to face every day and night. My
2 mother cries daily, and she's seeing a psychologist to deal
3 with her grief.

4 My 10-year-old son cries every night saying how much
5 he misses his uncle. He wants to know why someone shot his
6 uncle, why was his uncle taken from him and how do I explain
7 that to my son.

8 I have developed PTSD from the violence that Mr. Kemp
9 committed, and I struggle every day with it. Some days I
10 cannot watch the news, listen to the radio or go online because
11 of the shooting deaths that remind me of what I lost, my baby
12 brother.

13 I relive the trauma of what happened to my brother
14 every day, remembering the day he went missing, worrying where
15 he was and how to tell my mom her son was missing. Stressing
16 out and calling the coroner's office every day to see when they
17 would release my brother's body. That was the most agonizing
18 and emotional month of my life.

19 Mr. Kemp has shown no remorse or respect for my
20 brother's life. As was shown in the video, not 30 minutes
21 after he was murdered in their apartment, a video of him
22 laughing and smiling while buying alcohol with his girlfriend
23 was a slap in my face. All the while my brother lay dead in
24 their apartment.

25 The lack of respect and desecration of his body only

1 caused more stress and pain. What they did was extreme and
2 unnecessary. We cannot let our family and friends say their
3 final goodbyes due to his heinous act.

4 Mr. Kemp is the type of person who should not be
5 allowed in our society to do more harm. I know he is looking
6 for leniency, but I request that he should not receive it. I
7 request that he is given the maximum allowed for his crimes due
8 to the heinous acts he committed and the torment he has put my
9 family through.

10 His family will be able to see and talk to him while
11 my family can only go to the cemetery and visit my brother. My
12 brother will not see his son graduate, get married, start a
13 family, promotions on his job, birthdays, holidays or any other
14 occasion, all because of Mr. Kemp's actions.

15 My brother was someone, and he was loved deeply, and
16 his life mattered.

17 Thank you.

18 THE COURT: Thank you, ma'am.

19 MR. SCARBOROUGH: And, Judge, I mean, I'll submit
20 this to you, and Mr. Sanft has been gracious. Another family
21 member showed up, and he would like to speak. Mr. Sanft was
22 gracious enough not to object. I understand time constraints
23 and notice requirements. I'll submit to you on that, Judge.

24 THE COURT: If there isn't any objection, I'll hear
25 from him. If there is, then --

1 MR. SANFT: No objection, Your Honor.

2 THE COURT: Okay. Come on up, sir.

3 MR. SCARBOROUGH: Thank you.

4 **TARIQ COFFEY**

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

7 THE CLERK: Thank you. Please state and spell your
8 first and last name for the record.

9 THE WITNESS: Tariq Coffey.

10 THE CLERK: Can you please spell that, please.

11 THE WITNESS: T-a-r-i-q, C-o-f-f-e-y.

12 Your Honor, I just want to say thank you for giving
13 me the opportunity to speak. First of all, I just wanted to
14 let you know, sir, you took away my opportunity for me to be
15 able to see my kids and the rest of my family together and to
16 sit there and watch our kids grow old and experience life and
17 to have a bondage.

18 But for you to sit there and ask for leniency after
19 something so horrific, and you really don't -- you want
20 somebody to have some sympathy for you? You had no sympathy
21 for my cousin. You have no sympathy for his mother.

22 I can't even say you are dead wrong because look at
23 the situation. You're really out of pocket. Really out of
24 pocket.

25 God bless you, sir, and I feel you're going to do the

1 right thing. And I appreciate you.

2 THE COURT: All right. Thank you, sir.

3 Do we have any other speakers, or is that our last
4 speaker?

5 MR. SCARBOROUGH: We have the last speaker, his
6 mother, Gale.

7 THE COURT: All right.

8 MR. SCARBOROUGH: Thank you, Judge.

9 **GALE BATES ANDERSON**

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

12 THE CLERK: Thank you. Please state and spell your
13 first and last name for the record.

14 THE WITNESS: My name is Gale Bates Anderson. My
15 first name is G-a-l-e. Bates, B-a-t-e-s. Last name Anderson,
16 A-n-d-e-r-s-o-n.

17 I'd like to first give heart to God, the Judge and my
18 family. This has been one of the hardest things I've ever had
19 to do in my life is to bury my child. A parent never thinks
20 that they're going to bury their kid.

21 Three months prior to my son's death, I lost my
22 husband, his father, of over 50 years. Jabbar was my only son.
23 I was dependent on that to help me through the great loss of my
24 husband. And three months later he was gone. My grandsons
25 Brandon and little Jabbar, still young, tried to step into that

1 role. It's been hard. It's been hard for me.

2 My heart aches every day because my son called me
3 every day, every morning between 7:00 and 7:30. My son was on
4 that phone asking me how I was doing, what I was doing, what
5 was I going to do. That meant a lot to me.

6 My whole family is a close-knit family, and we grew
7 up trying to do the right thing.

8 And I know it's a hard world out here for everybody:
9 all our kids, all our black youth and our black men. I've lost
10 my son, and your parents have lost you too. This is a horrible
11 feeling, and it's a horrible feeling for all of us.

12 I'm trying to go on, but my heart is so heavy every
13 day and every night. Nobody knows how I cry for my son. That
14 was my only son, my only son. He was a good son. He was a
15 loving son, and he meant everything to me. I have a lot of
16 visions of what he did, what happened to him and how he
17 suffered at the hands of these people. What was going through
18 his mind? What was going through their minds?

19 To set fire to my son was so horrible. He was
20 already dead. Why burn him? I could not properly bury him.
21 I've had to wait and wait for the coroner to release his body,
22 and I could not open that casket to say goodbye to my only son.

23 I'm not the judge. I'm not the jury, and I know that
24 this has to be handled by the law. I appreciate whatever you
25 do to help me to relieve some of my grief, but I'll never get

1 over this because I'll never see my son again.

2 I visit that grave, and my heart is buried in there
3 with him and my husband, his father. Too big of loss for me to
4 take that quick together. I'll never ever get over this.

5 And where your family can come and see you, I can't
6 see my son again.

7 I'd like to thank the Court. I'd like to thank the
8 attorneys for allowing me to speak and giving me this time to
9 express myself. I don't know if I've expressed myself well or
10 not, but it's just a heartache that won't go away.

11 Thank you again. And I wish you well.

12 THE COURT: All right. Thank you, ma'am.

13 That was our last speaker?

14 MR. SCARBOROUGH: Yeah.

15 THE COURT: Do both parties agree on the calculation
16 of 547 days for credit for time served?

17 MR. SANFT: Yes, Your Honor.

18 MR. SCARBOROUGH: Yes.

19 THE COURT: Okay. Mr. Kemp, both attorneys agree and
20 direct this Court to sentence you for your role in this matter.
21 Although you were not the shooter, you need to understand that
22 when you're involved, you're involved in a conspiracy, you're
23 an aider and abettor, you're liable for everything everyone
24 else does, as they are liable for everything that you do. When
25 there is a conspiracy, there is a situation of the parties

1 aiding and abetting one another.

2 Clearly this was a senseless act.

3 On the Count 2, murder with use of a deadly weapon,
4 minimum term of 20 years, maximum term of 50 years in the
5 Nevada Department of Corrections;

6 A weapons enhancement, which must run consecutive
7 pursuant to the statute, minimum term of 2 years, maximum term
8 of 5 years.

9 Count 3, kidnapping charge. Minimum term of
10 15 years, maximum term of 40 years;

11 With a weapon enhancement it must run consecutive.
12 Minimum term of 2 years, a maximum term of 5 years.

13 So Count 3 is running consecutive with Count 2.

14 Count 1, minimum term, which is the conspiracy,
15 minimum term of 2 years, maximum term of 5 years.

16 Count 1 is to run concurrent to the other two counts.

17 On the robbery charge, minimum term of 4 years,
18 maximum term of 10 years.

19 Pursuant to statute with a weapons enhancement,
20 consecutive term of minimum term of 2 years, maximum term of
21 5 years.

22 Count 4 to similarly run concurrent.

23 For an aggregate sentence of 100 years on the top
24 end, 39 years on the bottom end.

25 You are ordered to pay the restitution as previously

1 stated. You're also ordered to pay a \$25 administrative
2 assessment fee, \$3 DNA collection fee, \$150 DNA fee submit to
3 DNA testing, \$500 to the indigent defense fund.

4 And you have 547 days credit for time served.

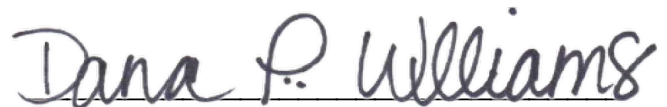
5 Thank you.

6 MR. SCARBOROUGH: Thank you, Judge.

7 (Proceedings concluded at 10:52 a.m.)

8 -oOo-

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

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14 Dana L. Williams
15 Transcriber
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Heather S. Shuman

CLERK OF THE COURT

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JECORY ELES KEMP aka
Jecory Kemp
#7066250

Defendant.

CASE NO. C-20-346920-1

DEPT. NO. XVII

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480, COUNT 2 – MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165, COUNT 3 – FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony) in violation of NRS 200.310, 200.320, 193.165, 193.165, and COUNT 4 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 - CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480, COUNT 2 – MURDER WITH USE OF A

1 DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165, and
2 COUNT 3 – FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
3 RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony) in violation of NRS
4 200.320, 193.165, 193.165, and COUNT 4 – ROBBERY WITH USE OF A DEADLY
5 WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; thereafter, on the 9th day
6 of July, 2021, the Defendant was present in court for sentencing with counsel MICHAEL W.
7 SANFT, ESQ., and good cause appearing,
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9 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition
10 to the \$25.00 Administrative Assessment Fee, \$500.00 Indigent Defense Civil Assessment Fee,
11 \$5,000.00 Restitution payable to Nevada Victims of Crime Fund, \$31,523.69 Restitution
12 payable to Gale Bates-Anderson and \$150.00 DNA Analysis Fee including testing to
13 determine genetic markers plus \$3.00 DNA Collection Fee, the Defendant is SENTENCED to
14 the Nevada Department of Corrections (NDC) as follows: **COUNT 1** - a MAXIMUM of
15 FIVE (5) YEARS with a MINIMUM Parole Eligibility of TWO (2) YEARS,
16 CONCURRENT with COUNTS 2 and 3; **COUNT 2** - a MAXIMUM of FIFTY (50) YEARS
17 with a MINIMUM parole eligibility of TWENTY (20) YEARS, plus a CONSECUTIVE term
18 of FIVE (5) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS for the Use of a
19 Deadly Weapon; **COUNT 3** – a MAXIMUM of FORTY (40) YEARS with a MINIMUM
20 Parole Eligibility of FIFTEEN (15) YEARS, plus a CONSECUTIVE term of FIVE (5)
21 YEARS with a MINIMUM parole eligibility of TWO (2) YEARS for the Use of a Deadly
22 Weapon, CONSECUTIVE to COUNT 2; and **COUNT 4** – a MAXIMUM of TEN (10)
23 YEARS with a MINIMUM Parole Eligibility of FOUR (4) YEARS, plus a CONSECUTIVE
24 term of FIVE (5) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS for the Use
25 of a Deadly Weapon, CONCURRENT with COUNTS 2 and 3; with FIVE HUNDRED
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1 FORTY-SEVEN (547) DAYS credit for time served. The AGGREGATE TOTAL sentence is
2 ONE HUNDRED (100) YEARS MAXIMUM with a MINIMUM Parole Eligibility of
3 THIRTY-NINE (39) YEARS.
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5 Dated this 16th day of July, 2021

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8 839 6FA 75DC BFB3
9 Michael Villani
10 District Court Judge
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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-20-346920-1

7 vs

DEPT. NO. Department 17

8
9 Jecory Kemp

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Judgment of Conviction was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/16/2021

15 Mar DiGiacomo

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16 District Attorney

PDMotions@clarkcountynv.gov

17 Public Defender

PDclerk@clarkcountynv.gov

18 Michael Sanft

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19 Jory Scarborough

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20 Heather Ungermann

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1 **NOASC**
2 Michael W. Sanft (8245)
3 **SANFT LAW**
4 726 S. Casino Center Blvd, Ste. 211
5 Las Vegas, Nevada 89101
6 (702) 497-8008 (office)
7 (702) 297-6582 (facsimile)
8 michael@sanftlaw.com
9 Attorney for Defendant Jecory Kemp

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 STATE OF NEVADA,

10
11 Plaintiff,

12 vs.

13 JECORY ELES KEMP,

14 Defendant.
15
16

Case No.: C-20-346920-1

Dept. No.: XVII

17 **NOTICE OF APPEAL**

18 Notice is hereby given that Defendant JECORY ELES KEMP in the above-entitled action,
19 appeals to the Supreme Court of Nevada from the Judgment of Conviction filed July 16, 2021.

20 DATED this 15th day of August, 2021.

21 SANFT LAW

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23
24 MICHAEL W. SANFT

25 Attorney for Defendant Jecory Kemp
26
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CERTIFICATE OF SERVICE

I hereby certify that I am a person competent to serve papers, that I am not a party to the above-entitled action, and that on August 15, 2021, I served the foregoing document via electronic filing on:

Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155


Employee of SANFT LAW