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Respondent.

Docket 84724 Document 2023-04822

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Case No. 84724

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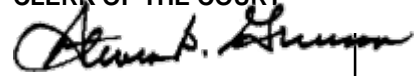
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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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|-----------------------|---|------------------------|
| THE STATE OF NEVADA, |) | CASE NO. C-18-335315-1 |
| |) | |
| Plaintiff, |) | DEPT NO. XXIV |
| vs. |) | |
| |) | |
| MARIO BLADIMIR TREJO, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

BEFORE THE HONORABLE ERIKA BALLOU, DISTRICT COURT JUDGE

THURSDAY, APRIL 21, 2022

**RECORDER'S TRANSCRIPT OF PROCEEDING:
JURY TRIAL - DAY 4**

APPEARANCES:

| | |
|----------------|--|
| FOR THE STATE: | HILARY L. HEAP, ESQ. MICHAEL J. SCHWARTZER, ESQ. Chief Deputy District Attorneys |
|----------------|--|

| | |
|--------------------|---------------------------------|
| FOR THE DEFENDANT: | MARIO BLADIMIR TREJO, Pro Se |
|--------------------|---------------------------------|

ALEXANDER C. HENRY, ESQ.
Standby Counsel

ALSO PRESENT:

Jeanette Encinas
Spanish Interpreter

RECORDED BY: SUSAN SCHOFIELD, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, THURSDAY, APRIL 21, 2022

2 (Case called at 8:56 a.m.)

3 (Outside the presence of the prospective jurors.)

4 THE COURT: We are on the record on State of Nevada
5 versus Mario Trejo, Case Number C-18-335315-1.

6 Mr. Trejo and Mr. Henry are present. And Mr.
7 Schwartz and Ms. Heap are present. We are outside the
8 presence of the potential jury.

9 And so, Mr. Trejo, you were going to talk about the
10 proffer.

11 MR. TREJO: (Mr. Henry reading for Mr. Trejo) I do
12 not feel comfortable with it, so I cannot stipulate to it. I
13 simply don't have a full understanding except for the main
14 effect it would produce. And I worry that it may have
15 collateral consequences. I have to refuse.

16 THE COURT: Okay. I understand your misgivings
17 about it. But it is something that happens in trials from
18 time to time. And as long as Mr. Schwartz gives a full
19 proffer of how he would lay the foundation, I'm going to allow
20 it.

21 MR. SCHWARTZ: And, Your Honor, I was thinking
22 about it yesterday. And correct me if you have a different
23 analysis of it. But I think it's more an issue of relevancy
24 than it is authentication. Because obviously the phone expert
25 can come in here, I received this phone under this event

1 number. I did the analysis. I did this and that.

2 But obviously, without the context of how the phone
3 was -- well, you know, placed into evidence, that's -- you
4 know, that -- there would be an issue regarding relevancy.

5 So I think the proffer would focus more on the
6 relevancy aspect than of the actual authentication foundation
7 issue under, you know, 52.015. So I will obviously make the
8 proffer. I'm not -- I've never tried to hide anything in this
9 case. I mean, I'm very open about it.

10 In fact, I'll tell Mr. Trejo all my witnesses so he
11 can write down the questions the night before so we can maybe
12 move on a little bit. But I think, unless you have a
13 different analysis to it, I think that's the proper way to do
14 the proffer on it.

15 THE COURT: That is exactly how I saw it happening,
16 because it was -- it was properly in evidence. And they're
17 going to get to that. And so all of this is just going to be,
18 yeah.

19 MR. SCHWARTZER: Okay. Thank you, Your Honor.

20 THE COURT: So that -- do you understand what we're
21 doing, Mr. Trejo?

22 MR. TREJO: Yes.

23 THE COURT: Okay. Great. Thank you.

24 And he said yes, for the record, I -- I actually
25 heard him.

1 And we're getting a new panel. The Marshal, Bill,
2 went to go get them.

3 So Mr. Henry -- Mr. Henry, until we get the
4 interpreter, I'm going to have to -- I hope you can read Mr.
5 Trejo's introduction, if we don't have the interpreter by
6 then.

7 Is there anything else we need to do outside the
8 presence?

9 MR. SCHWARTZER: Not by the State, Your Honor.

10 Not -- not right now, Your Honor.

11 THE COURT: I --

12 MR. SCHWARTZER: There's -- there's obviously -- the
13 -- the statement that we were talking about yesterday, whether
14 there was stuff he wants to exclude or not. But we can
15 obviously do that at a different time.

16 THE COURT: Okay. And Mr. Trejo shook his head no,
17 and I believe I saw him also say no, so we'll just be at ease
18 until we get the potential jury.

19 What you say?

20 THE COURT RECORDER: At ease?

21 THE COURT: At ease.

22 (Pause in the proceedings)

23 (Outside the presence of the prospective jury)

24 THE COURT: We were running through the 15's too --
25 too quickly, so I asked for 30, which they were able to give

1 us, since we got an earlier start.

2 (Pause in the proceedings)

3 THE COURT: Can we go back on?

4 THE COURT RECORDER: We're on.

5 THE COURT: Okay.

6 (In the presence of the prospective jury)

7 THE MARSHAL: All right. Your Honor, we have the
8 jury panel.

9 THE COURT: Okay.

10 Will the parties stipulate to the presence of the
11 potential jury?

12 MR. SCHWARTZER: Yes, Your Honor.

13 MR. TREJO: Defense does.

14 THE COURT: Thank you. Have a seat everybody.

15 Ladies and gentlemen, this is the time set for the
16 trial in Case Number C-18-335315-1, State of Nevada,
17 Plaintiff, versus Mario Trejo, Defendant.

18 The record will reflect the presence of the
19 defendant with his standby counsel, the District Attorneys,
20 and all the officers of the Court.

21 And you're in Department 24, ladies and gentlemen,
22 of the Eighth Judicial District Court. My name is Erika
23 Ballou. I am the presiding Judge in this Department.

24 And you've been called upon today to serve as a
25 juror in a criminal case. The charges in this case are

1 burglary while in possession of a firearm, robbery with use of
2 a deadly weapon, first degree kidnapping with use of a deadly
3 weapon, assault on a protected person with use of a deadly
4 weapon, conspiracy to commit robbery, and attempt robbery with
5 use of a deadly weapon.

6 We expect this trial will last three weeks. It's
7 already been going on for most of this week. We're still
8 trying to pick a jury for this.

9 Our trials generally run Monday through Wednesday.
10 We'll start no earlier than 10:30. On Thursday and Friday,
11 we'll start about 9:00 o'clock. On most days, we'll go until
12 5:00. Thursdays we leave a little bit early because of
13 childcare issues.

14 Ultimately, there are going to be 16 people who are
15 going to be on a jury and they're going to be the jurors and
16 the alternate jury -- alternate jurors, sorry. It's been a
17 long week already.

18 And so ladies and gentlemen, in this country, we
19 place a whole lot of faith in our citizens to act as jurors in
20 cases and come up with fair and objective decisions.

21 Part of what you're doing here today is you're being
22 a good citizen, like obeying laws, like paying taxes. And it
23 is a civic responsibility.

24 We appreciate the fact that you responded -- sorry,
25 I'm double masked today and it's really bothering me.

1 We appreciate the fact that you've responded to your
2 jury summons and you showed up and you're willing to do your
3 job. What you're -- what you're doing here is super
4 important, both to Mr. Trejo, and to the State of Nevada.

5 I hope that ultimately you have a good experience
6 and it's rewarding for you and you learn a little bit about
7 the justice system. I know some of you are sitting here
8 thinking, what can I saw to get out of jury duty.

9 Here's the problem with that, first, think about
10 what would happen if everybody --

11 I'm not sure who that is, just hanging out in the
12 back.

13 THE MARSHAL: I'll get it, Judge.

14 THE COURT: Thank you.

15 You know, think about what would happen if everybody
16 just tried to do that. If you were a party in a lawsuit, or
17 if you were, you know, somebody accused of a crime. What kind
18 of jurors do you want? And would you want yourself on a jury,
19 would you want someone who thinks like you and acts like you.

20 And second of all, you might get out of this jury,
21 but you may not get out of jury duty all together. They may
22 send you back down to the third floor and you could end up on
23 a civil case, which so, so boring. You don't even understand
24 how boring it is.

25 And they also -- this is a -- a -- kind of -- I

1 mean, this is a long case for a criminal case, but some of the
2 civil cases can last months, okay?

3 So I'm just going to take a second to introduce all
4 the court staff. That's Bill, the Marshal. You've already
5 met him. He -- his job is to maintain order in the courtroom
6 and security. He's also my representative to the jury. So if
7 you ever have any questions or anything like that, you need to
8 talk to Bill.

9 You have to understand, he can't answer questions
10 about the case though, nor can he excuse anyone from jury
11 duty. So he does not have that power. If there's a reason
12 you can't serve, that reason has to be stated in court with
13 all the parties present and court being in session.

14 To my far left is going to be Susie Schofield.
15 She's our court recorder. She sees everything that's said
16 during the court and she makes sure it's all recorded and so
17 that there is an accurate legal record of everything we say
18 and do during this trial.

19 There are a couple things I want to say about what
20 Susie does. When we get to asking people questions, I know
21 you're going to have heard the questions over and over from
22 everybody that I've asked before me.

23 Please wait until I finish the question before you
24 start answering it, because it's hard for her to record when
25 people are talking over one another.

1 Also, it's not like how -- we're just not having a
2 conversation. You can't just say uh-huh and huh-uh. You have
3 to say yes or no to make a clear record, because uh-huh and
4 huh-uh could be misinterpreted or misheard.

5 So we're going to need for you to actually say the
6 words yes or no. I'm going to try and remind people, and
7 again, please don't talk over one another, even if you've
8 heard all the questions and you already know what your answer
9 is going to be.

10 And to my left is going to be the courtroom clerk,
11 Ro'Shell Hurtado. She swears in the witnesses, marks
12 exhibits, keeps track of the evidence, and prepares minutes of
13 the proceedings for the court record.

14 Also in the back, you may or may not see my -- my
15 executive assistant. Her name is Chapri. When there are
16 ultimately 16 jurors, four of them are going to be alternates.
17 She takes charges of the alternate jurors.

18 My law clerk and my extern are also in the back. And
19 all of them make sure everything is running behind the scenes.

20 The State's now going to introduce themselves to you
21 and read a list of witnesses they may call and give you a
22 brief synopsis of their case. Please pay attention to the
23 names of witnesses, because we're going to, at some point, as
24 you if you know anyone on the list or anyone in the court, or
25 anything like that.

1 In addition, please, when I start asking you
2 questions, please listen to the question I ask. Don't answer
3 a different question.

4 Thank you.

5 Go ahead, Mr. Schwartz or Ms. Heap.

6 MS. HEAP: Thank you, Your Honor.

7 Good morning. My name is Hilary Heap. This is
8 Michael Schwartz. And we are both Chief Deputy District
9 Attorneys.

10 With us throughout the trial, you may see our
11 intern. His name is Afan Tarar. He may even question a
12 witness or two.

13 The events that give to this case occurred in 2018.
14 On August 4th, it is alleged that the defendant and an unknown
15 person attempted to rob the SuperPawn located at 1150 South
16 Rainbow. So it's the Rainbow and Charleston, or Rainbow and
17 Oakey area.

18 It is also alleged that on September 3rd, about a
19 month later that same year, he actually did rob -- he
20 completed a robbery at the SuperPawn. He had firearms at both
21 of those robberies and -- or attempted robberies.

22 And it's also alleged that at the second one, he
23 took one of the workers from the SuperPawn hostage, took that
24 woman outside and was ultimately -- the defendant was
25 ultimately shot by a police officer that day.

1 I'm going to read a long list of names, so just bear
2 with me, and I'll try to give you an explanation of who they
3 are as well, to give a little context.

4 We have Detective Trevor Alsup. He is a member of
5 LVMPD's FIT Team, which is the Force Investigation Team. They
6 investigate anytime an officer is involved in a shooting.

7 There's Giovanni Andino. He is a -- an employee at
8 the SuperPawn. Jeddah Balgame. She's an employee with the
9 District Attorney's Office. Zachary Baughman. He is with the
10 Air Unit of the LVMPD, so the Helicopter Unit.

11 We have Claire Browning. She's a Crime Scene
12 Analyst with LVMPD. Thomas Carrigy is a patrol officer with
13 LVMPD. Detective Jeff Clark. He is a robbery detective with
14 LVMPD. FIT Detective Mark Colon. He is also, like I said, on
15 the FIT Team.

16 There's Brian Farrington, a patrol officer with
17 LVMPD. Maria Fulwiler. She's a detective with LVMPD now. At
18 the time, she was a patrol officer. Keenan Graham, another
19 patrol officer with LVMPD.

20 Tim Hiner. He is the regional investigator for the
21 SuperPawn, specifically, that SuperPawn at 1150 South Rainbow.
22 Melani Howard. She was an employee, or is an employee of the
23 SuperPawn.

24 Jennifer Incerra who is an employee of the
25 SuperPawn. Ivan Jaquez, also an employee of the SuperPawn.

1 Detective Jason Leavitt of the FIT Team. Dwayne Melvin who
2 was a customer at the SuperPawn. Detective Scott Mendoza from
3 LVPMD. Matthew Mongeau, who is a friend of the defendant who
4 lent him his car on one of those occasions.

5 Natacha Montoban, she was a customer at the
6 SuperPawn. Tabatha Paine, is a Crime Scene Analyst with
7 LVPMD. Sergeant Joseph Patton, who is a -- used to be with
8 the FIT Team at LVPMD. Detective Blake Patton (sic) is with
9 the LVPMD. Marco Rafalovich is an investigator in the
10 District Attorney's Office.

11 Jonathan Sandoval was an employee at the SuperPawn.
12 Juliana Saldana was also an employee at the SuperPawn.
13 Adriane Serrano, was an employee at the SuperPawn. We have
14 Crime Scene Analyst Jeff Smith with LVPMD.

15 Crime Scene Analyst Giselle Tapay. Leah Groveman, a
16 DNA analyst with LVPMD. Barry Jones is a digital investigator
17 with LVPMD, so he looks at phone and technology records.
18 And Christine Whittle is a DNA analyst with LVPMD.

19 Thank you.

20 THE COURT: Thank you.

21 So, ladies and gentlemen of the jury, it's also a
22 constitutional right of a defendant in a criminal case to
23 either hire their own attorney. If they cannot afford an
24 attorney, they can be appointed an attorney, or to represent
25 themselves. That is a constitutional right.

1 Mr. Trejo has chosen to represent himself. So he is
2 going to be representing himself. He also has standby counsel
3 with him to make sure that everything goes all right and he
4 has all of his questions answered, and that's going to be Mr.
5 Alex Henry.

6 And Mr. Trejo is also disabled and so we have
7 someone here from the Court Interpreter's Office who will be
8 reading things onto the record for him.

9 So, Mr. Trejo, if you'd please state your opening.

10 MR. TREJO: Good morning, ladies and gentlemen. My
11 name is Mario Bladimir Trejo. I am the defendant in this
12 matter and I am representing myself. As some of you can see,
13 I am disabled and cannot speak, so I am humbled and appreciate
14 your patience and understanding.

15 My list of witnesses is short: Dr. Alison McNichol
16 -- sorry -- and Officer Octavio Ridusco.

17 I know you all are sacrificing time from your busy
18 days to be here and execute this civic duty. So again, you
19 have my appreciation. I look forward to hearing from you all.
20 Thank you.

21 THE COURT: Thank you.

22 And Ro, would you please call the roll of the panel
23 of prospective jurors?

24 When your name is called, please answer present or
25 here. We can't take a record of you just raising your hand.

1 Thank you.

2 (CLERK CALLS ROLL OF PROSPECTIVE JURORS)

3 THE COURT: Thank you.

4 Is there anyone whose name was not called?

5 Okay. So ladies and gentlemen, we're about to begin
6 the jury selection process. This is part of the case where
7 the parties and their -- where the parties have the
8 opportunity to get to know a little about you in order to help
9 them come to a decision as to whether or not you'd be able to
10 be fair and impartial in this case so that they can decide who
11 should be jurors on this case.

12 This process is done under oath. Will you all
13 please stand and raise your right hand so that the Clerk can
14 administer the oath?

15 (PROSPECTIVE JURORS SWORN)

16 THE CLERK: Thank you. You can have a seat.

17 THE COURT: Thank you.

18 So the process is going to go like this. I'm going
19 to ask general questions of everybody. Then we're going to
20 bring in the people who we've already had in for the past
21 couple days where we're going to be asking questions of them
22 all specifically.

23 We're going to move you, in case we end up getting
24 rid of them, and then we'll ask specific questions of you and
25 things like that.

1 The questions you're going to be asked during this
2 process are not intended to embarrass or unnecessarily pry
3 into your personal affairs. But it's important that the
4 parties know enough about you to make the important decision
5 of whether or not you could be fair on this trial.

6 There are no right or wrong answers. The only thing
7 I ask is that you answer the questions as honestly and
8 completely as you can. You now, just now took an oath to
9 answer all the questions truthfully and you have to do that.

10 Remaining silent when you have information you
11 should disclose is a violation of that oath as well.

12 If a juror violates the oath, it not only may result
13 in having to try the case all over again, but could result in
14 penalties against a juror personally.

15 I never want to have to do that. On the very first
16 day we were here somebody didn't come back after lunch. I had
17 to issue an order to show cause. I may have to end up, you
18 know, fining her, holding her in civil contempt.

19 I don't want to do that. I don't want to have to
20 punish people to make them do the right thing. And I don't
21 want to have to punish people if they don't answer questions
22 completely or anything like that.

23 So it's really, really important that you be as
24 honest and complete with your answers as possible. If you
25 don't understand a question, please ask for an explanation or

1 for clarification.

2 At some point during this process the parties are
3 going to have the right to ask a particular person not serve
4 as a juror. That's called a challenge. There are two types
5 of challenges.

6 A challenge for cause is a challenge where they
7 requested to excuse a potential juror because that potential
8 juror might have a difficult time being fair and impartial in
9 this particular case.

10 The second type is called a peremptory challenge
11 which means that they can excuse the juror for jury -- from
12 this panel without having to give a reason.

13 And in this case, we're going to have ten peremptory
14 challenges. Please don't be offended if you should be excused
15 during either of these challenge procedures. They're simply a
16 part of the process and they're designed to assist the parties
17 to reach a fair and impartial jury.

18 Once all the challenges are exercised, we're going
19 to have, like I said, 16 qualified jurors. 4 of the 16 are
20 going to be designated alternates and the 12 remaining people
21 will be on the jury and deliberate in this case.

22 So I'm going to ask questions of all of you. If you
23 need to answer that, please raise your hand, Bill, I'm going
24 to get the microphone. Before you start answering, please
25 make sure you state your name and your badge number so if

1 everybody can get out their badges so that they can have that
2 ready for when they have a question if they need to ask, or
3 answer, I'm sorry.

4 Okay. I'm just going to wait for you to put cap on.
5 Okay. Thank you.

6 Number one, is there anyone who has a disability or
7 medical issue that might impact their ability to serve on a
8 jury -- as a juror on this case?

9 So if we can hand the mic --

10 PROSPECTIVE JUROR NO. 0122: I have a moderate
11 hearing loss.

12 THE COURT: Your name -- your name and your badge
13 number?

14 PROSPECTIVE JUROR NO. 0122: Oh, sorry. Michelle
15 Bonte.

16 THE COURT: Um-hum.

17 PROSPECTIVE JUROR NO. 0122: Badge Number is --
18 Badge Number -- last -- last four numbers?

19 THE COURT: If you can give the entire number. It
20 should be 15 one something.

21 PROSPECTIVE JUROR NO. 0122: Oh. 15-0122.

22 THE COURT: Okay. Thank you.

23 PROSPECTIVE JUROR NO. 0122: I have a hearing loss
24 in both ears, a moderate hearing loss.

25 THE COURT: Are you able to hear everything with the

1 use of the -- the headphones?

2 PROSPECTIVE JUROR NO. 0122: With the -- with the
3 headphones, yes.

4 THE COURT: And if you're able to use the headphones
5 during the trial, do you think that it would affect you in any
6 way?

7 PROSPECTIVE JUROR NO. 0122: It -- will it be in a
8 courtroom just like this?

9 THE COURT: (Nods in the affirmative.)

10 PROSPECTIVE JUROR NO. 0122: And then it shouldn't
11 be a problem. Yeah, without them, and with people just
12 wearing masks, I wouldn't be able to hear at all.

13 THE COURT: Okay. Yeah. You'd be able to have
14 that.

15 PROSPECTIVE JUROR NO. 0122: Accommodate. Okay.

16 THE COURT: Yes. Thank you.

17 PROSPECTIVE JUROR NO. 0122: All right. Thank you.

18 THE COURT: Is -- is there anyone else who has a
19 medical issue that could impact their ability to serve?

20 There's somebody in the back. Can you just pass
21 that back behind you, Ms. Bonte?

22 Name and badge number?

23 PROSPECTIVE JUROR NO. 0154: Hello. Yeah. My name
24 is Paul Adler, and my Badge Number is 15-0154.

25 THE COURT: Thank you.

1 Go ahead. What's your issue?

2 PROSPECTIVE JUROR NO. 0154: Yep. So I've had COVID
3 three times. So I've took a -- took -- took like a lung
4 condition where I'm constantly having coughing fits and I'm
5 ill from long-term COVID. So I could miss -- getting up in
6 the morning is really very difficult for me.

7 THE COURT: Thank you.

8 You can just hold it until we see if there's anybody
9 else.

10 Anybody else with a medical condition that could
11 impact their ability to serve as a juror?

12 There being no other answers.

13 Is there anyone who's been --

14 You can have a seat, sir.

15 Is there anybody who's been convicted of a felony?

16 Mr. Adler, can you --

17 Your name and your badge number, again?

18 PROSPECTIVE JUROR NO. 0154: Again? Okay.

19 Paul Adler, 15-0154.

20 THE COURT: What was the category of the felony?

21 PROSPECTIVE JUROR NO. 0154: Fraud.

22 THE COURT: But do you know the category?

23 PROSPECTIVE JUROR NO. 0154: No, I don't.

24 THE COURT: A, B, C, D, E? Was it here?

25 PROSPECTIVE JUROR NO. 0154: Yes. Las Vegas.

1 THE COURT: Okay. And so were you placed on
2 probation or parole?

3 PROSPECTIVE JUROR NO. 0154: Probation.

4 THE COURT: How long ago did you finish?

5 PROSPECTIVE JUROR NO. 0154: '92 or '93. I don't --

6 THE COURT: Okay. And have your rights been
7 restored?

8 PROSPECTIVE JUROR NO. 0154: I have no idea.

9 THE COURT: You're able to vote?

10 PROSPECTIVE JUROR NO. 0154: Yes.

11 THE COURT: Okay. So, yeah, your rights have been
12 restored. Thank you.

13 So, like I said, we anticipate this case going for
14 three weeks. I recognize that serving on a jury at any time
15 is almost always inconvenient or a personal financial
16 hardship. For that reason, financial hardship is not
17 generally considered an excuse from serving on a jury.

18 However, you might be confronted with a unique
19 inconvenience or hardship that would impact your service on
20 this particular trial at this particular time.

21 Is there anyone who has an extraordinary reason why
22 he or she cannot serve as a juror on this case?

23 So there being a couple hands.

24 Mr. Adler, you've got the mic, so go ahead. Name
25 and badge number?

1 PROSPECTIVE JUROR NO. 0154: Yeah. Paul Adler,
2 Badge Number 15-0154.

3 Working three weeks at \$40 a day, I cannot possibly
4 pay my rent. I haven't been able to work for months on end
5 from the three cases of COVID I've had. And it would
6 financially destroy me.

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

8 PROSPECTIVE JUROR NO. 0154: I drive for Uber.

9 THE COURT: Thank you, Mr. Adler.
10 Who was next? In the second row?

11 PROSPECTIVE JUROR NO. 0176: Javier Romero, Badge
12 Number 15-0176.

13 THE COURT: Okay. So what's your --

14 PROSPECTIVE JUROR NO. 0176: So, since August I've
15 been working two full-time jobs, one at Home Depot, 5:00 a.m.
16 to 1:30 p.m. Then I try to go home, sleep a couple of hours,
17 and then I do a night gig at Love Beatles Cirque du Soleil
18 show on the Strip.

19 That's from 5:30 p.m. to -- I don't get off until
20 about 11:30, so I'm home by midnight. I've been sleeping like
21 four hours a night, just trying to make ends meet, paycheck to
22 paycheck.

23 I've got three kids at home and a wife. Again, rent
24 at an apartment, \$40 a day, I'm living paycheck to paycheck.
25 I won't be able to afford my rent if -- if I serve. So I just

1 feel that it is a serious economic hardship for me.

2 THE COURT: Mr. Romero, does -- do either of the
3 jobs pay your salary while you're on jury duty? A lot of
4 large employers do.

5 PROSPECTIVE JUROR NO. 0176: I'm not aware of either
6 one. I know Home Depot, I -- I just recently put in my two
7 weeks notice. My last day was last week. So I started a new
8 job this Monday and it's barely been -- I work Monday,
9 Tuesday, Wednesday with them. It's United Plant Growers.

10 And I'm yet to see, like I haven't heard from HR to
11 see if like I'm -- like hired-hired. I've been working, so
12 I'm kind of like on the -- iffy on that.

13 THE COURT: Okay. Well, when we take a break, can
14 you contact the HR Department at your job to find out?
15 Because a lot -- like I said, a lot of the larger employers
16 pay while you're on jury duty. And all you have to do is give
17 them that \$40.

18 PROSPECTIVE JUROR NO. 0176: Okay.

19 THE COURT: So if you can find that out, we'd
20 appreciate it.

21 PROSPECTIVE JUROR NO. 0176: Okay.

22 THE COURT: Thank you.

23 Any -- can you pass it behind you?

24 Name and badge number, ma'am.

25 PROSPECTIVE JUROR NO. 0200: Orlie Houser, 15-0200.

1 THE COURT: Okay. What's your --

2 PROSPECTIVE JUROR NO. 0200: It's hard for me to
3 come here. I actually took Uber today. I live like 30 or 40
4 minutes like Sky Canyon area. And I have to drop my son at
5 school in the morning, and also pick him up.

6 And my husband works like also a little far. He
7 works at UMC. And he's going to need to take off to work if I
8 can't pick up my son.

9 THE COURT: How old is your son?

10 PROSPECTIVE JUROR NO. 0200: He is six. He's in
11 first grade.

12 THE COURT: And how many cars do you have in the
13 household?

14 PROSPECTIVE JUROR NO. 0200: Two.

15 THE COURT: And so why did you have to take an Uber?

16 PROSPECTIVE JUROR NO. 0200: I just got my license
17 like a week ago and I -- I'm so scared to drive up here. I
18 only drive around my area. I'm not confident enough yet.

19 THE COURT: Okay. Thank you.

20 PROSPECTIVE JUROR NO. 0169: Vincente Poon, 15-0169.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 0169: I could also say I have
23 a financial hardship because I'm only driving Uber for make a
24 living. And I got a wife, got a kid at home. And that's one
25 of the thing.

1 The other thing is that I have a bunch of doctor's
2 appointment with the VA. And I believe -- it's not diagnosed
3 yet. But then they send me to a cardiology that got to check
4 on my heart because I'm different than normal person. That --
5 that's what they checked when I told them that -- how I felt.

6 And I was supposed to go to appointment in the
7 future about a week later. That's around -- that's about two
8 things I need to update Judge about it.

9 THE COURT: When -- when are you doctor's
10 appointments?

11 PROSPECTIVE JUROR NO. 0169: Well, actually, one was
12 today. But then -- and then another one is on the 26th. And
13 today is not the cardiology. But the -- on the 26th is. And
14 then I don't know what's follow that.

15 And -- and I also got a 31, 31st, May 31st, for
16 something else, because I've got a bunch of issue on my body.
17 Because I had two surgery on my knee, a surgery on my back.
18 There was -- also I got other surgeries (indiscernible) a long
19 time ago for that back surgery.

20 THE COURT: Okay. Thank you, Mr. Poon.

21 PROSPECTIVE JUROR NO. 0169: Thank you.

22 THE COURT: The person in front of you?
23 Name and badge number?

24 PROSPECTIVE JUROR NO. 0129: Gabriel Holmes, Badge
25 Number 15-0129.

1 Yes, Judge, it would just be an extreme financial
2 hardship for me to -- to serve on the jury. I drive trucks
3 for a living and, you know, and if -- if I don't move, I don't
4 get paid. And my wife also drives with me. And I'm actually
5 training her. So it would just be difficult, because she
6 would not be able to sustain the family on her own just
7 because she's not well trained at this point to be able to do
8 so. So --

9 THE COURT: Who do you work for?

10 PROSPECTIVE JUROR NO. 0129: I work for Swift
11 Transportation.

12 THE COURT: And do they pay while you're on jury
13 duty?

14 PROSPECTIVE JUROR NO. 0129: That I would have to
15 inquire about. I do not know.

16 THE COURT: Because as I said, a lot of the large
17 employers, and that's why I asked who you work for, and Swift
18 is a pretty large employer. A lot of the large employers do
19 pay while you're on jury duty. So if you could find that out?

20 PROSPECTIVE JUROR NO. 0129: I could.

21 THE COURT: Yeah. If you can find that out while
22 we're on -- when we take a break.

23 PROSPECTIVE JUROR NO. 0129: Okay.

24 THE COURT: Thank you.

25 Anybody else?

1 There being no other hands.

2 Is there anyone here who does not speak English
3 fluently?

4 There being no hands to that.

5 Are any of you acquainted with me or any of the
6 court staff?

7 There being no hands to that.

8 Do any of you know one another?

9 There being no hands on that.

10 Are any of you acquainted with Mr. Trejo, or his
11 standby counsel, or the court interpreter?

12 There being no hands to that.

13 Are any of you acquainted with Mr. Schwartzer or Ms.
14 Heap from the DA's office?

15 There being no hands to that.

16 Are any of you acquainted with Steve Wolfson or any
17 other person in the District Attorney's Office?

18 There is a hand in the back row.

19 And ma'am, if you could just please give your name
20 and your badge number.

21 PROSPECTIVE JUROR NO. 0051: Is it on? Hi.
22 Shareece Bates, Badge 15-0051.

23 THE COURT: Thank you.

24 Who do you know?

25 PROSPECTIVE JUROR NO. 0051: I work for the State of

1 Nevada Real Estate Division, so we do work with the Deputy
2 Attorney General's Office for our Regulatory and Disciplinary
3 Hearings. So Michelle Briggs, Matthew Feeley, Virginia
4 Tomova. Okay.

5 THE COURT: That's the Attorney General's Office.
6 I'm asking about the -- the District --

7 PROSPECTIVE JUROR NO. 0051: The District?

8 THE COURT: -- Attorney's Office.

9 PROSPECTIVE JUROR NO. 0051: Okay. No. Sorry.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 0051: Sorry. Take it off.

12 THE COURT: No problem.

13 Thank you.

14 Anybody else know anyone in the District Attorney's
15 Office or Steve Wolfson, the District Attorney?

16 Yes, ma'am? Name and badge number.

17 PROSPECTIVE JUROR NO. 0078: Ivonne Hernandez, 15-
18 0078.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR NO. 0078: I work with -- well, e-
21 mail with Miranda Crawford. And I know Carina Garcia
22 (phonetic).

23 THE COURT: And who are they?

24 PROSPECTIVE JUROR NO. 0078: They work for the DA's.

25 THE COURT: What do they do there?

1 PROSPECTIVE JUROR NO. 0078: Carina Garcia is a
2 legal secretary, I believe. And I'm not sure what Miranda
3 Crawford is.

4 THE COURT: And is there anything about those
5 relationships that would cause you to not be fair and
6 impartial in this case?

7 PROSPECTIVE JUROR NO. 0078: No.

8 THE COURT: Thank you.

9 Anyone else know anyone in the DA's office or Mr.
10 Wolfson, the District Attorney?

11 There being no other hands.

12 Are any of you --

13 You can have a seat, ma'am. I mean, you don't have
14 to if you don't want to. You can, though.

15 PROSPECTIVE JUROR NO. 0078: Well, I'm just trying
16 to see who gets the --

17 THE COURT: Oh, okay.

18 Are any of you acquainted with any of the witnesses
19 whose names were read by the State or by the defense?

20 There being no hands on that one.

21 Does anybody know anything about this case other
22 than what's been stated in court today?

23 There being no hands on that one.

24 Does anyone have any philosophical, religious or
25 other belief that would prevent you from serving as a fair and

1 impartial juror?

2 There being no hands on that one.

3 Under our system of justice, certain principles
4 apply in every criminal case. Number one, that the charging
5 document filed in this case is merely an accusation and is not
6 evidence of guilt. Number two, that the defendant, Mr. Trejo,
7 is presumed innocent. And number three, that the State must
8 prove that Mr. Trejo is guilty beyond a reasonable doubt.

9 Does anyone not understand or not believe in those
10 concepts?

11 There being no hands to that one.

12 Is there anyone who would have trouble following the
13 instructions to the law that I give you regardless of whether
14 you think the law is good or bad?

15 There being no hands to that.

16 So, ladies and gentlemen, we're going to give you a
17 short break and at the end of that break we're going to bring
18 you back in along with the other potential panels that we've
19 had. So --

20 THE MARSHAL: We've got a hand. I'm sorry, Judge.
21 We've got a hand up.

22 THE COURT: Oh, sorry. I did not see it.

23 Ma'am, so please state your name and your badge
24 number.

25 PROSPECTIVE JUROR NO. 0073: It's Gloria Del Real,

1 and it's 15-0073.

2 THE COURT: Okay. Ma'am, what's your issue?

3 PROSPECTIVE JUROR NO. 0073: So my thing is, I'm a
4 single mom of three. And I was working graveyard, then I
5 switched over to 6:00 a.m. to 2:00 p.m., because I have nobody
6 to pick up my kid -- my kids from school.

7 So if the trial is going to be running until 5:00
8 p.m., it's going to be really hard for me to actually stay,
9 because I have nobody to pick up my kids.

10 THE COURT: How old are your kids?

11 PROSPECTIVE JUROR NO. 0073: They're 8, 7 and 4.
12 The four-year-old stays with the babysitter, but the 8-year-
13 old and the 7-year-old, I don't have anybody to pick them up.

14 THE COURT: Does the babysitter -- would the
15 babysitter be able to pick them up?

16 PROSPECTIVE JUROR NO. 0073: No, she already picks
17 up other kids, four minutes after my kids get out of school.

18 THE COURT: Okay. Thank you.

19 As I said, we're going to confer, and talk about all
20 of this, and we will bring you back in with the other --
21 there's another hand.

22 PROSPECTIVE JUROR NO. 0083: Oh, sorry.

23 THE COURT: Um-hum.

24 PROSPECTIVE JUROR NO. 0083: I'm Amari Ireland,
25 Badge Number 15-0083.

1 I just have a quick question. Do we get -- do you
2 guys provide a document that I can give my employer for if I'm
3 going to be here for the trial?

4 THE COURT: Yes.

5 PROSPECTIVE JUROR NO. 0083: Okay.

6 THE COURT: Anybody else before I start standing up
7 and giving a speech again?

8 THE CLERK: There's another hand up.

9 PROSPECTIVE JUROR NO. 0070: Hi. Daniela Hirt, Badge
10 Number 15-0070.

11 THE COURT: Uh-huh?

12 PROSPECTIVE JUROR NO. 0070: I'm just concerned
13 about the length of the trial. I'm on the 23rd of May going
14 to a religious pilgrimage in Jerusalem. And this has been
15 three years in the making for me.

16 THE COURT: And you said May 23rd?

17 PROSPECTIVE JUROR NO. 0070: Yes.

18 THE COURT: If this trial is still going on on May
19 23rd, there's going to be a problem.

20 PROSPECTIVE JUROR NO. 0070: Okay. Thank you.

21 THE COURT: Thank you.

22 Anybody else? Because I'm going to give the speech.
23 Okay. So no other hands.

24 So again, we're going to bring -- send you out and
25 bring you back with the other panels.

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

9 We hope to have you back about 10 -- 10:10, just
10 because we told them 10:00 o'clock, but we are going a little
11 bit later with you. So about 10:10.

12 (Outside the presence of the prospective jury).

13 THE COURT: I'm trying not to be a (indiscernible)
14 when you say unique hardship, that's not a unique hardship.
15 You're just going to wait until the end.

16 Okay. Okay. So we're going to start with Mr.
17 Schwartzer, again, to see who you want to try and kick off for
18 hardship or -- I don't think we have any for cause at this
19 point, so.

20 MR. SCHWARTZER: Nothing for cause, Your Honor. The
21 only -- the ones for hardship I have is, starting in order,
22 15-73, Ms. Del Real, who mentioned she doesn't have anyone to
23 pick up her young kids at -- after 2:00 o'clock today.

24 THE COURT: Okay.

25 MR. SCHWARTZER: You know, as much as I wish jurors

1 would prepare for themselves for a full day, obviously, I
2 don't want to punish the kids or the mom for that so --

3 THE COURT: Right.

4 MR. SCHWARTZER: -- I would ask to excuse her.

5 THE COURT: Okay.

6 Mr. Trejo?

7 MR. TREJO: I agree.

8 THE COURT: Okay. So we will remove Ms. Del Real.

9 MR. SCHWARTZER: My next one would be -- I guess,
10 Mr. Holmes, he's going to check with his -- he's a truck
11 driver.

12 MS. HEAP: Yeah.

13 MR. SCHWARTZER: Yeah. So let's go with 15-154, Mr.
14 Adler, who has had COVID three times, but he's not wearing a
15 mask, and is suffering from long-haul COVID and says that he'd
16 be in extreme financial straights. His job is not one of the
17 big companies, so I would ask to excuse him based on his
18 medical issues, brain fog being a big issue with long-haul
19 COVID and the fact that he would be in financial distress.

20 THE COURT: Yep.

21 Mr. Trejo, how do you feel about Mr. Adler?

22 MR. TREJO: No objection.

23 THE COURT: Okay. I will excuse Mr. Adler. He is
24 an Uber driver. They do not get paid when they don't work.

25 MR. SCHWARTZER: My next one would be 15-169, Mr.

1 Poon, who has a -- has some medical issues. He has a
2 appointment with a cardiologist on the 26th. Obviously, I
3 don't want to delay that.

4 Additionally, he said he is a Uber driver as well,
5 and he is taking care of a child and a wife on that income.

6 So based on both the medical and financial, I would
7 ask to excuse him for hardship.

8 THE COURT: Mr. Trejo?

9 MR. TREJO: I'm in agreement.

10 THE COURT: We will excuse Mr. Poon.

11 MR. SCHWARTZER: The next one I have is Mr. Romero.
12 Do you want us to have him check on his employer before I make
13 that argument?

14 THE COURT: Yeah. Although, I actually, honestly
15 don't think that Home Depot is one of the ones. I think that
16 they -- if I remember correctly, Home Depot pays their like
17 corporate employees, but not their -- but not their -- the
18 people who work in the stores. And what it sounds like was he
19 works in a store.

20 But Home -- and he also then said he doesn't work
21 for Home Depot anymore.

22 MR. SCHWARTZER: Right.

23 THE COURT: And he works for somebody else. And
24 then -- but so he works for Love?

25 MR. SCHWARTZER: I didn't catch where he said he was

1 working. And in fact --

2 MS. HEAP: He said --

3 MR. SCHWARTZER: -- it sounds --

4 THE COURT: It was one of the Cirque shows --

5 MS. HEAP: Yeah. He said Love.

6 THE COURT: -- and I think he said Love.

7 MR. SCHWARTZER: Oh, yeah. Yeah. He did say a
8 Cirque show. And then he said there's another job he just --
9 he -- he --

10 THE COURT: United Plant Growers.

11 MR. SCHWARTZER: Where he said he's not started, but
12 he's -- he's started but he's --

13 MS. HEAP: He's --

14 THE COURT: Working --

15 MR. SCHWARTZER: -- not fully hired.

16 THE COURT: Right.

17 MR. SCHWARTZER: And I've heard that this is now a
18 new thing that they're basically having people do a training
19 period before they hire them for -- and so I imagine --

20 THE COURT: So --

21 MR. SCHWARTZER: -- they don't pay. So --

22 THE COURT: So Home Depot, I'm pretty sure, is one
23 of the ones that doesn't pay. I honestly don't think any of
24 the Cirque shows pay if you're not there either.

25 MR. SCHWARTZER: So I would just ask to excuse him

1 then.

2 THE COURT: Mr. Trejo?

3 MR. TREJO: No objection.

4 THE COURT: Okay. So we will excuse Mr. Romero.

5 MR. SCHWARTZER: And then my last one would be Ms.
6 Houser, 15-200. She -- I understand she has a car, but if she
7 just started driving and she's coming from Sky Canyon, that's
8 a -- quite a route we're making her do all of a sudden.

9 THE COURT: I don't know where that is.

10 MR. SCHWARTZER: That's way north -- that's as
11 northwest as you can get.

12 THE COURT: Oh.

13 MR. SCHWARTZER: It's basically the exit before Mt.
14 Charleston.

15 THE CLERK: Yeah.

16 MR. SCHWARTZER: So that with, you know, the fact
17 that she's very new to driving, on top of the childcare
18 issues, I would ask to excuse her.

19 THE COURT: Mr. Trejo, on that one?

20 MR. TREJO: I concur. I noticed she was shaking,
21 distressed, almost panicky while someone else was speaking.

22 THE COURT: I will excuse her because you all agree.
23 She's not one that I would let off, but you all agree.

24 Now, Mr. Trejo, anybody you would like to excuse for
25 hardship?

1 MR. TREJO: I had the same people in mind.

2 THE COURT: Okay. Thank you.

3 So then we're going to take about a five minute
4 break so that you guys can, you know, go to the bathroom, get
5 more water or anything like that before we bring in the rest
6 of the jury. I'm going to get my steps.

7 MR. SCHWARTZER: Thank you, Your Honor.

8 THE COURT: And Alex, if Mr. Trejo needs more water,
9 you obviously can get -- you guys can go in the back and get
10 water whenever you --

11 (Court recessed at 10:02 a.m., until 10:15 a.m.)

12 (In the presence of the prospective jury)

13 THE COURT: We're missing Ms. Gong.

14 Will the parties stipulate to the presence of the
15 potential jury?

16 MR. SCHWARTZER: Yes, Your Honor.

17 MR. TREJO: Yes, ma'am.

18 THE COURT: Thank you.

19 Everybody please be seated.

20 So yesterday, we ended and the State had completed
21 their questions. Is that correct, Mr. Schwartzer?

22 MR. SCHWARTZER: That's correct, Your Honor.

23 THE COURT: Okay.

24 MR. SCHWARTZER: I pass for cause.

25 THE COURT: Okay.

1 And, Mr. Trejo? You can go ahead and -- with your
2 question of the -- however many -- is it 36? I think it's 36,
3 the people in the box and I think the front row.

4 THE CLERK: Yes. 36.

5 THE COURT: Yeah.

6 THE CLERK: Do you want to (indiscernible)?

7 THE COURT: Oh, I'm sorry. Thank you, Ro. Because
8 I am tired.

9 Before we do that -- I'm sorry, the parties would
10 like to thank and excuse Gloria Del Real, I don't remember the
11 Badge Number.

12 THE CLERK: 15-73.

13 THE COURT: Thank you. You're excused, ma'am.
14 Thank you for your willingness to serve.

15 The parties would like to thank and excuse Paul
16 Adler.

17 THE CLERK: 15-154.

18 THE COURT: Thank you for your service.

19 The parties would like to thank and excuse Vincente
20 Poon.

21 THE CLERK: 15-169.

22 THE COURT: Thank you.

23 The parties would like to thank and excuse Javier
24 Romero.

25 THE CLERK: 15-176.

1 THE COURT: And the parties would like to thank and
2 excuse Orlie Jean Houser.

3 THE CLERK: 15-200.

4 THE COURT: Thank you.

5 And, sorry, now -- tiring.

6 Now, Mr. Trejo has an opportunity to question the
7 jurors.

8 MR. TREJO: Hello, ladies and gents. Let me begin
9 by thanking you all for coming in. I do understand that your
10 time is extremely valuable, and in being here not only are you
11 executing your civic duty, but also making a sacrifice in the
12 name of our constitutional rights. I am truly grateful.

13 I will start by addressing the elephant in the room.
14 Why would a man with no voice or legal experience facing
15 serious charges choose to represent himself. To make it
16 simple, I'm invoking my right to bring this case before a jury
17 of my peers, because not every case is black and white, open
18 and shut, book 'em -- book 'em, Danno, type of defense case.

19 There are times when law enforcement and the
20 prosecutors do not follow the process and procedure they are
21 bound to, whether in error, or because they, too, are
22 afflicted by man's prejudicial nature -- by man's prejudicial
23 nature is irrelevant. The fact is that that procedure and due
24 process is in place to protect us from prejudice and other
25 ills.

1 If you'd like evidence of such occasions, simply
2 look back at our history and if you'd like a popular
3 reference, look into the disbaring (phonetic) of DA Richard -
4 - disbaring -- excuse me -- disbaring of DA Richard E.
5 Jackson, the George Floyd killing, and the plethora of
6 investigations of police misconduct.

7 Like a few of you mentioned before, officers and
8 prosecutors are still human and therefore still bound to human
9 flaws. I cannot get into specifics of what I intend to show
10 you, at least not yet.

11 I have a few questions to ask the entire panel of
12 potential jurors, if you bear with me. If you agree with the
13 question, please give me a show of hands. If you feel a need
14 to further elaborate on a certain point, please feel free.

15 After that, I have some questions for specific
16 jurors based on subjects we've touched over the last few days.
17 Again, my voice isn't what it used to be, so I thank you for
18 your patience.

19 Does anyone here hold it against me if I invoke my
20 constitutional protections against these allegations instead
21 of signing a plea?

22 MR. SCHWARTZER: Seeing no hands for the record,
23 Your Honor.

24 THE COURT: No hands.

25 MR. TREJO: Does anyone here based on Mr.

1 Schwartzter's initial statement of the allegations feel that it
2 is a waste of time or that my conviction is inevitable?

3 THE COURT: There being no hands.

4 MR. TREJO: Does anyone here assume this tracheotomy
5 and my speech impediment is due to these allegations?

6 THE COURT: There being no hands.

7 MR. TREJO: This, ladies and gentlemen, is why I say
8 that not every case is black and white. I can see where it is
9 easy to make that assumption. All I can say is that the
10 allegations were not a cause of this condition. I temporarily
11 have -- however, I temporarily -- the -- I'm sorry -- the
12 cause of this condition, I temporarily have.

13 However, the cause is irrelevant to this matter. To
14 me, it's but another obstacle. What is of relevance is that
15 simple claims can be misconstrued into ideas and beliefs.

16 Before I continue, I ask you all to please not pass
17 judgment on the preliminaries. This trial has yet to begin.

18 I, as an American, believe it's crucial to protect
19 everyone's constitutional and civil rights. My question is,
20 does anyone here disagree?

21 THE COURT: There being no hands.

22 MR. TREJO: Now, how about protecting those
23 constitutional rights if the individual appears guilty? Do
24 you ignore those protections in order to punish him or her?

25 THE COURT: There being no hands.

1 MR. TREJO: Is it a moral issue, or is there some --
2 okay.

3 Does anyone believe that due process is necessary to
4 prevent undue prejudice or malfeasance against anyone charged
5 with a crime?

6 THE COURT: There being no hands.

7 MR. TREJO: Let me elaborate. I'm asking you all a
8 question regarding due process. Does everyone understand what
9 due process entails?

10 THE COURT: There being no hands.

11 THE INTERPRETER: He's going to get a few notes,
12 because there are a couple people raising their hands.

13 THE COURT: Okay.

14 MR. TREJO: Due process is our society's idea of
15 legal fairness. It means that an individual cannot be
16 deprived of his freedom, at least in criminal matters, without
17 first following a procedure established by laws.

18 It is meant to protect us from prejudice and so that
19 everyone can get a fair trial along with an assurance the
20 entire process from beginning to end is legal.

21 Was that clear? I know the process to write are a
22 bit awkward, but if I am able to answer any questions or
23 doubts you may have I am more than willing. Everyone clear?

24 Does anyone in their own opinion believe that
25 prosecutors and law enforcement always operate honestly and

1 without political motivations?

2 THE COURT: There being no responses.

3 MR. TREJO: Would that cause you to consider me at a
4 disadvantage during trial?

5 THE COURT: There being no responses.

6 MR. TREJO: Does anyone feel prosecutors and law
7 enforcement can act outside of their official capacity or even
8 outside the bounds of law?

9 THE COURT: There's a hand, but he's not in the --
10 oh, there's one in the box.

11 MR. TREJO: Ms. Chapela, may I ask you to elaborate
12 why you think so or what gives you cause?

13 THE COURT: And before you do that, I need your
14 badge number.

15 PROSPECTIVE JUROR NO. 1016: Yeah.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR NO. 1016: Hi. Athena Chapela,
18 1016.

19 Just along the lines of how I kind of explained
20 yesterday. I can believe that not all cops, but some cops,
21 not necessarily go -- or can -- can be excessive sometimes, or
22 not necessarily go through how you talked about the due
23 process, didn't go through the procedures, in the way they're
24 supposed to.

25 MR. TREJO: So do you mean cops can make mistakes,

1 perhaps rush through procedures of investigation, that sort of
2 thing?

3 PROSPECTIVE JUROR NO. 1016: Correct.

4 MR. TREJO: That's fair.

5 And do you believe this might give you any
6 prejudicial feelings against the State or witnesses that are
7 law enforcement?

8 PROSPECTIVE JUROR NO. 1016: As I explained the past
9 couple of days, when they take the stand, I want to see
10 physical evidence versus just their -- I guess, what they say
11 in court.

12 MR. TREJO: I agree. Any further points you feel to
13 expand upon regarding this matter?

14 PROSPECTIVE JUROR NO. 1016: I don't believe so.
15 Explained the past three days.

16 MR. TREJO: Thank you.

17 THE COURT: There's another hand.

18 And can you, ma'am --

19 PROSPECTIVE JUROR NO. 1016: Yeah. Pass it down?
20 Okay.

21 THE COURT: -- can you pass it down to --

22 PROSPECTIVE JUROR NO. 0773: Lance Banks, Badge
23 Number 773.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR NO. 0773: If the -- if the

1 inquiry is do -- I believe it was, is it permissible for
2 police officers -- can you -- can you state the question
3 again? I want to make sure I have this correct.

4 MR. TREJO: Does anyone feel that prosecutors and
5 law enforcement can act outside of their official capacity or
6 even outside the bounds of law?

7 PROSPECTIVE JUROR NO. 0773: I believe that it's
8 possible for police officers and prosecutors to act outside
9 the bounds of the law. Do I believe that it's the norm? No.
10 I would -- I would expect everybody to act within the bounds
11 of the law when it comes to a person's life.

12 I believe that, you know, ferreting out crime is a
13 competitive enterprise. So you know, I -- obviously, I would
14 want to see a chain of custody, evidentiary foundations,
15 things of that nature.

16 MR. TREJO: You mentioned law can be a competitive
17 field. Is it, in your opinion, political or perhaps very
18 reliant on things like conviction rate and factors that show
19 an attorney's record in court?

20 PROSPECTIVE JUROR NO. 0773: My -- my feelings on
21 the matter are largely based on my background. If the
22 question is, you know, how do I feel about -- I'm not going to
23 expound on -- past that with -- without any additional
24 question.

25 MR. TREJO: And you mentioned you'd also like to see

1 hard evidence and how it was obtained. What about if there is
2 evidence that appears solid or testimony that is very damning
3 but factors appear in trial or cross-examination that
4 challenge all of the prosecution's evidence, how then would
5 you look at the evidence to stay impartial and give impartial
6 -- give an impartial verdict?

7 PROSPECTIVE JUROR NO. 0773: I think with any matter
8 of evidence, you have to look at the totality of the
9 circumstances. I couldn't say one way or another without
10 seeing the -- the evidence and how I would decide.

11 MR. TREJO: Any other points you'd like to express,
12 Mr. Banks?

13 PROSPECTIVE JUROR NO. 0773: No. Thank you.

14 MR. TREJO: Thank you.

15 In your opinions, does anyone believe that if a
16 police officer is the alleged victim of a crime, that a
17 prosecutor would be more so motivated to prosecute a
18 defendant, perhaps even with harsher punishment?

19 THE COURT: There being no hands.

20 MR. TREJO: Does anyone here believe that police
21 departments and their support groups can push for harsher
22 punishment, perhaps even additional charges against those
23 accused of crimes against police?

24 PROSPECTIVE JUROR NO. 0440: Garrett, 14-0440. If
25 the question is the ability to, then I don't -- I don't agree

1 with that. If they would try, I think that is possible.

2 MR. TREJO: Can you elaborate on ability? Why do
3 you believe they wouldn't have the ability?

4 PROSPECTIVE JUROR NO. 0440: I don't believe that
5 it's -- it's legal to do so, and I don't agree with it
6 morally. So I would not say that they would do it.

7 MR. TREJO: I agree with you on your view on
8 legality and morality. And why do you believe they would want
9 to, even if they couldn't actually do it?

10 PROSPECTIVE JUROR NO. 0440: Well, I believe that
11 the generality of the police force is fair. I do not always
12 believe that they act individually fairly.

13 MR. TREJO: Now would that, if in trial, cause you
14 any prejudice against any party?

15 PROSPECTIVE JUROR NO. 0440: No.

16 MR. TREJO: Any further thoughts?

17 PROSPECTIVE JUROR NO. 0440: No.

18 MR. TREJO: Thank you.

19 Are you all aware that there are procedures in place
20 that police must abide by when making an arrest or conducting
21 an investigation?

22 THE COURT: We're getting general nods of agreement
23 with that statement from the people in the box, and in the
24 gallery who are still considered in the box.

25 MR. TREJO: Does everyone agree that these

1 procedures must be followed?

2 THE COURT: There being general nods of agreement
3 from the box and the people in the gallery who are considered
4 in the box.

5 MR. TREJO: Now, how about if the accused is, or
6 seems guilty, should the procedures be overlooked?

7 THE COURT: There being not a full general, but
8 there being some -- some nods that concur with that from the
9 box and the -- and the gallery considered in the box. Like, I
10 didn't see as much concurrence with that statement as -- as
11 the others.

12 MR. TREJO: Does anyone care to share their opinion?

13 THE COURT: There being no --

14 THE MARSHAL: There is one.

15 THE COURT: There is one? I can't see.

16 PROSPECTIVE JUROR NO. 0440: Garrett, 14-0440.

17 The procedures should happen as they are written. That's why
18 they're there.

19 MR. TREJO: I very much concur.

20 I did want to ask, because it seemed some may have
21 had a pause with this question.

22 If someone thought -- if someone, through outside
23 presentations, seems guilty, would you want to skip the
24 hearing if procedures were legally followed --

25 THE INTERPRETER: (To Mr. Trejo) If the procedures

1 were?

2 MR. TREJO: If the procedures were legally followed?

3 UNIDENTIFIED PROSPECTIVE JUROR: Can we just get it
4 (indiscernible)?

5 MR. TREJO: Yeah. So some may have had a pause with
6 this question. If someone, through outside presentations,
7 seems guilty, would you want to skip the hearing, if the
8 procedures were legally followed?

9 THE COURT: There being no answers to that one.

10 MR. TREJO: With a raise of hands tell me if you
11 believe it would prejudice a defendant if witnesses colluded
12 or were given information by law enforcement when an
13 investigation is ongoing or prior to witnesses providing
14 testimony.

15 With a raise of hands, tell me if you believe it
16 would prejudice a defendant if witnesses colluded or were
17 given information by law enforcement when an investigation is
18 ongoing or prior to witnesses providing testimony.

19 THE COURT: There are some hands. We're getting
20 hands on this one.

21 Mr. Trejo, did you want to follow up with the people
22 who had their hands up?

23 MR. TREJO: Yes, Your Honor.

24 Can I see the hands again?

25 Let's begin with Ms. Chapela. Why do you in your

1 opinion believe that?

2 PROSPECTIVE JUROR NO. 1016: Athena Chapela, 1016.

3 If I'm -- if I'm understanding the question correctly, are you
4 saying that -- that they shouldn't -- that I believe that cops
5 shouldn't talk to people outside the trial, or outside the
6 crime about the information of your case? Is that the
7 question?

8 MR. SCHWARTZER: Your Honor, can we approach?

9 THE COURT: Sure.

10 (Bench conference)

11 MR. SCHWARTZER: It's not so much the question,
12 although the questions are -- are certainly leaning that way,
13 but obviously the answer. There can't be specifics about the
14 case.

15 MR. TREJO: Of course.

16 THE COURT: Right.

17 MR. TREJO: Of course.

18 MR. SCHWARTZER: He's saying, of course, but some of
19 your answers are leaning that way. So I just wanted that
20 clear.

21 THE COURT: Okay. So --

22 MR. SCHWARTZER: I don't want to keep --

23 THE COURT: -- Mr. -- Mr. Trejo, hold on for a
24 second. Mr. Trejo, when somebody says something, even if you
25 agree, you can't necessarily say, I agree with that, or I

1 concur, and things like that. Just -- just --

2 MR. TREJO: Okay.

3 THE COURT: -- be more neutral.

4 Is that what you were leaning at, Mr. Schwartzer?

5 MR. SCHWARTZER: Yes, Your Honor.

6 THE COURT: Okay. Thank you.

7 MR. SCHWARTZER: Thank you.

8 (End of bench conference)

9 THE COURT: Thank you.

10 MR. TREJO: This question -- question isn't so much
11 about law enforcement but about witnesses giving testimonial
12 evidence and if that evidence could become flawed or invalid,
13 in your opinion, because of outside information, especially
14 before the witness has provided record of that experience.

15 PROSPECTIVE JUROR NO. 1016: Correct. Then I do
16 believe in that statement, yeah.

17 THE COURT: And can you just state your name and
18 your badge number again? No --

19 PROSPECTIVE JUROR NO. 1016: Oh, me?

20 THE COURT: Yeah. Because you just answered. Yeah.

21 PROSPECTIVE JUROR NO. 1016: Athena Chapela, 1016.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR NO. 1034: Troy Rivas, Badge
24 Number 13-1034.

25 So again, so you're -- what you're trying to say is

1 the witnesses were kind of coached? Is that what you're
2 trying to mean?

3 THE COURT: I don't -- I'm sorry, can the parties
4 approach really quick?

5 (Bench conference)

6 THE COURT: I don't think that's an appropriate
7 question from the juror. So what I'm going to say is that
8 we're not talking about specifically this case --

9 MR. TREJO: (Indiscernible).

10 THE COURT: -- we're just talking about yeah.

11 MR. TREJO: (Indiscernible).

12 THE COURT: Okay. I'm just going to say it, so
13 okay.

14 MR. SCHWARTZER: Perfect. Thank you.

15 (End of bench conference)

16 THE COURT: So Mr. Rivas, so we're not talking about
17 specifically in this case. Mr. Trejo is just asking general
18 questions about that issue. So you can continue to --

19 PROSPECTIVE JUROR NO. 1034: Yeah. Sorry. Not
20 about this trial, but overall was the question.

21 THE COURT: Yeah. So you can -- yeah. Go ahead and
22 answer that.

23 PROSPECTIVE JUROR NO. 1034: Well, yeah, if --

24 THE COURT: -- with that -- that being the answer.

25 PROSPECTIVE JUROR NO. 1034: -- if witnesses were

1 coached or anything, you know, in a way that they would go
2 with the story, then yes, I -- I'm against that for sure.

3 MR. TREJO: I'm not being specific in this matter,
4 but I'm saying, for example, if someone say it by partial
5 view, an event, but did not see the full thing from beginning
6 to end, and before this witness was interviewed and record was
7 taken, someone with other info relays it to the witness, if
8 said witness chose to use that outside info, how would that
9 come into play in regards of your opinion of their testimony?
10 That's the general basis.

11 PROSPECTIVE JUROR NO. 1034: Understood. Yes. I --
12 it's possible. And I would not like that.

13 PROSPECTIVE JUROR NO. 0754: Isabella Will, 0754. I
14 think that, sure, hypothetically speaking, it's bad for
15 witnesses to be coached prior to be spoken to. At the same
16 time, I don't really think of subjective things like this, or
17 witnesses' testimonies in general to really be weighed that
18 heavily when making a decision, because everybody can view a
19 certain situation differently. Perspectives can change,
20 especially the more time that has passed.

21 So really what would more so influence, you know, my
22 decision-making or my thinking would be more objective things.
23 So, for example, video evidence, DNA evidence, like sure,
24 hypothetically speaking things can be tampered with. But it's
25 very unlikely these things don't really happen, when it comes

1 to objective hard evidence.

2 So yes, like I think that it is bad to coach
3 witnesses, but also at the same time, I don't really take, you
4 know, subjective things like that, perspectives, opinions, to
5 really have that heavy of an impact on my decision-making.
6 It's more the objective things.

7 MR. TREJO: So it's my understanding that is an
8 actually an opinion agreed upon by many in the field of
9 psychology which is why witnesses generally are interviewed
10 ASAP.

11 What about said statements if it was the only
12 evidence and no biological or digital evidence was available?

13 PROSPECTIVE JUROR NO. 0754: If there was no, like
14 hard evidence, then I don't know that I could sit on something
15 like that and be able to ethically make a decision because
16 there's a lot of these, you know, he said/she said type
17 situations where you know, a lot of it has to do with the
18 perspective of the people involved, right?

19 And those perspectives differ, depending on how
20 someone was raised, their background, their current mindset
21 and a lot of different factors that can influence their
22 thinking in a situation.

23 So I feel like I don't really think I could sit for
24 a case that had to solely do with just subjective testimonies.

25 THE COURT: And can you please state your name and

1 badge number again, Ms. Will?

2 PROSPECTIVE JUROR NO. 0754: Isabella, 0754.

3 THE COURT: Thank you.

4 MR. TREJO: Thank you, Ms. Will.

5 PROSPECTIVE JUROR NO. 1066: Joe Munninger. Joe
6 Munninger, Badge Number 1066. Oh, you -- same question? Oh.

7 MR. TREJO: I just wanted the opinion if you're
8 interested in giving it, for the sake of time, and the fact
9 that I don't want to put the Court and prospective jurors to
10 sleep. I know this process will be time-consuming. But if
11 you'd like to opionate, please, I'd love to hear.

12 THE COURT: And again, your name and badge number?

13 PROSPECTIVE JUROR NO. 1066: Joe Munninger, Badge
14 Number 1066.

15 I guess as far as what you've been asking, I just
16 would say that I feel it's important that if someone's charged
17 with a crime that -- and as -- that they would -- that they
18 are -- have been identified wherever the crime was committed.
19 If you can't do that, then I think that it's -- it's not --
20 like it's not enough to convict somebody.

21 MR. TREJO: So what about if it comes down to more
22 than placing the accused at the scene? What about specifics
23 and allegations that could lead to additional charges? And I
24 ask because you said, quote, "when someone is charged."

25 PROSPECTIVE JUROR NO. 1066: I -- I think I would

1 need evidence as if someone was at the scene of the crime, but
2 they're saying that they're not, then I would need evidence as
3 the -- the purpose of them being there at the time of the
4 crime.

5 THE COURT: Can the parties approach briefly?

6 (Bench conference)

7 THE COURT: It's 11:15. I just want to take a quick
8 like ten minute break so I can go to the bathroom. We'll come
9 back -- yeah. And then you'll have a chance to -- to write
10 out some questions and go to the bathroom and things like
11 that. So I just wanted to make sure it's okay with everybody
12 since we're probably going to take a lunch break at noon.

13 UNIDENTIFIED SPEAKER: (Indiscernible).

14 THE COURT: Okay. Thank you.

15 (End of bench conference)

16 THE COURT: So ladies and gentlemen of the jury, we
17 are just going to take a quick break. As I've told you all
18 several times, I need to go the bathroom at all times, and
19 I've been dying over here.

20 So during the recess, you are admonished not to talk
21 or converse among yourselves or with anyone else on any
22 subject connected with this trial, or read, watch, or listen
23 to any report of, or commentary on the trial, or any person
24 connected with this trial, by any medium of information,
25 including without limitation, newspapers, television, the

1 Internet or radio, or form or express any opinion on any
2 subject connected with the trial until the case is finally
3 submitted to you.

4 It's 11:17 now, so we'll just take ten minutes, so
5 we'll be back just before 11:30.

6 (Outside the presence of the prospective jury)

7 THE COURT: So I will note that the jury is out and
8 we are just in with Mr. Trejo and the State. So is there
9 anything we need outside the presence before I run to the
10 bathroom?

11 MR. SCHWARTZER: Just out of curiosity, is there --
12 are your bench conferences recorded?

13 THE COURT: Yes.

14 THE COURT RECORDER: Yes.

15 MR. SCHWARTZER: Okay. Then nothing by the State.

16 THE COURT: Okay. Thank you.

17 And sorry --

18 THE MARSHAL: And Your Honor -- Your Honor, just
19 from your Marshal, the gentleman that worked for Swift
20 Trucking, sitting over here --

21 THE COURT: Okay.

22 THE MARSHAL: -- he was advised to contact HR, see
23 if they would pay. He told me that he did make that contact
24 and they said they would not pay.

25 THE COURT: Okay. So we will -- he was -- why can't

1 I find that panel, the 15 panel.

2 MS. HEAP: Your Honor, it was --

3 THE CLERK: It was from today.

4 THE COURT: It was from today. I'm just looking --
5 oh, there it is. Okay.

6 THE MARSHAL: Yeah, he's your group over her.

7 THE COURT: Yeah. So he is Swift -- Swift Trucking.
8 I'm looking for --

9 MS. HEAP: Your Honor, he's Badge Number 15-0129.

10 THE CLERK: Gabriel Holmes.

11 THE COURT: Gabriel Homes. Okay.

12 So with that financial hardship, does anyone want to
13 excuse Mr. Holmes?

14 MR. SCHWARTZER: I would move to remove him for
15 hardship, Your Honor.

16 MR. TREJO: That's fine.

17 THE COURT: And Mr. Trejo said he also agrees with
18 that. And so when he -- when we come back we will excuse Mr.
19 Holmes.

20 MR. SCHWARTZER: Thank you, Your Honor.

21 THE COURT: And I'm going to the bathroom.

22 (Court recessed at 11:20 a.m., until 11:33 a.m.)

23 (Outside the presence of the prospective jury)

24 THE COURT: We are outside the presence of the jury.
25 The State and Mr. Trejo is present. I just wanted to bring

1 something to Mr. Trejo's attention.

2 So when we have to exit, I'm going to need you to
3 move back to your table rather than stay at the front or at
4 the podium just for, you know, court security reasons.

5 And I'm going to excuse Mr. Holmes as soon as we
6 bring them back in.

7 Is there anything else we need to do outside the
8 presence?

9 MR. SCHWARTZER: Not by the State, Your Honor.

10 THE COURT: Yes, Mr. Trejo?

11 MR. TREJO: We want to move the laptop over to the
12 podium.

13 THE COURT: Can we do that?

14 THE INTERPRETER: Yep.

15 THE COURT: Will it reach, or does it need to be
16 plugged in?

17 THE INTERPRETER: I think I can plug it in over
18 there.

19 MR. SCHWARTZER: There's a plug right here.

20 THE COURT: Okay.

21 THE INTERPRETER: Yeah.

22 MS. HEAP: Oh, there's one over there, too.

23 MR. SCHWARTZER: Oh, yeah.

24 (Pause in the proceedings)

25 THE COURT: So it will be faster for you to type,

1 Mr. Trejo?

2 MR. TREJO: Yes.

3 THE COURT: Yeah. I -- I write faster than I type
4 so I thought that's why you wanted to do it.

5 MR. TREJO: (Indiscernible).

6 THE COURT: Yeah.

7 MR. TREJO: Thank you, Judge.

8 THE MARSHAL: All right.

9 THE COURT: Okay.

10 Oh, there was one thing. As the jury was exiting,
11 the guy in the front, Shadam Broderick, who is in seat -- what
12 seat number is that?

13 THE CLERK: 21.

14 THE COURT: Seat Number 21, I took off my robe and
15 he was -- he said, nice purple, and did a thumbs up. I just
16 wanted to bring it to the parties' attention. I don't think
17 it's a -- an issue.

18 Mr. Trejo gave a thumbs up. Mr. -- Mr. Schwartzer
19 and Ms. Heap, all are nodding their head like it's not an
20 issue. I just needed to put it to everybody -- bring it to
21 everybody's attention. Okay.

22 MR. SCHWARTZER: Thank you, Your Honor.

23 THE COURT: Thank you.

24 So and we're going to probably go a little bit past
25 12:00 for lunch just because the break was at 11:30.

1 MR. SCHWARTZER: Okay. Before we break for lunch,
2 though, we do have one -- I mean, it might be aspirational.
3 We do have one witness in the wings so I guess I just need
4 some -- I don't know, maybe the timing or that we should --
5 right now you're shaking your head so you're assuming call it
6 off?

7 THE COURT: I -- I --

8 MR. SCHWARTZER: Yeah.

9 THE COURT: -- I don't think we're going to be done.

10 MR. SCHWARTZER: Okay. Okay.

11 THE COURT: I mean, if we are done, we will get to
12 -- maybe to openings, but that's it.

13 MR. SCHWARTZER: Okay.

14 THE COURT: Because we're ending at 4:30 today, so.

15 MR. SCHWARTZER: That's correct. That's right.

16 Thank you.

17 THE COURT: Okay. Okay, you can grab them. Thanks,
18 Bill.

19 (In the presence of the prospective jury)

20 THE COURT: Will the parties stipulate to the
21 presence of the potential jurors?

22 MR. SCHWARTZER: Yes, Your Honor.

23 THE COURT: Thank you.

24 MR. TREJO: Stipulated.

25 THE COURT: Thank you.

1 Everybody have a seat. The parties would like to
2 thank and excuse Juror Number 15-0129, Gabriel Holmes. Thank
3 you so much for your service and willingness to participate.

4 And so, Mr. Trejo, if you can continue.

5 MR. TREJO: Okay. To Mr. Munninger, you mentioned
6 purpose of being somewhere a crime was committed, what about
7 not just the place, but witness testimony concerning what was
8 done in regard to the crime?

9 And the reason I ask is because depending on acts
10 alleged during a crime, according to NRS's here in Nevada a
11 crime can be considered more serious or hold bigger
12 consequences.

13 So then what about witness testimony regarding
14 allegations of such if it is found to be tainted?

15 PROSPECTIVE JUROR NO. 1066: Joe Munninger, Badge
16 Number 1066.

17 As far as testimony, I think that -- I wouldn't say
18 that it -- that it's totally irrelevant and it doesn't mean
19 anything. But I think it can help a lot if it can be
20 demonstrated that the person giving it is of good character
21 and has a good reputation.

22 And so I -- what I would do is I would try to
23 correlate what they say with the evidence and see if I can,
24 you know, decide if the weight is -- should be greater or not
25 as great.

1 MR. TREJO: Thank you, Mr. Munninger. Any further
2 elaboration on this matter?

3 PROSPECTIVE JUROR NO. 1066: No.

4 MR. TREJO: I believe that numerous people had
5 comments or opinions. Could you please pass the mic to
6 whoever else had a comment?

7 THE COURT: There's somebody in the front of the box
8 who's trying to get it.

9 PROSPECTIVE JUROR NO. 0954: Dean Silvett, Badge
10 Number 13-0954.

11 Just so I was interpreting the question correctly,
12 it was that does it display prejudice if a group of people was
13 to cohearse (phonetic) -- or not cohearse, excuse me --
14 conspire after the initial statements? And then I think my
15 opinion on that one is, it depends on the use of the word
16 prejudice. If it's just an impingement on rights, then I
17 would have to agree.

18 If it's looking for -- to say that a random group of
19 people were to conspire to change or align on a viewpoint or a
20 narrative based off of someone's race, views or beliefs, out
21 of a random selection of witnesses, I would have to say that's
22 highly unlikely. But that's -- that's my statement on that
23 one.

24 MR. TREJO: Okay. I think you understood pretty
25 well. So what if we say most or all of the witnesses knew

1 each other and it wasn't all a random group of people?

2 PROSPECTIVE JUROR NO. 0954: Then kind of back what
3 we've been talking about the last couple days. That would
4 have to be presented with -- without a doubt, I think was the
5 word that we were using, or unequivocal, the last couple days.
6 That would have to be presented that that was in that
7 situation.

8 But if there -- if it was proved it was something
9 that could be displayed as a possibility then it would --
10 would hold value.

11 MR. TREJO: Thank you, Dean. Any further comment?

12 PROSPECTIVE JUROR NO. 0954: Nothing else.

13 MR. TREJO: Does anyone else care to comment or give
14 an opinion in regards to this question?

15 PROSPECTIVE JUROR NO. 0831: Donavan Alva, Badge
16 Number 0831.

17 I would prefer to see body cam footage and footage
18 from the inside of the pawn shop considering this did happen
19 three years ago, along with their written testimonies.
20 Because I'm pretty sure the cops would have split them up into
21 groups and made them write down on a little piece of paper
22 what they witnessed and stuff.

23 MR. TREJO: Well, I can't get into specifics, and
24 I'm not claiming these questions are in regard to this matter.
25 But let's say that they weren't split up and left together.

1 What then?

2 PROSPECTIVE JUROR NO. 0831: Then I would still go
3 based off the footage and more tangible evidence like DNA, you
4 know, things like that. You can't always trust what people
5 say, unfortunately.

6 MR. TREJO: Any further elaboration, Donavan?

7 PROSPECTIVE JUROR NO. 0831: (No audible response).

8 MR. TREJO: Anyone else want -- that wants to give
9 an opinion?

10 Would anyone here still accept a witness's statement
11 and allegations if he or she was found to have lied under oath
12 or given false statements to police?

13 MR. SCHWARTZER: No hands, Your Honor.

14 THE COURT: Thank you.

15 MR. TREJO: When defendants sign plea deals, they
16 give up some appellate rights along with the opportunity to
17 reveal bad or illegal acts by law enforcement.

18 Does anyone believe that it should be prudent to at
19 least consider trial as an option if such a situation arises?

20 UNIDENTIFIED SPEAKER: Can you repeat the question,
21 please?

22 MR. TREJO: When defendants sign plea deals, they
23 give up some appellate rights, along with the opportunity to
24 reveal bad or illegal acts by law enforcement.

25 Does anyone believe that it should be prudent to at

1 least consider trial as an option if such a situation arises?

2 MR. SCHWARTZER: Your Honor, I'm going to have to
3 object. That's a -- it's a misstatement of the law, among
4 other things.

5 THE COURT: And I'm going to agree with that one.
6 I'm going to ask you to withdraw your question, Mr. Trejo.

7 MR. TREJO: Withdrawn.

8 MR. SCHWARTZER: Thank you, Your Honor.

9 THE COURT: Thank you.

10 MR. SCHWARTZER: In what kind of situation do you
11 feel it's right to invoke your right to jury trial or bench
12 trial?

13 And this question is for anybody who wants to give
14 an opinion on the question.

15 THE COURT: I don't see any volunteers on this one.

16 MR. TREJO: Okay. Moving on.

17 Of all foundations of our American laws known as
18 constitutional rights, which do you feel is more important?
19 And this question is also for whoever cares to answer.

20 THE COURT: Not seeing any volunteers on this one.

21 MR. TREJO: Does everybody here understand their
22 constitutional rights and what they entail?

23 THE COURT: There being a general nod in agreement
24 from the gallery -- I'm sorry, from the box, and from the
25 people who are considered in the box, as well.

1 MR. TREJO: Does everyone here believe that our
2 legal system truly dispenses justice in our modern society?

3 THE COURT: There being a general nod in agreement.

4 MR. TREJO: Does anyone care to elaborate as to why
5 they feel this way?

6 THE COURT: I don't see any volunteers.

7 MR. TREJO: Does anyone feel otherwise?

8 THE COURT: I don't see any answers to that one.

9 MR. TREJO: Does anyone care to state what outcomes
10 they believe our legal system produces and how this affects
11 our society?

12 THE COURT: I don't see any volunteers on this one.

13 MR. TREJO: Would anyone here be able to dismiss
14 shocking or heinous witness testimony if it is found the
15 witness was tainted, coerced, or showed multiple instances of
16 lying?

17 THE COURT: There's a hand in the front and the back
18 row of the box. So I don't know who's got the mic. Okay,
19 thank you.

20 PROSPECTIVE JUROR NO. 0440: Garrett, 14-0440.

21 In response to the question, if that such a thing
22 would have to be proven against the witness, the lying, or
23 coercion or some form of that, but that would have to be
24 explicitly proven.

25 MR. TREJO: And if that did occur, would it cause

1 any type of prejudice against that or any other witnesses
2 testifying in the same case or similar events?

3 PROSPECTIVE JUROR NO. 0440: No. Each witness has
4 their own bout.

5 PROSPECTIVE JUROR NO. 0773: Lance Banks, Badge
6 Number 773.

7 If it was demonstrated there was a history of lying
8 or impropriety it would affect the weight I would give to that
9 particular piece of evidence.

10 MR. TREJO: Thank you, Mr. Banks, and Garrett.

11 Anyone else care to give an opinion?

12 THE COURT: He's -- there's a hand in the back. And
13 I'm pretty sure he's outside of the --

14 MR. SCHWARTZER: Yeah. He's outside of the box,
15 Your Honor.

16 THE COURT: Good. Yeah. Me and math, I -- I can't
17 do this that well, so.

18 MR. SCHWARTZER: Your Honor, should we inform the --
19 the 30 new people about --

20 THE COURT: Okay. So sorry, so the -- the questions
21 -- yeah, the questions that we're having for these individuals
22 are questions you should listen to because they're going to be
23 asked of you, if you ever make it in here. But who we're
24 specifically relying on are the people who at this point can
25 make it into the potential jury.

1 And so that's everyone inside the jury box, right
2 outside the jury box, in the first two rows of the gallery
3 which we're considering also the jury box.

4 So all of the questions you should be listening to,
5 but we are not specifically directing them to you. Sorry, I
6 didn't explain that to the people who started today. Thank
7 you.

8 MR. SCHWARTZER: Thank you, Your Honor.

9 MR. TREJO: Would biological evidence supercede
10 constitutional factors favorable to the defense such as due
11 process violation, impeached witnesses, or other such factors
12 that would make it so the State could not prove their case
13 beyond a reasonable doubt?

14 THE COURT: Your name and badge number?

15 PROSPECTIVE JUROR NO. 0754: Isabella --

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR NO. 0754: -- Will, 0754.

18 I think that biological evidence or any hard
19 evidence, as I said earlier, things that are objective, would
20 take way more weight in influencing my decision than anything
21 else. And so, while I agree that sometimes the law and law
22 enforcement can seem unfair or be unfair, it doesn't really
23 matter what happened after an incident.

24 What matters more is what occurred during the
25 incident, and what happened during the incident can be proven

1 by objective things, like biological evidence, that's
2 something that can't be influenced or it's not an opinion,
3 right?

4 So I guess what I'm trying to say is that it doesn't
5 really matter what happened after or what happened before.
6 What only matters is what happened at the time of the
7 incident.

8 MR. TREJO: So let's say that you were selected as a
9 juror to case, that initially is based of DNA and testimonial
10 evidence, and then for reasons of legal process the DNA
11 evidence is excluded. If you as a juror already heard that
12 DNA evidence was found and matched to a defendant, would it
13 cause you to be impartial even at the order of the Court?

14 PROSPECTIVE JUROR NO. 0754: I think I would have to
15 consider the other --

16 THE COURT: Can -- can you just --

17 PROSPECTIVE JUROR NO. 0754: -- or Isabella --

18 THE COURT: -- state your name again?

19 PROSPECTIVE JUROR NO. 0754: -- Will --

20 THE COURT: Yeah. Thank you.

21 PROSPECTIVE JUROR NO. 0754: -- 0754.

22 I think I would have to consider the other evidence
23 that is president (sic) -- present that is also objective and
24 not subjective. So even if, you know, DNA evidence is
25 excluded, I would have to consider things like fingerprints,

1 or video evidence, which that's not really something that can
2 be altered, or tampered with, really. It's kind of just
3 there.

4 So I think I would have to, you know, more rely on
5 the other aspects of objective evidence, not subjective
6 things.

7 THE CLERK: Judge, if we can hand that back to --

8 THE COURT: Oh, okay. She is in the box. So if we
9 can --

10 THE CLERK: Yeah.

11 THE COURT: I wouldn't have been able to see her.

12 THE CLERK: What's that?

13 THE COURT: I'm sorry? I don't know --

14 THE CLERK: She was (indiscernible).

15 THE COURT: Oh, were -- I'm sorry, Mr. Trejo, did
16 you have a follow up with Ms. Will, because you were typing?
17 I wasn't --

18 MR. TREJO: (Indiscernible)

19 THE COURT: You can get back to it?

20 MR. TREJO: (Indiscernible).

21 THE COURT: Okay. So --

22 PROSPECTIVE JUROR NO. 0957: Christie Carrasco,
23 0957. I would have a problem with that. If I see something
24 or if there is DNA evidence, regardless if somebody made an
25 error, it's a technicality, it's not fair to whomever is the

1 presumed witness -- or, I'm sorry, victim, just because if
2 somebody made an error that if I see a video of something or
3 if there is DNA evidence, if somebody is guilty, in my mind, I
4 can't erase the guilty because somebody else made an error
5 with their job, if that's what you're saying.

6 MR. TREJO: So would that cause you to have
7 prejudice either against the State or the defense when passing
8 a verdict.

9 PROSPECTIVE JUROR NO. 0957: I'm confused by the
10 question. I thought the question was would I cause prejudice
11 to the alleged, which I'm saying I would, because if I saw
12 video footage, you're asking if -- you know, if the State or
13 if the cops made a mistake, would I then be able to delete out
14 of my memory DNA or a video, and I would not.

15 So I would not have prejudice against the State, I
16 would have prejudice against the accused because I wouldn't be
17 able to unwind that in my mind.

18 MR. TREJO: What about vice versa? If the defense's
19 evidence was excluded for whatever reason and that evidence
20 favored or exonerated the accused would it prejudice against
21 the State?

22 PROSPECTIVE JUROR NO. 0957: I would have a hard
23 time throwing out evidence on either side, whatever, evidence
24 is evidence. If somebody commits a crime, I don't think they
25 should be released on just a technicality. I see that in the

1 news and it's very frustrating, on either side. Evidence is
2 evidence. If somebody did something, you know, you have to
3 pay the piper.

4 MR. SCHWARTZER: Your Honor, can we approach?

5 THE COURT: Yes.

6 (Bench conference)

7 MR. SCHWARTZER: This is -- this is improper
8 questioning. The reason why is obviously if something like
9 DNA, video surveillance, was later for some reason excluded,
10 it would be a mistrial. It wouldn't go to a jury in any way
11 or in any form. You can't unring that bell.

12 So to continue on this line of question, like what
13 if this would get excluded, what if that's going be excluded,
14 the way he's saying it, it's just a way to confuse the jury
15 and confuse the issue. It's improper and it doesn't go into
16 prejudice or bias or anything else that's require by voir
17 dire.

18 THE COURT: Okay. Can you -- Alex, can you get
19 closer to him so he can tell you -- oh.

20 MR. TREJO: The point of the questions -- the point
21 of the questions that I'm asking -- is to see if the jurors
22 would be prejudiced to either side based -- based on whatever
23 evidence was accepted or excluded.

24 THE COURT: Okay. Come closer. No, I'm going to
25 tell you something.

1 So --

2 MR. SCHWARTZER: I'm sorry. I'm sorry. I'm sorry.

3 THE COURT: So there's a way to ask that without --
4 there's a way to ask that without making it seem as if, you
5 know, I'm trying to word this -- how do I word this. There's
6 a different way to ask that without -- without making it seem
7 as if it's -- how do I -- how do I --

8 MS. HEAP: Personalizing it into this case.

9 THE COURT: Yeah. Yeah. So make it more general.
10 So make the questions more general.

11 MR. SCHWARTZER: I guess my -- what I'm concerned
12 about is the jury doesn't know what evidence is obviously
13 excluded. That's the point of motion practice. That's the
14 point of our Motion in Limine. And we've had some extensive
15 motions here. They don't know what's -- they shouldn't ever
16 know what's excluded.

17 THE COURT: Right.

18 MR. SCHWARTZER: So any questions regarding excluded
19 evidence I think is inappropriate.

20 THE COURT: Okay. So go ahead, tell it to the
21 interpreter.

22 THE INTERPRETER: I can't hear what you're saying
23 but I can -- sorry, I couldn't hear him.

24 UNIDENTIFIED SPEAKER: I'm sorry. I didn't mean to
25 -- (indiscernible).

1 THE INTERPRETER: Oh, no, no, you're fine.

2 THE COURT: Actually, you know what, it's 12:15.

3 THE MARSHAL: Oh, okay.

4 THE COURT: Let's just give them a lunch break. And
5 we can do this without having to be up close.

6 (End of bench conference)

7 THE COURT: Okay. You -- I just realized.

8 So, Mr. Trejo, everybody, can you just go back to
9 your --

10 MR. SCHWARTZER: Thank you, Your Honor.

11 THE COURT: -- area?

12 THE COURT: So I just realized it's 12:15, so I'm
13 just going to give you a lunch break while we're having this
14 extensive conversation at the bench.

15 So during the recess, you are admonished not to talk
16 or converse among yourselves or with anyone else on any
17 subject connected to this trial, or read, watch, or listen to
18 any report of, or commentary on the trial, of any person
19 connected with the trial, by any medium of information,
20 including without limitation, newspapers, television, the
21 Internet and radio, or form or express any opinion on any
22 subject connected with the trial until the case is finally
23 submitted to you.

24 It is 12:15. Because I think this might be an
25 extensive argument, I'm going to give you guys about an hour-

1 and-a-half.

2 THE MARSHAL: Do you mean 1:45, Your Honor?

3 THE COURT: Yeah. So 1:45. Thank you.

4 (Outside the presence of the prospective jury)

5 THE COURT: I just thought it would be easier to do
6 this without the jury being here so that everybody can hear
7 Mr. Trejo.

8 So we are outside the presence of the jury.

9 And so, Mr. Trejo, your response?

10 And I also wanted to give everybody enough time to
11 get lunch, so.

12 MR. SCHWARTZER: I appreciate that, Your Honor.

13 MR. TREJO: I'm asking if a juror sees or hears
14 evidence like testimony or unfounded digital media will they
15 be able to ignore that evidence if it is ordered by the Judge
16 or will it still subconsciously play a role in their verdict.

17 MR. SCHWARTZER: Can I --

18 THE COURT: And --

19 MR. SCHWARTZER: Sorry, I didn't know you were done.

20 THE COURT: Okay. Go ahead, Mr. Schwartzer.

21 MR. SCHWARTZER: I mean, my response to that is, A,
22 I -- I still think that's improper. But the way it's being
23 asked is video surveillance and DNA. If this stuff is
24 excluded, then can you keep it out of your mind. The answer,
25 I think all -- I mean, the answer should be no.

1 Like, if you have DNA evidence someone did it, and
2 -- and -- and it gets excluded by the Judge, then I think
3 without question this would be a mistrial and there'd be no --
4 and there's no issue there. So I think that's improper
5 questioning.

6 The part -- and I was letting Mr. Trejo go, because
7 I under -- again, I understand he's not a lawyer. I know
8 we're supposed to hold him to the same standards as a lawyer.
9 But I was letting him go, even though I thought that was
10 improper.

11 Where I started getting concerned is when he started
12 talking about what if the -- there was defense evidence of his
13 innocence that was excluded. And now you're putting that into
14 the juror's head, that there might be some evidence that the
15 State is hiding to -- to Mr. Trejo's innocence.

16 So that's where I think we start going into improper
17 questioning of the voir dire.

18 THE COURT: So --

19 MR. SCHWARTZER: And that's where -- and that's why
20 I decided to approach the bench.

21 THE COURT: So I think he was trying to -- I think
22 he was inartfully trying to just make it seem both sides. I
23 -- I think it was an inartful way to do it, and I understand
24 where you're coming from.

25 I do think that the entire line of questioning is

1 improper because evidence that is excluded would then cause a
2 mistrial, along those lines. And so we wouldn't -- we don't
3 need to -- we don't need to go any further.

4 So if you -- if you could just move along when we
5 come back. And he gave a thumbs up to that, but then he had a
6 finger up, like he has a question.

7 MR. TREJO: I was going to see if I can get my
8 papers.

9 THE COURT: Yeah. Absolutely.

10 MR. SCHWARTZER: Thank you, Your Honor.

11 THE COURT: Thank you.

12 And so, I don't think we need to be back any earlier
13 than 1:45 either. But if you need to bring him back so that
14 he's not held in chains or anything like that, just -- we --
15 we can be in here.

16 CORRECTIONS OFFICER: 1:45?

17 THE COURT: Yeah. Isn't it? Yeah, it's 12:00 --
18 1:45.

19 CORRECTIONS OFFICER: Okay.

20 (Court recessed at 12:19 p.m., until 2:03 p.m.)

21 (Outside the presence of the prospective jury)

22 THE COURT: We are, Susie?

23 THE COURT RECORDER: Yes.

24 THE COURT: Back on the record on Case Number C-18-
25 335315-1, State of Nevada versus Mario Trejo.

1 It is a little after 2:00 o'clock. I just sent the
2 Marshal back to check and see why Mr. Trejo and Mr. Henry were
3 still consulting. And I just wanted to make sure that you've
4 had enough time. Mr. Trejo?

5 Or you can have Mr. Henry tell -- say what you were
6 going to say.

7 MR. HENRY: He said we're good.

8 THE COURT: Okay.

9 Does anybody need anything before we bring in the
10 jury? Okay.

11 MR. SCHWARTZER: Nothing by the State.

12 THE COURT: Nothing by the State.

13 Nothing by you, Mr. Trejo?

14 And he shook his head no.

15 So we are going to go grab the jury.

16 (Pause in the proceedings)

17 (In the presence of the prospective jury)

18 THE COURT: Will the parties stipulate to the
19 presence of the potential jurors?

20 MR. SCHWARTZER: State does, Your Honor.

21 MR. TREJO: I do.

22 THE COURT: Thank you. Everybody can be seated.

23 Mr. Trejo, you can continue.

24 MR. TREJO: Well, before the break, I was nearly
25 finished with my questions. I hope you folks had a good

1 lunch. If you don't mind, I will get this last question done.

2 Does anyone feel that being part of this jury and
3 hearing allegations of violence in this case, might trigger
4 emotions that could affect the verdict by prejudice?

5 THE COURT: There being no responses to that one.

6 MR. TREJO: Well, that sums up my questions. I do
7 appreciate and respect all your honesty and any difference of
8 opinion, regarding of your standing, I do hope we can our jury
9 selected from this awesome and diverse group.

10 As a parting word, I just ask that we move into
11 trial with an impartial mind. That no one make any decisions
12 as to innocence or guilt until all facts are on the table and
13 all evidence is presented.

14 I truly have faith in the Constitution of U.S. And
15 furthermore, I have faith there are -- there are those who
16 believe in these foundations and the need to protect and
17 uphold them from infringement or violation.

18 Therefore, I'm willingly resting my future in the
19 hands of select members of this group.

20 Thank you for your patience, ladies and gents.

21 THE COURT: And can the parties approach? We got a
22 note when we were --

23 MR. SCHWARTZER: Okay.

24 THE COURT: -- when the jury was coming back.

25 (Bench conference)

1 MR. SCHWARTZER: I think -- well, I think we'll be
2 done by that anyway. And, I mean, do (indiscernible) yeah, we
3 were going to excuse her anyway.

4 THE COURT: Okay. Okay. And I'm just making it a
5 court exhibit. Okay.

6 (End of bench conference)

7 THE COURT: Thank you.

8 So, Mr. Trejo, do you pass the -- the potential
9 jurors for cause?

10 MR. TREJO: I do.

11 THE COURT: Thank you.

12 And so now we're going to be at the part here the
13 parties have the opportunity to use their peremptory challenge
14 list. And so this is going to take a little bit. And I'm
15 just going to have you remain seated during this process so
16 that they can see your faces and -- and remember who they're
17 talking about.

18 So just feel free to chat amongst yourselves, but
19 just stay in your seats and just we're going to go through
20 this process.

21 So, Bill?

22 THE COURT: And can we -- I think we can excuse the
23 remaining panel?

24 THE CLERK: Yeah.

25 THE COURT: Yeah.

1 THE CLERK: I think so. Yeah.

2 THE COURT: Also, for those of you who were not in
3 the box area who were on this side of the room, and I think it
4 was the back row, you guys, I want to thank you for your time.
5 I know it seems like you didn't do a lot today, but you -- you
6 never know how many people we need. We've gone through so
7 many before that we asked for all you guys to come in again.

8 So thank you so much for your time and your
9 patience. And if you would just return to jury services.

10 THE MARSHAL: Actually, they're good to go, Judge.

11 THE COURT: Oh, you guys are good to go.

12 THE MARSHAL: They already went to --

13 THE COURT: So -- yeah, everybody on that side of
14 the room and then the ones --

15 (Parties exercising peremptory challenges)

16 THE COURT: Can the parties approach?

17 (Bench conference)

18 THE COURT: So, I don't know if you guys all saw,
19 but Bill had come up to me at one point, that said April
20 Reckling said that she was having -- she was having anxiety
21 issues. And I was like, there's no way we're going to get to
22 her, and it looks like we're getting to her.

23 So what do you guys want to do about that?

24 MR. TREJO: (Indiscernible)?

25 THE COURT: She's the older lady in the -- in the

1 back row with the white hair.

2 MS. HEAP: So, I think she's the --

3 THE COURT: She's going to be an alternate.

4 MS. HEAP: -- she's the last alternate. The only --
5 we could cut her and just have three alternates.

6 MR. SCHWARTZER: That's what we do.

7 THE COURT: Are you guys -- are you okay with three
8 alternates?

9 MR. HENRY: (To Mr. Trejo) So they're suggesting
10 that they cut her and then you have three alternates --

11 THE COURT: Instead of four.

12 MR. TREJO: (Indiscernible).

13 THE COURT: Okay. Okay. Thank you.

14 (End of bench conference)

15 (Parties continue exercising peremptory challenges.)

16 THE COURT: (To Clerk) Sorry. Sorry.

17 (Court/Clerk confer.)

18 THE COURT: Oh. If the parties would approach
19 again.

20 (Bench conference)

21 THE COURT: I'm just going to write her name down
22 here and say court excused, because I don't -- well, I should
23 wait until everybody's here.

24 I'm just going to write her name down here and say,
25 court excused final alternate, and then I'll put my signature.

1 MS. HEAP: Okay.

2 THE COURT: Okay. Everybody. Thank you.

3 (End of bench conference)

4 THE CLERK: (Indiscernible) right?

5 THE COURT: Hum? No, I was just saying I'm going to
6 put it at the bottom.

7 (To Clerk) Can I see your list again?

8 (Court/Clerk confer)

9 THE COURT: So if I call your name, please just move
10 to the other side of the room. And we will move people into
11 the seats and then I'm going to make sure that no one has a
12 challenge to the panel that -- that it stands.

13 Anela Medeiros-Smith. Isabella Will. Athena
14 Chapela. Jennifer Vaca. Lance Banks. Christina Carrasco.
15 Yolanda Mattison. Troy Rivas. Layla Catabay. Billy Kelley.
16 Angela Ahmad. Erik Orozco. Manolo Siazon. Adriel Keith Go.
17 Jeffrey Guinn. Marina Valerio. Juan Garcia. Juan Loera.
18 Donavan Alva. William Tillery. April Reckling.

19 And so the Clerk is going to move people around.

20 THE CLERK: Okay. In Seat Number 1, that would be a
21 the top of the corner, Joseph Munninger. I'm sorry. I
22 pronounced his name very bad.

23 Seat Number 2, Tanner Dickens. No. Up at the
24 corner. Top row. Yeah.

25 Seat 3, Kyle Shenett. 4, Evelyn Izaguirre. 5,

1 Garrett Prentice. 6, Sophia Miller. 7, Michael Duszak. 8,
2 Dean Silvett. 9, Shadam Broderick. 9, Jenny Gong. 11,
3 Mariya Veleva. 12, Carolina Calumpit. 13, Shane Haycock.
4 14, Matthew Ang. And 15, Dina Cochran.

5 THE COURT: So this is our potential jury panel.

6 Does the State have any -- any challenges based on
7 the -- the makeup?

8 MR. SCHWARTZER: No, Your Honor.

9 THE COURT: Mr. --

10 MR. TREJO: No, Your Honor.

11 THE COURT: Okay. Thank you.

12 So ladies and gentlemen of the panel who were not
13 selected, thank you so very much for your time. I know this
14 has been a whole lot of time out of your day and -- of your
15 days. And so we do thank you so much. And you are all
16 excused.

17 So those of you that are remaining, you are the
18 members of our jury panel. We now have a jury.

19 The Marshal is going to be passing out badges and
20 notepads for you to take notes on during the trial. The
21 badges are going to be permanent badges that are not the ones
22 that say the potential juror.

23 They're so that people know who you are. Please
24 wear them at all times in the courthouse, because if people
25 don't know who you are, they could be talking about the facts

1 of the case, or anything like that, and don't know you're a
2 potential juror, and will not know not to speak to you. So
3 please wear your badges at all times.

4 And then we're going to pass that out.

5 And then, where does it say to do that?

6 THE CLERK: Once they're seated?

7 THE CLERK: Yeah.

8 (Court/Clerk confer.)

9 THE COURT: So the remaining jurors, I just wanted
10 to let you know what to expect.

11 First of all, if you have -- I want you to be as
12 comfortable as possible. You guys know I have to go to the
13 bathroom all the time. And so if you ever just need a
14 bathroom break -- you need a bathroom break right now?

15 We're going to take one, because I'm dying, too.

16 So during the recess, you are admonished not to talk
17 or converse among yourselves or with anyone else on any
18 subject connected to this trial, or read, watch, or listen to
19 any report of, or commentary on the trial, of any person
20 connected with this trial, by any medium of information,
21 including without limitation, newspapers, television, the
22 Internet or radio, or form or express any opinion on any
23 subject connected with the trial until the case is finally
24 submitted to you.

25 It is 3:20. Thank you, because I've been trying to

1 hold it and not waste anybody's time. We'll come back at
2 3:30.

3 (Outside the presence of the jury)

4 THE COURT: Anything outside the presence? Because
5 I am going to go to the bathroom right now.

6 MR. SCHWARTZER: No. We can wait until you come
7 back in.

8 THE COURT: Okay.

9 (Court recessed at 3:20 p.m., until 3:30 p.m.)

10 (Outside the presence of jury.)

11 THE INTERPRETER: Your Honor?

12 THE COURT: Yes.

13 THE INTERPRETER: There's something Mr. Trejo has to
14 say.

15 THE COURT: Okay. There a couple things I wanted to
16 try and put on the record before we bring the jury back.

17 The first one is I wanted to make sure just in case
18 there's any issues with the recording on the bench recording,
19 I wanted to put on the record that I excused April Reckling.

20 We had been saying the whole time we were going to
21 have 16, and we're -- we ended up with 15, because Ms.
22 Reckling had made it known to the Marshal that she had -- she
23 was having anxiety issues.

24 And I told him to tell her she's so far back she
25 won't even worry about it. And then when I saw the final

1 list, she made it. So I brought you all up. And Ms. Heap
2 came up with the idea of just having 15. So we have three
3 alternates rather than 4. And Mr. -- Mr. Trejo agreed with
4 that. So that is our final panel has 15 members rather than
5 16. So I wanted to make a record of that.

6 Mr. Schwartzer said he wanted to say something
7 outside the presence, but he was going to wait for me to come
8 back from the bathroom. And so what is it that you wanted to
9 say?

10 MR. SCHWARTZER: Oh, it was just scheduling. I was
11 just wondering if we were going to be opening or whatnot.

12 THE COURT: Oh. I don't know. I have about eight
13 pages of preliminary instructions that are in my trial book
14 and so I'm going to try and get through those. But we have to
15 leave by 4:30, so you can do your childcare. So I'm not a
16 hundred percent sure we'll get through with that.

17 And then Mr. Trejo has something that he's writing
18 down as well.

19 Let's hope we get through.

20 MR. TREJO: Your Honor, I just realized I got the
21 wrong manilla envelope and it seems I left my opening
22 statement. Do you want me to type something or wait until
23 tomorrow?

24 MR. SCHWARTZER: Well, I think that solves that.

25 THE COURT: That solves that question.

1 MR. SCHWARTZER: Yeah.

2 THE COURT: So we're just going to let them go a
3 little bit early today.

4 MR. TREJO: Okay.

5 THE COURT: Just if there's any issues with anything
6 like that in the future, just make sure you let us know early
7 enough so that we can have you get it maybe at lunch break or
8 something, okay?

9 MR. TREJO: Okay.

10 MR. SCHWARTZER: Your Honor, also while we're
11 talking about Friday.

12 Can we approach off the record about scheduling?
13 Nothing to do with the case.

14 THE COURT: Okay.

15 MR. HENRY: Yep.

16 (Bench conference)

17 MR. SCHWARTZER: Yeah. I still want to put it on
18 the record. Does Mario know?

19 MR. HENRY: Yeah. Because I (indiscernible).

20 MR. SCHWARTZER: Okay. All right.

21 MR. HENRY: Yeah. Yeah.

22 THE COURT: Oh, he knows?

23 MR. HENRY: Yeah.

24 THE COURT: Okay. So we can put it on the record?

25 MR. SCHWARTZER: Well, I don't want to put his

1 medical history on the record.

2 THE COURT: Okay. I mean, we can stop the recording
3 and just state it in the court --

4 MR. HENRY: Oh.

5 MR. SCHWARTZER: Okay.

6 MR. HENRY: That's fine.

7 THE COURT: -- if everybody knows.

8 MR. HENRY: Yeah. Yeah.

9 (End of bench conference)

10 THE COURT RECORDER: Something not supposed to be
11 (indiscernible)?

12 THE COURT: Right. We're just going to pause the
13 recording for a few minutes --

14 THE COURT RECORDER: Okay.

15 THE COURT: -- for the scheduling thing. So let us
16 know when we can go.

17 (Off the record at 3:34 p.m., until 3:38 p.m.)

18 (Outside the presence of the prospective jury)

19 THE COURT RECORDER: Okay.

20 MR. TREJO: Lastly, I did want to ask if you were
21 able to get in touch with custody in regards to the issue I
22 brought up yesterday.

23 THE COURT: I have not yesterday, because it was
24 kind of late. And so then we've been going all day today. So
25 my JEA was trying to find a telephone number for us to reach,

1 I think it was Lieutenant Williams. We were trying to find an
2 actual phone number for that person.

3 And so as of the last time I went in for a break, we
4 hadn't found one, but we're still working on it.

5 Anything else?

6 Okay. So then we're going to get the jury. I'm
7 going to read the preliminary instructions and then we're
8 going to let them go a little bit early today.

9 MR. SCHWARTZER: Starting at 9:00 a.m. tomorrow?

10 THE COURT: Starting at 9:00 a.m. tomorrow.

11 THE MARSHAL: All rise for the jury.

12 (In the presence of the jury)

13 THE COURT: Will the parties stipulate to the
14 presence of the jury?

15 MR. SCHWARTZER: The State does, Your Honor.

16 MR. TREJO: Yes, Your Honor.

17 THE COURT: Okay. Thank you. Everybody please be
18 seated.

19 So like I said, I was just trying to give you a
20 little bit of an outline of how this trial is going to go. If
21 anybody has any trouble hearing or seeing anything during the
22 trial, raise your hand as an indication. Somebody will see it
23 and we'll -- we'll address the issue.

24 If you need to use the restroom or you feel ill or
25 anything like that, again, raise your hand. I appreciate

1 anytime we can take a break, because as I said, I always try
2 and -- I always have to go to the bathroom. And so I'm trying
3 to hold it just to not keep -- keep you guys' time, you know,
4 but whenever we can take a break, I'll take a break, so
5 there's that.

6 Also, you can stand up. You can stretch between
7 witnesses or when the attorneys are up here at the bench with
8 me and we're discussing things. Feel free to bring in water
9 or other liquids, as long as you have a cap, so that it
10 doesn't -- if -- if anybody kicks it over or anything like
11 that, it doesn't spill.

12 So you can bring in water or anything. Just make
13 sure like mine, it's got a cap on it.

14 Like I said, Monday, Tuesday, Wednesday, we'll start
15 no earlier than 10:30, because I have morning calendars. And
16 I'll tell you all before the next day what time we're
17 starting, just because I need to see what's on that next day's
18 calendar.

19 Ms. Gong has a question. She's -- rose her -- she
20 raised her hand. Bill, can you get her the microphone?

21 THE MARSHAL: Sure. That mic (indiscernible).

22 THE COURT: Oh, does it? I'm not sure if it's going
23 to pick her up.

24 THE MARSHAL: Go ahead and speak.

25 JUROR NO. 10: Oh, is it Monday and Tuesday, 10:30?

1 THE COURT: I -- no earlier than 10:30. Monday,
2 Tuesday, Wednesday.

3 JUROR NO 10: No earlier.

4 THE COURT: Ms. Gong?

5 JUROR NO 10: You said Monday, Tuesday, Wednesday,
6 right? Those --

7 THE COURT: Monday, Tuesday, Wednesday, we would not
8 start earlier than 10:30. It would be between 10:30 or
9 something later than that, depending on what my calendar looks
10 like.

11 On Thursdays and Fridays, I don't have a calendar.
12 We would start at 9:00 a.m. On Fridays -- I'm sorry, on
13 Thursdays we'd be leaving a little bit early. But most other
14 evenings we'd be out of here by 5:00 o'clock.

15 Sometimes -- wait, what is it -- well -- I mean,
16 occasionally, we could break a little bit after 5:00 if
17 there's a witness testifying. But generally, we're not trying
18 to keep anybody here past 5:00 o'clock. It says, I mean,
19 sometimes there might be a witness that needs to be called out
20 of order or something like that.

21 But we're going to be breaking -- it would not be
22 past 6:00 o'clock because I have a life, too, and I know you
23 all do. So generally, we'll try and take a lunch break about
24 noon. I get hangry. So then -- and like I said, usually,
25 about an hour, an hour and a half, I'll take a break so that

1 everybody can go to the bathroom.

2 So this is a criminal case commenced by the State of
3 Nevada, which I may refer to as the State against Mario Trejo.
4 And the case is based on the -- was it an Indictment or an
5 Information?

6 MR. SCHWARTZER: It's an Indictment.

7 THE COURT: An Indictment. The case -- and the
8 Clerk is going to read the Indictment right now.

9 THE CLERK: Do you want me to swear them in first?

10 THE COURT: No, it says after that.

11 THE CLERK: Really?

12 THE COURT: Yeah. This is -- I'm reading straight
13 from the book.

14 THE CLERK: I was going to say before.

15 THE COURT: Mine has it all after. Mine's -- like
16 that's at the end.

17 THE CLERK: Okay.

18 (CLERK READS INDICTMENT TO THE JURY)

19 THE CLERK: To which the defendant has pled not
20 guilty.

21 THE COURT: Thank you. So just remember that the
22 Indictment is just a charge and it's not in any sense evidence
23 of the allegations it contains. Mr. Trejo has pled not guilty
24 to that Indictment and the State therefore has the burden of
25 proving each of the essential elements beyond a reasonable

1 doubt for each of the charges. As Mr. Trejo sits there now,
2 he is not guilty.

3 And the purpose of the trial is to determine whether
4 or not the State meets the burden of proving him guilty on
5 each of those charges beyond a reasonable doubt.

6 It is your primary responsibility as jurors to find
7 and determine the facts. Under our system of criminal
8 procedure, you're the sole judges of the facts. You're here
9 to determine the facts from the testimony you hear and other
10 evidence, including exhibits introduced into court.

11 It's up to you to determine the inferences which you
12 feel may be properly drawn from the evidence. You have to
13 base your verdict solely on the evidence presented in court
14 and the instructions on the law that I give you. To protect
15 the integrity of the jury process, it's very important that
16 you do not do any independent research about this case until
17 the jury has reached a final decision.

18 You may not visit any location involved in the case.
19 You may not do any research or look up words, names, maps, or
20 anything else that may have anything to do with this case.
21 This includes reading newspapers, watching television, or
22 using a computer, cell phone, the Internet, or any other means
23 to get information related to this case or the people and
24 places involved in this case. This applies to whether you are
25 in the courthouse, at home, or anywhere else.

1 Additionally, until you're discharged from service
2 as a juror, you must not provide or receive any information
3 about your jury service to anyone, including friends, co-
4 workers, and family members. You may tell people that you've
5 been picked for a jury and how long the case will take.
6 However, you must not give any information about the case
7 itself or the people involved in the case.

8 You must also warn people not to try to say anything
9 to you, or write to you about your jury service on the case.
10 This includes face-to-face phone or computer communications.

11 Here's a story that I just tell people, because this
12 is how serious it is. Prior to, you know, becoming a Judge, I
13 was a public defender. And I worked in an office with all of
14 the other Clark County Public Defenders.

15 I was doing -- I was watching a trial with one of my
16 friends. And one of the jurors just wrote on her Facebook
17 page, I'm a juror in a criminal case. One of the -- one of
18 her friends, who has nothing to do with the case, wrote a
19 comment that said, "Guilty". And she liked the comment. And
20 that caused a mistrial in the case.

21 So don't tell anybody anything about jury duty until
22 you're done, just because you saw how long it took for us to
23 -- to find people who are going to be here for as long as this
24 case is going on. This one is going to take a long time.
25 We're still in the middle of a global pandemic.

1 It's going to take a long time to -- to redo this.
2 So please don't do anything that can cause the possibility of
3 this case being -- having to be retried.

4 Now, I'm going back to the book.

5 In this age of electronic communication, I want to
6 stress to you that you must not use electronic devices or
7 computers to research, talk about, or talk about this case,
8 including Googling, Tweeting, texting, blogging, e-mailing,
9 posting information on a website, or any other means at all.
10 All of us are depending on your to follow these rules so that
11 there will be a fair and lawful resolution of this case.

12 You must not declare to your fellow jurors any facts
13 relating to this case of your own knowledge. And if you
14 discover during the trial or after the jury has retired that
15 you or any other juror has personal knowledge of any of the
16 witnesses, or facts in the controversy in this case, you must
17 disclose that information to me outside the presence of the
18 jurors, again -- of the other jurors -- again, you'd have to
19 go through the Marshal, Bill. And then we'd have to put
20 everything on the record.

21 The evidence in this case will consist of sworn
22 testimony of witnesses, all exhibits received in evidence,
23 regardless of which side introduces the evidence. If the
24 attorneys on both sides stipulate to the existence of a fact,
25 you must, unless otherwise instructed, accept the stipulation

1 as evidence and regard that fact as proved.

2 I may take judicial notice of certain facts or
3 events. If I take judicial notice of a fact or event, you
4 must also accept that fact as true.

5 In every case there are two types of evidence,
6 direct and circumstantial. Direct evidence is testimony by a
7 witness about what the person saw, or heard, or did.
8 Circumstantial evidence is testimony or exhibits which are --
9 which are proof of a particular fact from which if that fact
10 is proven, you can infer the existence of a second fact.

11 For example, if you're outside and you feel
12 raindrops fall on you, that's direct evidence that it's
13 raining because you see the raindrops falling on you and you
14 feel them.

15 But if you go to sleep at night and the ground is
16 dry, but when you wake up in the morning the ground is all wet
17 and there are puddles outside, that's circumstantial evidence
18 that it rained while you were asleep.

19 Although you didn't see it raining, you know that
20 the ground was dry when you went to sleep and now it's wet,
21 that's circumstantial evidence that it rained.

22 It could prove a different fact. It could prove
23 that somebody -- that one of your neighbors had your
24 sprinklers on or something like that. But if -- if there are
25 things that lead you to believe that, you can use that as

1 circumstantial evidence.

2 You may consider both direct and circumstantial
3 evidence in deciding this case. The law permits you to give
4 equal weight to both types of evidence, but it's up to you to
5 decide how much weight to give a particular piece of evidence.

6 The parties may sometimes make objections to some of
7 the testimony or evidence. It's the duty of the attorneys --
8 of the parties to object to evidence which they believe may
9 not be properly offered and you should not be prejudiced in
10 any way against the party who makes objections on behalf of
11 the party he or she represents.

12 At times, I may sustain objections or direct that
13 you disregard certain testimony or exhibits. You must not
14 consider any evidence to which an objection has been sustained
15 or which I have instructed you to disregard.

16 You also must not consider anything which you may
17 have seen or heard when the Court is not in session, even if
18 what you or hear is said or done by one of the parties, or by
19 one of the witnesses.

20 In considering the weight and value of the testimony
21 of any witness, you may take into consideration the
22 appearance, attitude and behavior of the witness, the interest
23 of the witness in the outcome of the case, if any, the
24 relation of the witness to the defendant or the State, the
25 inclination of the witness to speak truthfully or not, and the

1 probability or improbability of the witness's statements, and
2 all the facts and circumstances in evidence.

3 Thus, you may give the testimony of any witness just
4 such weight and value as you believe the testimony of the
5 witness is entitled to receive.

6 After jury selection and these instructions we're
7 going to have opening statements by the State, maybe an
8 opening statement by the defense, State's evidence, possibly
9 defense evidence, jury instructions, and closing arguments.

10 Opening statements and closing arguments are
11 intended to help you in understanding the evidence and
12 applying the law. But please understand that what the
13 attorneys tell you, that's not evidence. That's just them
14 giving you an outline. It's not evidence at all. Evidence is
15 something you're going to hear from the witness stand.

16 At the conclusion of the evidence, I will instruct
17 you on the law. You must not be concerned with the wisdom of
18 any rule of law stated in these instructions or in the
19 instructions that I will read to you after the evidence is in.
20 Regardless of any opinion you may have as to what the law
21 ought to be, it would be a violation of your oath to base a
22 verdict upon any other view of the law than that given to you
23 by the Court.

24 Until the case is submitted to you, you must not
25 discuss it with anyone, even with your fellow jurors. After

1 it's submitted to you, you must discuss it only in the jury
2 room with your fellow jurors. It's important that you keep an
3 open mind and not decide any issue in the case until the
4 entire case has been submitted to you under instructions from
5 me.

6 Again, if you discover during the course of the
7 trial that you have personal knowledge of the facts of the
8 case, or that you know one of the witnesses, please give a
9 note to the Marshal who will present it to me.

10 Sometimes, we don't know people's names and only
11 their faces, so that's why we let you know that even after the
12 case has stated, if you discover that you recognize somebody,
13 please let us know.

14 During the trial, it may be necessary for me to
15 confer with the attorneys -- or the parties at the bench which
16 means up here by me, about questions of law or other
17 procedures that I need to make a decision on. Sometimes you
18 may be excused from the courtroom for that reason.

19 I will try and limit the interruptions as much as
20 possible, but please understand if we take a break, it's
21 necessary, and that we appreciate your patience.

22 You've already been given your badges. Please wear
23 the badge at all times while you're in the courthouse or on a
24 break. This badge lets everyone know that you're a juror in
25 this case. It's important, because during the course of the

1 trial, the parties for both sides, the court personnel, and
2 other than the Marshal, are not permitted to speak to members
3 of the jury.

4 By this, I mean, not only can they not talk to you
5 about the case, but they cannot talk to you at all, not even
6 to ask the time of day.

7 The badge helps them identify you as a juror. If
8 someone will not talk to you, please understand they're not
9 being rude. To ensure the absolute impartiality of the jury,
10 the people involved in the case are bound by ethics and law to
11 avoid contact with jurors until the case is decided.

12 There are also paper and pens for you to use.
13 You're free to take notes during the trial if you wish, but
14 please keep the notes to yourself until you and your fellow
15 jurors go in the jury room to decide the case. Do not let
16 note-taking distract you.

17 You also should rely on your own memory of what was
18 said and not be overly influenced by the notes of other
19 jurors. If jurors have conflicting notes, you should not rely
20 on the notes because the court recorder's record contains the
21 complete and authentic record of the trial.

22 I'll probably type notes during the trial. Please
23 don't take that into consideration. If I begin typing during
24 a witness's testimony, you are not to consider that testimony
25 more important than any other testimony. In fact, you are not

1 to consider anything I say or do during this trial to suggest
2 that I am inclined to favor the claims or positions of any
3 party. I am required to remain neutral. It would be wrong
4 for you to conclude that anything I say or do means I'm for
5 one side or the other in this trial.

6 Discussing and deciding the facts is your job alone.
7 Jurors are allowed to ask questions. The procedures require
8 that you write your juror number and question on a full sheet
9 of paper and give it to the Marshal while the witness is still
10 in the courtroom.

11 Questions must be factual in nature and designed to
12 clarify information already presented. If it's a proper
13 question under court rules, I'll ask it. If the evidence
14 rules prevent me from asking the question, then I won't ask
15 it. If I don't ask a question, I'll keep the question and
16 explain after the trial the purpose of the ruling precluding
17 asking it.

18 Please reserve your questions until the attorneys
19 have finished asking questions of the witnesses as the
20 attorneys will likely ask your question. Jurors must not
21 place undue weight on the responses to their questions or draw
22 any conclusions because a question was not asked.

23 I don't think -- we don't have any foreign language
24 witnesses?

25 MR. SCHWARTZER: No, we don't. We won't have any --

1 none of the State's witnesses.

2 THE COURT: Mr. Trejo?

3 MR. TREJO: I don't. But I thought there was a
4 witness of the State who spoke Spanish.

5 MR. SCHWARTZER: We're not calling any witnesses
6 that speak Spanish.

7 THE COURT: Okay. Thank you.

8 So I'm not going to read that one.

9 Finally, in fairness to the parties to this case,
10 you should keep an open mind throughout this trial, reaching
11 your conclusion only during your final deliberations after all
12 the evidence is in, and you've heard the attorneys' closing
13 arguments, and my instructions to you on the law.

14 Now, that I've given these preliminary instructions,
15 the Clerk will now administer the oath to the members of the
16 jury.

17 THE CLERK: Will you please stand and raise your
18 right hand?

19 (JURY PANEL SWORN BY THE CLERK)

20 THE CLERK: Thank you. You can have a seat.

21 THE COURT: Thank you.

22 So, ladies and gentlemen of the jury, we were going
23 to go until 4:30 today, but because it's after 4:00 o'clock,
24 we are not going to be able to get through the openings
25 statements. So we're just going to go ahead and let you go a

1 little bit early today.

2 Be back here outside of the courtroom at 9:00 a.m.

3 There is a question. Sorry. Go ahead.

4 UNKNOWN PROSPECTIVE JUROR: I just had a couple
5 questions.

6 THE COURT: Sure.

7 UNKNOWN PROSPECTIVE JUROR: Can we take notes
8 electronically like on an iPad or only with the notepad?

9 THE COURT: I -- I think just with the notepad.

10 MR. SCHWARTZER: I've never had that issue before,
11 but I don't -- I don't personally -- I guess the issue is
12 you're just supposed to leave the notepad here, correct?

13 THE COURT: Yeah. The -- yeah, you're supposed to
14 leave the notepad here. So you have to take it on a notepad.

15 UNKNOWN PROSPECTIVE JUROR: Okay.

16 And then are we all jurors, or are some of us
17 alternates?

18 THE COURT: Some of you are alternates.

19 UNKNOWN PROSPECTIVE JUROR: But we don't know who?

20 THE COURT: You don't know who.

21 UNKNOWN PROSPECTIVE JUROR: All right. Can we get a
22 copy of the Indictment?

23 THE COURT: No. Not until the end.

24 UNKNOWN PROSPECTIVE JUROR: Okay. That's it.

25 THE COURT: Anything else? No? Okay.

1 So again, we're going to have you come and hang out
2 outside at -- until 9:00 o'clock.

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

11 See you tomorrow morning. Thank you so much.

12 (Jury recessed at 4:07 p.m.)

13 (Outside the presence of the jury.)

14 THE COURT: Anything else outside the presence?

15 MR. SCHWARTZER: I do have something outside the
16 presence.

17 THE COURT: Sure.

18 MR. SCHWARTZER: Ms. Veleva?

19 MS. HEAP: No, no. Veleva.

20 THE COURT: Veleva?

21 MR. SCHWARTZER: Veleva. So as she was walking in,
22 after she was selected to the jury, she did talk -- talk to
23 me. I didn't talk back. But she did say, I just got
24 permission from the Real Estate Board for the -- or the County
25 Board to do the CPA Exam, you know, lucky me. It's like --

1 you know, now I have to study for this test while doing the
2 jury.

3 I didn't respond to her. But since she talked
4 directly to me, I thought I should put that on the record
5 about that.

6 THE COURT: And I don't see an issue with that.
7 That's sort of like the juror to me who noted that he liked my
8 -- my purple.

9 Mr. Trejo, do you have anything, any issues with
10 that?

11 MR. TREJO: I have no objection.

12 THE COURT: Okay. Thank you.

13 Anything else?

14 MR. SCHWARTZER: That's it for the State, Your
15 Honor.

16 THE COURT: Okay. Oh, wait, Mr. --

17 THE INTERPRETER: There's something else from Mr.
18 Trejo.

19 THE COURT: -- yeah, Mr. Trejo has something.

20 (Pause in the proceedings)

21 MR. TREJO: Your Honor?

22 THE COURT: Yes?

23 MR. TREJO: I wanted to inquire about the State's
24 mention of the September 6th, 2018, recordings. We didn't
25 really come back to the issue and I'm not sure if it's of

1 consequence.

2 THE COURT: I don't understand the question.

3 MR. SCHWARTZER: Oh, I think he's talking about the
4 statement, Your Honor. I asked Mr. Trejo to review the
5 statement.

6 THE COURT: Oh.

7 MR. SCHWARTZER: If there's any bad acts or what he
8 would believe is bad acts or something that -- that should not
9 be included in the statement, knowing that the statement is
10 coming in over his objection.

11 THE COURT: Right. Okay.

12 So have you had an opportunity to review that
13 statement, Mr. Trejo?

14 MR. TREJO: Not as of yet, at least not again. I'll
15 do so now when I get back.

16 THE COURT: Okay. So then we probably need to come
17 in a little bit early before the jury to see if there's
18 anything.

19 You have an issue with before 9:00 o'clock?

20 MR. SCHWARTZER: I do. I do. I do. If --
21 actually, I mean, if I had -- can I have like five minutes to
22 call my wife and figure out what I can do?

23 THE COURT: Sure.

24 MR. SCHWARTZER: Thank you.

25 THE COURT: I mean, if we -- if we -- if it's

1 shorter, like if it -- because I was going to say 8:30, but
2 you all know I don't want to be nowhere at 8:30.

3 MR. SCHWARTZER: I know.

4 THE COURT: But if we need to do it at 8:45, if we
5 -- I mean, if -- because I don't think there's going to be a
6 whole lot of argument. And you said that the only thing that
7 you noticed was the marijuana.

8 MR. SCHWARTZER: That's the only thing I saw.

9 THE COURT: And it's -- and it's legal. So --
10 But -- but yeah, go ahead and call Jean (phonetic).

11 THE COURT: Okay. Thank you.

12 (Pause in the proceedings)

13 MR. SCHWARTZER: My very understanding wife says she
14 has no problem.

15 THE COURT: Okay. So you can be here. Do you want
16 to say 8:30?

17 MR. SCHWARTZER: Sure.

18 THE COURT: I mean, I don't want to be here at 8:30.

19 MR. SCHWARTZER: I -- I --

20 THE COURT: I will.

21 MR. TREJO: It shouldn't take too long. No reason
22 to have Mr. Schwartzer to have hustle his schedule.

23 THE COURT: Okay. We'll -- we'll still say 8:30 --

24 MR. SCHWARTZER: That works.

25 THE COURT: -- just to give it an amount of time,

1 so. We'll say 8:30 tomorrow.

2 Anything else? Mr. Trejo, you're --

3 MR. TREJO: (Shakes head in the negative.)

4 THE COURT: Nothing from you?

5 Nothing else from the State?

6 MR. TREJO: Nothing else from Mr. Trejo.

7 MR. SCHWARTZER: Okay. The State -- with Mr. Trejo
8 here, we are -- we have five witnesses, we are -- and I'll
9 just say on the record who they are. Barry Jones, as we've
10 talked about, ad nauseam, is going to be taken out of order.

11 The custodian of records for -- for SuperPawn.
12 Julie Saldana. Blake Penny, who is a -- the Detective who did
13 the buccal swab. And the -- and the phone. And then Jeff --
14 we were thinking about Jeff Clark, who's the robbery detective
15 who really -- well, most of that will be the statement for the
16 September 6th statement.

17 I don't know Mr. Trejo's amount of questioning. If
18 that's too big of a list or -- or if -- or if we should have
19 more or less witnesses. I just -- you know, obviously, with
20 this trial, I just want to, again, let Mr. Trejo have as much
21 notice as possible so he can write down his questions. And I
22 don't want to, you know, bring people in that don't have to
23 come in.

24 THE COURT: Okay.

25 MR. TREJO: So this -- it's Mr. Jones, SuperPawn

1 custodian, Juliana Saldana, Jeff Clark, and Detective Patone
2 (phonetic)?

3 MR. SCHWARTZER: Penny.

4 MR. TREJO: Penny. Penny. Okay.

5 MR. SCHWARTZER: Does Mr. Trejo believe that's going
6 to be too many witnesses? Or I don't know the amount of
7 questioning he's going to have for them.

8 MR. TREJO: I will not be cross-examining the
9 SuperPawn custodian nor Penny.

10 MR. SCHWARTZER: Okay.

11 So with that, those five witnesses should be okay?

12 THE COURT: Seems like, yeah.

13 MR. SCHWARTZER: Okay. Thank you, Your Honor.

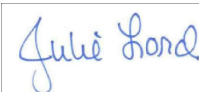
14 THE COURT: Okay. Thank you.

15 See you tomorrow at the un-Godly hour of 8:30.

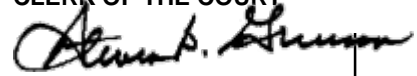
16 (Court recessed for the day at 4:16 p.m.)

17 * * * * *

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

21 
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DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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| THE STATE OF NEVADA, |) | CASE NO. C-18-335315-1 |
| |) | |
| Plaintiff, |) | DEPT NO. XXIV |
| vs. |) | |
| |) | |
| MARIO BLADIMIR TREJO, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

BEFORE THE HONORABLE ERIKA BALLOU, DISTRICT COURT JUDGE

FRIDAY, APRIL 22, 2022

**RECORDER'S TRANSCRIPT OF PROCEEDING:
JURY TRIAL - DAY 5**

APPEARANCES:

| | |
|----------------|--|
| FOR THE STATE: | HILARY L. HEAP, ESQ. MICHAEL J. SCHWARTZER, ESQ. Chief Deputy District Attorneys |
|----------------|--|

| | |
|--------------------|---------------------------------|
| FOR THE DEFENDANT: | MARIO BLADIMIR TREJO, Pro Se |
|--------------------|---------------------------------|

ALEXANDER C. HENRY, ESQ.
STEVE M. ALTIG, ESQ.
Standby Counsel

ALSO PRESENT:

Marie Bacquerie
Spanish Interpreter

RECORDED BY: SUSAN SCHOFIELD, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

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1 LAS VEGAS, NEVADA, FRIDAY, APRIL 22, 2022

2 (Case called at 8:54 a.m.)

3 (Outside the presence of the jury.)

4 THE COURT: 335315-1. Mr. Schwartz and Ms. Heap
5 are present for the State. Mr. Trejo and Mr. Henry from the
6 public defender's office are present for Mr. Trejo, along with
7 the interpreter, who is just going to be reading Mr. Trejo's
8 statements due to his disability.

9 So have you had an opportunity to look at the
10 statement, Mr. Trejo?

11 MR. TREJO: Yes. I didn't find anything.

12 THE COURT: Okay, so we are not going to redact the
13 statement.

14 And my understanding, Mr. Trejo, is that you all are
15 going to be stipulating to all of the photographs. You're
16 stipulating to all of the State's photographs, and the State
17 is stipulating to all of your photographs. Is that correct?

18 MR. TREJO: Yes. Yes, Your Honor.

19 MR. SCHWARTZ: Well, just hold on a second, Your
20 Honor. I got to --

21 THE COURT: Oh.

22 MR. SCHWARTZ: That is correct about all the
23 photos that are currently submitted. I have some additional
24 ones --

25 THE COURT: Oh, okay.

1 MR. SCHWARTZER: -- I'm going to show Mr. Trejo.

2 (Mr. Schwartzer and Mr. Trejo confer.)

3 MR. SCHWARTZER: So, Your Honor, that's -- let me
4 get these numbered first.

5 THE COURT: Okay.

6 MR. SCHWARTZER: There's two additional ones he'll
7 stipulate to that are Google Earth maps, and then there's a
8 couple that are being used with this expert that I'll have to
9 lay the foundation for.

10 THE COURT: Okay.

11 MR. SCHWARTZER: (Indiscernible).

12 THE CLERK: I'm sorry?

13 MR. SCHWARTZER: (Indiscernible).

14 THE CLERK: Okay.

15 MR. SCHWARTZER: That works for me.

16 THE CLERK: And these ones are stipulated to?

17 MR. SCHWARTZER: The first two are.

18 THE COURT: The first two.

19 THE CLERK: The first two are and these --

20 MR. SCHWARTZER: The rest are not.

21 THE COURT: So can you tell me the numbers of the
22 ones that are stipulated to? That's why I wanted to have
23 them --

24 THE CLERK: 148 and 149.

25 (Ms. Heap/Mr. Schwartzer confer re exhibits)

1 THE COURT: Also, I heard from Lieutenant Jessica
2 Williams (phonetic), who is the person who I was told to send
3 the e-mail about your medical condition, making sure. What
4 she says is that she was going to brief all of her sergeants
5 regarding your medical concerns and that -- she just asked me
6 to put your trial start time as close to the real trial start
7 time as possible so that they can do their best to pick you up
8 close to that time, and I told her I'd definitely do that.
9 We've basically been doing that, pretty much.

10 And so, has everything been okay so far for the rest
11 of the week, Mr. Trejo?

12 (Pause in the proceedings.)

13 MR. SCHWARTZER: Your Honor, are we on the record?

14 THE COURT: Yes.

15 MR. SCHWARTZER: I just -- because I don't want to
16 object at all during Mr. Trejo's opening, I just want to
17 remind Mr. Trejo of the law regarding opening, that it's not
18 argument. Obviously, some argument, I'm not going to object
19 to. Some narrative, I'm not going to object to. But it's for
20 presenting what evidence he intends to elicit from either
21 cross-examination or his own witnesses.

22 Obviously, I just want to put him on warning, if he
23 goes too far into argument, or if this whole thing becomes
24 argument, I'm going to ask to object. And I'm just doing that
25 outside the presence of the jury because I'm going to try -- I

1 don't -- again, I really don't want to object during opening.
2 I normally don't.

3 THE COURT: And Mr. Trejo heard all of that. I saw
4 him acknowledge it. And he's still now reading, but -- I mean
5 writing about the medical condition, but I saw him acknowledge
6 it when you were speaking.

7 MR. SCHWARTZER: Thank you, Your Honor.
8 Your Honor, may I be just excused to use the
9 restroom?

10 THE COURT: Yeah.

11 MR. SCHWARTZER: Thank you.

12 (Pause in the proceedings.)

13 THE INTERPRETER: Ma'am?

14 THE COURT: Yes.

15 THE INTERPRETER: Okay.

16 MR. TREJO: That I must thank you for -- that I must
17 thank you for, Judge. The officers allowed me to remain at my
18 module until prior to start time. It has saved me a lot of
19 trouble. I truly appreciate this.

20 THE COURT: Okay. Thank you. I just -- if there
21 are any other problems, please let me know, and we'll try and
22 take care of as much as we can. We don't want -- I don't want
23 your medical condition to worsen.

24 Ms. Heap, don't leave. I wanted to talk to you all
25 about the start times. I know Mr. Schwartzer has stepped out

1 of the room.

2 But on Monday, we go back to inmates being brought
3 in -- on Monday, we go back to inmates being brought into
4 custody, and my calendar time will start at 9:30 rather than
5 8:30. This coming Monday, I only have 17 matters on calendar.
6 There's only -- you said two sentencings. So I think we can
7 still start at 11:00 o'clock on Monday and have at least an
8 hour before we go to lunch.

9 And then, on Wednesday, we only have, so far, 10
10 matters on. And so I think we'll be able to start at 10:30,
11 but in case anything gets added or anything like that, we'll
12 readdress it close to it. But on Monday, we will start at
13 11:00 o'clock.

14 MS. HEAP: Okay. Thank you, Your Honor.

15 MR. HENRY: And then Tuesday and Thursday?

16 THE COURT: Tuesday is -- Tuesday is going to be
17 10:30 because it's civil, and I try and get rid of as many of
18 them as humanly possible because I never want to hear from
19 them. Thursday and Friday will be 9:00.

20 MR. HENRY: Okay.

21 MS. HEAP: Can I approach, Your Honor?

22 THE COURT: Yeah.

23 Okay. Anything else outside the presence? Yes,
24 yes.

25 THE INTERPRETER: He has another statement.

1 THE COURT: Okay.

2 MR. TREJO: As for my argument, it is a simple
3 statement, nothing specific or argumentative. I did my best
4 according to the info I have regarding openings and closings.

5 THE COURT: Okay, thank you. Thank you so much, Mr.
6 Trejo.

7 And so, anything else outside the presence?

8 MR. SCHWARTZER: Not by the State, Your Honor.

9 THE COURT: Okay. It is 9:03. I think we can --

10 MR. TREJO: Not by the defense.

11 THE CLERK: What about his --

12 THE COURT: Oh, yeah.

13 THE CLERK: -- exhibits?

14 THE COURT: Mr. Trejo, the State said you had a
15 couple of photographs. Do you have those ready? Because they
16 were going to stipulate, so we can get them marked right now.

17 (Pause in the proceedings.)

18 THE COURT: Make sure they've seen them all.

19 MR. SCHWARTZER: I mean, I could be -- are these all
20 from the discovery we gave you? None of them are like his own
21 photographs that he got from somewhere else? Okay, it's fine.

22 Some of them are duplicates, Your Honor, but, you
23 know, we'll agree to all of them.

24 THE COURT: Do you want to get rid of the
25 duplicates?

1 MR. SCHWARTZER: Then I'll have to look at them a
2 little bit more carefully.

3 MS. HEAP: I don't know how he's set up. He may
4 just be wanting to use the ones that he pulls and not have to
5 go through ours.

6 THE COURT: Yeah, I mean, it's up to you. Mr.
7 Trejo, do you want to get rid of the duplicates?

8 (Pause in the proceedings.)

9 MR. TREJO: I have them earmarked and then earmarked
10 my prepared words to make it more expedient process. I kind
11 of need them.

12 THE COURT: Okay, that's --

13 MR. TREJO: I wasn't sure in which order the State
14 numbered their photos.

15 THE COURT: Okay, that's fine. We'll just -- yeah,
16 it's fine. I just needed to know.

17 THE CLERK: But they're all stipulated to?

18 THE COURT: Yeah, but they are all stipulated to,
19 yes.

20 (State's Exhibits, Defendant's Exhibits stipulated admitted.)

21 Anything else?

22 MR. TREJO: One thing. Ma'am, I overheat a lot, and
23 I was wondering if I can -- you know, I was going to ask
24 permission to take off my -- my blazer.

25 THE COURT: You can always take off -- as long as

1 you're still decent, you can take it off. You see I'm
2 stifling in this robe, so I take it off as soon as -- like,
3 literally the minute the -- they're not even out of the room.
4 So, yeah, you can put on the jacket and take it off as freely
5 as possible.

6 Anything else from the State?

7 MR. SCHWARTZER: No, Your Honor.

8 THE COURT: Okay. So let's just go ahead and grab
9 the jury then.

10 (In the presence of the jurors)

11 THE COURT: Will the parties stipulate to the
12 presence of the jury?

13 MS. HEAP: State will.

14 MR. TREJO: Defense does.

15 THE COURT: Thank you. Please be seated.

16 And, State, are you ready for your opening?

17 MR. SCHWARTZER: Yes, Your Honor.

18 THE COURT: Okay, please proceed. Thank you.

19 MR. SCHWARTZER: Everyone settled? Everyone has
20 their pens and papers out.

21 STATE'S OPENING STATEMENT

22 MR. SCHWARTZER: One has the right to feel safe at
23 work, especially those who don't work in a field like, you
24 know, Alaska fishermen, or firefighter, or police officer, a
25 military officer stationed in Poland right now.

1 One has the right to feel safe at work, especially
2 when you work in a retail job, a job that you interact with
3 the public all the time. And once that is taken away from
4 you, your sense of safety is gone. It can affect you for
5 years, maybe for the rest of your life. If that safety is
6 taken away from you in such a violent manner, it has permanent
7 effects on the people.

8 And on September 3rd of 2018, that safety was taken
9 away from the people who were working at the SuperPawn at 1150
10 South Rainbow. It was violently and suddenly taken away in
11 the middle of the day by a person in this courtroom, Mario
12 Trejo.

13 The State will present evidence over the next two
14 weeks that will show you beyond a reasonable doubt that Mr.
15 Trejo did these crimes that he's accused of and did so in a
16 way that permanently affected the victims.

17 September 3rd of 2018 was a normal-ish day at that
18 SuperPawn. It was Labor Day. It was a holiday. You'll hear
19 from multiple witnesses there, multiple employees there that
20 they had holiday hours, so they're not getting there as early
21 as normal, and they don't stay as late as normal, even a
22 little bit festive and get pizza for lunch. They talk
23 together. There's less customers there. It's more of a
24 playful time.

25 They work from 10:00 to 5:00, middle of the day,

1 Rainbow and Charleston, one of the most crowded, busy
2 intersections in Las Vegas. But then, on September 3rd, 2018,
3 around 1:08 p.m., this happened.

4 MR. TREJO: Objection.

5 THE COURT: Can we approach?

6 (Bench conference)

7 THE COURT: Sure. I'm going to sit until he
8 finishes writing.

9 (Pause in the proceedings.)

10 MR. TREJO: I actually have not seen or -- I
11 actually have not seen this or most of these videos. I filed
12 my motion a while back requesting the videos not to be used
13 during my May 10th bail hearing. This issue was again brought
14 up on May 10th prior to the bail hearing.

15 I filed a Brady motion; requested the videos from
16 Schwartzer by letter and phone call. I was told that due to
17 my status of incarceration, I did or could not access these
18 digital pieces of evidence. The few videos I did see were
19 partials of different areas and never provided full view, and
20 I seen them once at a glance almost four years ago.

21 Your Honor, this is a Brady violation, and it has --
22 it has prejudiced my defense because I have not formed a
23 proper defense. And I believe this video would -- could prove
24 discrepancies in the allegations and provide defenses for
25 kidnapping in the first, along with multiple of the robberies,

1 possible, perhaps, to the charges relating to assaults on
2 protected persons.

3 THE COURT: Okay.

4 MR. SCHWARTZER: That's totally inappropriate.

5 THE COURT: Okay. We're going to just take a break
6 so that we can do this all --

7 MR. SCHWARTZER: Okay.

8 THE COURT: -- on the record. Ladies and -- sorry.

9 (End of bench conference)

10 THE COURT: We're going to just take a short break.
11 We have some things that we need to talk about that's hard to
12 do with Mr. Trejo's disability at the bench. So we need to
13 take a short break, probably only about 15 minutes, so be back
14 at 9:45.

15 And during the recess, you are admonished you are
16 not to talk or converse among yourselves or with anyone else
17 on any subject connected to this trial, or read, watch, or
18 listen to any report of or commentary on the trial of any
19 person connected with this trial, by any medium of
20 information, including, without limitation, newspapers,
21 television, the internet, and radio, or form or express any
22 opinion on any subject connected with the trial until the case
23 is finally submitted to you.

24 Again, about 15 minutes.

25 (Outside the presence of the jurors)

1 THE COURT: Doors closed. Outside the presence of
2 the jury.

3 If I understand Mr. Trejo's objection correctly, and
4 please correct me if I'm wrong, Mr. Trejo, your objection to
5 this video is that you have only seen it once about four years
6 ago due to your status as being incarcerated and that you'd
7 asked Mr. Schwartzer to provide those to you, but he could not
8 due to the fact that you are incarcerated, which is true. And
9 you did see those, you said in the --

10 MR. HENRY: Jail.

11 THE COURT: -- the statement that you had the
12 interpreter read.

13 Go ahead, Mr. Schwartzer.

14 MR. SCHWARTZER: Your Honor, the video has been
15 provided. This is outrageous. To call this a Brady violation
16 is outrageous. This video was provided three and a half years
17 ago to Mr. Henry. I imagine Mr. Henry, as an officer of the
18 court, could represent that he did receive the video. I
19 assume the video was transferred over to Mr. Trejo.

20 So he's had this video, which has been referenced
21 multiple times for three and a half years, not only referenced
22 through various motions but also referenced various times
23 during the introduction and during various times we've argued
24 today.

25 Obviously, the State has a good-faith basis to bring

1 the video in. Clearly, this is not a Brady violation, because
2 the video has been provided three years ago, and we have
3 documentation regarding that. And I believe Mr. Henry can say
4 as an officer of the court that he has received that video.
5 So it absolutely comes in.

6 And let's just stop right here. The body cams come
7 in as well because the body cams were provided as well and
8 have been provided for over three years at this point, and we
9 have records showing that as well.

10 So, right now, I want a ruling that these videos, if
11 the State has good-faith basis, that they're coming in. And
12 it's -- I never hid the ball on this. The custodian of record
13 from the SuperPawn's coming in to authenticate these videos,
14 and the actual officers that were wearing the body cam are
15 going to come in and authenticate their videos.

16 There's no reason why they should come out. There's
17 never been a motion to keep them out, which is exactly what a
18 motion in limine is for. They should all come in. And,
19 again, I take great offense at calling this a Brady violation,
20 understanding that he's not a lawyer and doesn't understand
21 what Brady is.

22 And could -- Mr. Henry, for the record, did you
23 receive the video?

24 MR. HENRY: Yes, I received the videos.

25 THE COURT: So the video from the SuperPawn and the

1 body cam video?

2 MR. HENRY: Yes. I received the body cam videos. I
3 received the SuperPawn videos. I received the helicopter
4 videos. I think those are the only videos that were available
5 at the time.

6 MR. SCHWARTZER: Those are the only videos that
7 we're using.

8 MR. HENRY: Yeah.

9 THE COURT: And you showed those to Mr. Trejo?

10 MR. HENRY: I showed some of the videos to Mr. Trejo
11 in the beginning of the case. Not all the videos, but some.

12 THE COURT: Okay. Do you know which of those you --
13 they were? Because, I mean, this case has been going on for a
14 long time. If you don't remember, that's fine.

15 MR. HENRY: I remember showing him the air
16 surveillance video, I think the two body cam -- the two body
17 cam videos of the first initial officers responding, and those
18 are the ones I remember for sure.

19 THE COURT: Okay.

20 MR. SCHWARTZER: We were using all four of the
21 videos from each officer that was there. I mean, I know we
22 sent all the videos, which must have been like, what, 50
23 videos --

24 MR. HENRY: There's a lot of videos.

25 MR. SCHWARTZER: -- to Mr. Henry, but --

1 THE COURT: Did you ever -- Mr. Henry, did you ever
2 show Mr. Trejo the SuperPawn video?

3 MR. HENRY: I think we started to go into them, but
4 there was various angles and various videos, and so we didn't
5 -- we didn't spend most of the time going through those. It
6 was focusing on the air surveillance and the initial officers
7 arriving.

8 THE COURT: Okay. And --

9 MR. HENRY: At the time, that was the most damning
10 videos.

11 THE COURT: Okay. And then you also provided those
12 to Mr. Trejo, despite the fact that he has no means of
13 reviewing them; is that correct?

14 MR. HENRY: That is not correct.

15 THE COURT: No?

16 MR. HENRY: Because we could not send them. He's
17 not allowed to have flash drives or CDs. I did not send those
18 as part of discovery request.

19 THE COURT: Okay, but you had them?

20 MR. HENRY: I had them, yes.

21 THE COURT: Okay.

22 MR. SCHWARTZER: I mean, I don't know, Your Honor,
23 if -- I mean, like, we are going to use extensive video in
24 this case, and we provided it to counsel when he was
25 represented by counsel. Like, I don't know what else I need

1 to do.

2 THE COURT: That's all you needed to do. He was
3 represented by counsel up until last year in -- I believe it
4 was March, so a little bit more than a year ago. So counsel
5 has had those videos for quite a number of months before he
6 began representing himself, and so that is all you could do,
7 Mr. Schwartzer.

8 MR. SCHWARTZER: Thank you, Your Honor. And for the
9 record, I think I said it, but there was no motion in limine
10 to exclude these videos either.

11 THE COURT: There wasn't.

12 MR. TREJO: Not this video. I've seen a handful of
13 videos. If I understand, I am to be treated as an attorney,
14 and therefore, no status of incarceration should prevent me
15 from having all evidence.

16 And while Mr. Henry showed me some videos about two
17 months after my arrest, there were technical issues regarding
18 the buffering of the videos. Then, after the videos or the
19 few were shown is when I had an event occur that killed me a
20 couple -- a couple times, leaving me in a coma for 10 days due
21 to oxygen deprivation.

22 I have the Motion to Suppress Digital Evidence I
23 filed on May 6th, 2021, and was heard June 2nd, 2021. I
24 stated this fact in the motion. I filed a Brady motion
25 stating that I have all evidence that was on paper, filed

1 March 4th, 2022; heard March 28th, 2022.

2 I found out through research obtained two nights ago
3 that I must be allowed these videos 30 days prior to trial.
4 And since I'm representing myself, it's solely up to me to
5 head and create my defense.

6 There are several cases like this. The most famous
7 and closely related is U.S. versus Bundy, which was dismissed,
8 I believe, January 8th, 2018, and with prejudice. The U.S.
9 Court of Appeals affirmed August 6th, 2020.

10 MR. SCHWARTZER: Is he done?

11 THE COURT: I'm not sure.

12 MR. TREJO: Your Honor --

13 MR. SCHWARTZER: Because that's wrong.

14 MR. TREJO: -- this information I have just gained
15 as you know it takes time for mail to move through the jail.
16 These videos cannot be properly shown at trial without
17 violating the Brady motion of discovery, and I do possess here
18 now the document confirming my cause.

19 MR. SCHWARTZER: He's wrong about Bundy, but Bundy
20 famously was -- there was a wildlife video that wasn't
21 provided to the defense beforehand and was found out in the
22 middle of trial. This is obviously totally different.

23 This is a video directly from the pawn shop video
24 that was provided to defense early on in this case in
25 September of 2018. When you go on the video, you can --

1 there's like 20 screens. You can click on one, and it blows
2 it up. That's all this is. They've had this video this whole
3 time. The -- it was -- discovery was provided. This isn't --
4 this is very different than Bundy where the video was
5 discovered halfway through trial.

6 He's had it the whole time. If he's had problems
7 viewing it, he could have asked his standby counsel to bring
8 the laptop in, or he could have asked for an investigator to
9 bring the laptop in. That's not my duty. My duty under Brady
10 is to provide the evidence. The evidence was provided. We
11 have the sworn testimony from standby counsel saying that.

12 So, again, this is not a Brady violation. This is
13 -- this does come in and should come in. I know there's a
14 Brady order out there, and the State abides by its Brady
15 obligation and will continue to do so.

16 THE COURT: Mr. Trejo, this is not a --

17 THE INTERPRETER: One moment, ma'am.

18 THE COURT: Sure. Okay.

19 MR. SCHWARTZER: Your Honor, while he's writing,
20 something that just popped in my head as well. If he's ask --
21 if one of his arguments is he should be treated like a
22 litigant, which I have, one of the things a litigant should do
23 before calendar call is file a motion to exclude what they
24 think is improper evidence, and, again, for the record, that
25 was not done for the videos. There was no motion in limine or

1 no motion to suppress the videos.

2 (Pause in the proceedings.)

3 THE COURT: I'm going to --

4 MS. HEAP: I'm going to get him.

5 THE COURT: Yeah. I was going to say, I'm going to
6 wait until Mr. Schwartzer comes back in.

7 (Pause in the proceedings.)

8 THE INTERPRETER: Your Honor?

9 THE COURT: Yes.

10 MR. TREJO: If I haven't seen the video, it wasn't
11 provided, then it just came up in the middle of the trial.

12 Your Honor, on a recorded phone call on jail phones,
13 using a TTY device, Mr. Schwartzer told me plainly, quote,
14 "You can -- you cannot have the videos because you're in
15 jail," end quote. At --

16 MR. SCHWARTZER: I --

17 MR. TREJO: At the time, I took it on face value
18 because he's an esquire, a trained bar lawyer. I knew no
19 better up until now. If he now claims it's not his
20 responsibility, and it's Mr. Henry's, then let's look at the
21 (indiscernible) situation --

22 THE INTERPRETER: Oh, COVID. I'm sorry. I
23 apologize.

24 MR. TREJO: -- the COVID situation. The jail did
25 not allow contact visit for near two years, and then, after

1 opening the jail again, closed it because of the Omicron
2 variant. I know this fact because that's how long since I've
3 seen my kids.

4 The Fourteenth Amendment is clear. Brady motion is
5 clear. I mentioned what evidence I did possess.

6 I additionally -- additionally, to Mr. Schwartz
7 last comment, at the time I entered trial, I did not know this
8 Brady issue, or the Bundy case, or that this failure to
9 provide videos 30 days prior violates the Fourteenth
10 Amendment. If I knew, I would have submitted this to Your
11 Honor.

12 If I may, for the record, can we have the
13 interpreter read my initial objection to this word-for-word?

14 THE COURT: It was read. When we're on bench
15 conferences, we're recording. We're just -- it's so that the
16 jury can't hear, but it is recording from here.

17 So, here's the thing, Mr. Trejo. It is not a Brady
18 violation, because it was provided to you through your counsel
19 when you had counsel. He's had all of these videos, so,
20 therefore, you've had all of these videos. Just because you
21 don't physically have them doesn't mean that you're not in
22 constructive possession. Hold on, just let me finish.

23 You were in constructive possession. He's had them
24 for years before COVID happened, and he represented you for
25 years before COVID happened. So the fact that you haven't

1 seen them doesn't mean that they should be treated as a
2 Brady violation. That's not what the standard is.

3 Mr. Henry has had them, and you can't have them in
4 the jail. It's not physically -- if he could have provided
5 them to you in the jail, he would have, but you can't have
6 them. I understand that you haven't seen them in a long time
7 or you may not have seen all of them, but that is not a Brady
8 violation. That's something that's going on because you're
9 representing yourself.

10 And you are treated the same, but you are still
11 incarcerated. If you were not incarcerated, you would have
12 been able to get them and view them on your own with whatever
13 means necessary. But the State did provide them, okay? So
14 it's not a Brady violation.

15 Also, it's not -- what was the other -- the Bundy
16 case, which I don't have, does not seem to be on point,
17 because this is video that was provided to you through your
18 attorney. So it's not something -- this is not a trial by
19 ambush where the State is coming up with something for the
20 first time during trial.

21 Mr. Schwartzer does have a good-faith basis to
22 believe that these videos are going to come in, so I am going
23 to overrule your representation.

24 MR. SCHWARTZER: And, Your Honor --

25 THE COURT: I'm sorry, your objection.

1 MR. TREJO: Can I say -- can --

2 MR. SCHWARTZER: Your Honor, I got to clarify
3 something he said since he's putting words in my mouth about
4 the jail call. I said in that call he needs to get it from
5 his standby counsel, number one.

6 Number two, him saying -- and I know this is
7 probably going to lead to another long note. Number two, him
8 saying he was unaware of these videos is absolutely incorrect.
9 I have numerous jail calls where he talks about how the videos
10 aren't coming in, so he was aware of these videos beforehand.

11 So I just want to correct the record regarding what
12 he said I said on the jail call. That was incorrect.

13 (Pause in the proceedings.)

14 THE COURT: Mr. Trejo, while you continue writing,
15 I'm going to the restroom, so I'll be right back.

16 MR. SCHWARTZER: Thank you, Your Honor.

17 (Pause in the proceedings.)

18 (Off the record at 10:05 a.m. until 10:09 a.m.)

19 (Outside the presence of the jurors)

20 MR. TREJO: Your Honor, the first year and a half of
21 my incarceration I spent in the hospital or battling my
22 medical condition. After that, or during actually COVID
23 occurred, attorney nor loved ones were allowed to visit before
24 COVID was over. I began representing myself.

25 I noted Mr. Schwartzer comment -- Mr. Schwartzer's

1 comment, along with other notes of our chat, and that is what
2 he said. He and Mr. Henry should also know that any phone
3 calls through my TTY device are inadmissible. The system is
4 imperfect and garbles, or the operators cause human error.

5 Lastly, I don't see how I can make a proper defense
6 without seeing this -- these videos. I simply don't know what
7 to expect with most of the videos. I must ask you to
8 reconsider.

9 This evidence was denied to me by the current
10 circumstances and the DA. Mr. Henry knows there was issues
11 viewing this video. I'm already at a disadvantage without my
12 voice, plus, now there's evidence I haven't seen. I will file
13 a motion as soon as I get to my module. Thank you, Judge.

14 THE COURT: So it's too late for a motion because
15 trial has started. We are in the middle of the opening
16 statements. Not even the middle, the very beginning of the
17 opening statements. And so motions should have been filed
18 prior to the -- today or prior to actually the seating of --
19 or prior to the jury being selected.

20 So it is too late for a motion. Again, I understand
21 what you're saying, that you don't physically have these
22 videos to view, but that is not anything that's the fault of
23 the State. So that is not a Brady violation, and your
24 objection is going to be overruled.

25 MR. SCHWARTZER: Thank you, Your Honor.

1 MR. HENRY: So, Judge, he's asking that I make a
2 record of kind of our interactions during that time.

3 THE COURT: Sure.

4 MR. HENRY: The first year and a half, two years, we
5 were spending time trying to get him the proper medical
6 treatment. He did code I think once or twice while in CCDC,
7 where he did end up having to be resuscitated. So most of --
8 most of the front end of me dealing with Mr. Trejo was in
9 regards to his medical conditions. After that, COVID did
10 happen, so there were times where we just couldn't go over to
11 the facility to show him the discovery.

12 The TTY device, it is -- it's reliable but not
13 completely. There are issues with it. There's times where it
14 is garbled or there is human error, or sometimes it just cuts
15 out and you can't use it at all.

16 Oh, the issues with the video. There were issues
17 with the video initially, with playing some of the videos at
18 the pawn shop. I don't know if it was the computer or if it
19 was operator error, but there were issues with some of the
20 videos. That's it, Judge.

21 THE COURT: Okay. I understand the issues with your
22 medical condition and not being able to see all of the videos
23 at your leisure. However, they have been in possession of the
24 defense for four -- almost four years now.

25 Mr. Henry stated as an officer of the court that he

1 did show you the videos that he could show you, that you spent
2 a lot of time going over the one with the air unit, that he
3 attempted to show you the ones with the pawn shop. There were
4 some issues with them, but he ultimately said that he was able
5 to show you some of them.

6 Correct, Mr. Henry?

7 MR. HENRY: Correct.

8 THE COURT: And he also ultimately said that he did
9 show you some of the body cam video. So you knew this
10 existed. You had access to it. I understand your access was
11 limited due to your medical condition and now representing
12 yourself, but it's absolutely not a Brady violation, because
13 it's been there.

14 If you were not ready for trial because you didn't
15 have an opportunity to review them, then that would have been
16 a different issue if you had told us that you weren't ready
17 because you needed more access to view the videos beforehand,
18 and I would have continued the trial for you to do that, but
19 we're now in the middle of trial. You've had access to all of
20 these for all of the years. And so, again, I'm going to
21 overrule that objection, and I'm going to -- sure.

22 MR. TREJO: Can I just say one last thing?

23 THE COURT: Sure.

24 MR. TREJO: I was under the impression that I
25 couldn't see the videos because I was incarcerated. If I knew

1 that issue, I would have argued that issue. I've argued
2 evidence -- every issue. I've argued every issue that I
3 thought that I could argue.

4 THE COURT: Right. I understand, and I'm sorry that
5 you have not had the opportunity to view them all. Again, if
6 you had given -- if you had told me that that was going to be
7 an issue, I would have given you a continuance so that you
8 could watch them. I didn't know that, you know, the first
9 year and a half, that you were having medical issues and
10 unable to watch them. You did watch some of them, and the
11 defense has been in possession of them, so.

12 MR. SCHWARTZER: And, Your Honor, that means all the
13 body cam videos as well, so we don't have this objection again
14 when I start playing some body cam on opening?

15 THE COURT: He's saying something.

16 MR. TREJO: I have this motion.

17 (Pause in the proceedings.)

18 MR. SCHWARTZER: Your Honor, we got to cut this
19 argument off at some point just because we have a witness. I
20 know I'm --

21 THE COURT: We also have the jury waiting. So I'm
22 just -- Mr. Trejo, can we -- okay.

23 MR. SCHWARTZER: I would also note our exhibit list,
24 which was provided on Monday, also had all these videos
25 listed.

1 THE COURT: Okay. Mr. -- go ahead.

2 MR. TREJO: I mentioned these factors in motions I
3 filed in your court that I just mentioned. I informed the
4 Court I hadn't seen the videos and informed the Court during a
5 bail hearing heard by Your Honor that the first year and eight
6 months of my detention, I died and had so many issues that I
7 was in and out of the hospital. I mentioned that I was in a
8 coma and nearly didn't come back, because when I was
9 suffocating on December 10th, 2018, the jail staff thought I
10 was faking it.

11 Regardless of all that, I still gave notice of the
12 situation, the Court, the State, and standby -- to the Court
13 -- to the Court, the State, and standby. I don't even feel
14 like going forward is plausible for me. New videos, to me,
15 that I could see for the first time could change my whole
16 aspect. That exhibit list was given after trial began.

17 THE COURT: I understand your issues, Mr. Trejo, and
18 I've made my ruling. This is going to be overruled.

19 And we're ready to bring the jury back in.

20 MR. SCHWARTZER: Thank you, Your Honor.

21 Your Honor, I moved our second witness to 1:00
22 o'clock. So, if we get done with our first witness, can we
23 just break and go (indiscernible)?

24 THE COURT: Yeah.

25 (In the presence of the jurors)

1 THE COURT: Will the parties stipulate to the
2 presence of the jury?

3 MR. SCHWARTZER: Yes, Your Honor.

4 MR. TREJO: Defense does.

5 THE COURT: Thank you. Ladies and gentlemen, all of
6 us apologize that it took a lot longer than we anticipated
7 having to make a record. So all -- the State, the defense,
8 and the Court, we all thank you for your patience, and, again,
9 we're very sorry.

10 So, Mr. Schwartz, please continue.

11 MR. SCHWARTZER: Thank you. May I proceed from
12 where I started, Your Honor -- or where I stopped, Your Honor?

13 THE COURT: Wherever you want to start.

14 MR. SCHWARTZER: Thank you, Your Honor.

15 So, on September 3rd of 2018, where we last left
16 you, we were talking about how employees and a few customers
17 of the SuperPawn were having a normal day, and then this
18 occurred.

19 (Video is played.)

20 MR. SCHWARTZER: A man wearing a motorcycle helmet
21 comes in, pointing a firearm at everyone in the store. He has
22 another firearm slung against his back. Quickly takes control
23 of the store. Quickly moves the employees and the customers.
24 Quickly gets the manager's attention.

25 After moving all these victims to the counter and

1 placing them at gunpoint on their stomach, he has the manager
2 zip-tie the door. The person in the video you're seeing right
3 now, that's Adriane. You're going to hear from her later in
4 the trial. She's going to tell you about the fear she was
5 suffering from during this time.

6 After making Adriane zip-tie the door, he tells her
7 to set the safe. Set the safe, it's a timer, a timer with
8 five minutes. So he has five minutes that you have to wait
9 for the safe, something that someone who knows the store would
10 know, not something a typical person would know about the
11 store. You're going to hear that Mario Trejo used to work at
12 SuperPawn at this specific store or at a SuperPawn.

13 After having her set the safe, you're going to see
14 video of him directing Adriane to do various things
15 (indiscernible) the store at gunpoint. You're going to see
16 him demand jewelry at gunpoint.

17 Another interesting fact -- and listen carefully to
18 Adriane's testimony about the jewelry he's asking for and the
19 jewelry he doesn't want, certain security devices in the store
20 that that person knew about.

21 Going to the cash register, listen carefully to what
22 Adriane tells you about the cash register and about certain
23 cash registers that have dummy money and some that have real
24 money, and you're going to hear about how he demands that
25 money and what registers he directs Adriane to get money from.

1 You're going to see, after getting money and getting
2 jewelry, the person who will be later identified as Mario
3 Trejo sits there, waiting for the safe, but then something
4 kind of alerts him to the front door.

5 But before we get there, what you also hear from is
6 an individual named Melani Howard. Melani's an employee as
7 well. Now, you saw in that earlier video a bunch of people
8 walking at gunpoint to the counter and eventually getting down
9 on their stomach. Melani's a little craftier. You will see
10 video of Melani Howard realizing that there is a armed robbery
11 going on, and you're going to watch what she does.

12 She doesn't listen to the person that we'll identify
13 as Mr. Trejo. She's going to get down and eventually hide,
14 and at some time next week, you're going to hear from Melani
15 at this witness stand, and she's going to talk about the fear
16 she had while doing so.

17 On top of that, you're going to hear her 911 call,
18 the 911 call where she's whispering about being robbed, about
19 -- whispering about what's going on in the store. And that's
20 important because although you'll hear testimony from various
21 people that they have these panic alarms at the SuperPawn, and
22 when a masked man with a motorcycle helmet comes in with
23 gunpoint, a lot of people press those buttons, you're going to
24 hear from some officers as well that will say, well, we get
25 those alerts all the time. Most of the time, it's nothing.

1 But you know what they don't hear most of the time?
2 They don't hear someone whispering about being robbed, and
3 that increases the response by law enforcement. That means
4 people will run code, and you will hear what code is. That's
5 lights and sirens to the store. They get there quicker
6 because of Melani Howard, and you'll hear from her testimony.

7 Because they get there quicker, probably quicker
8 than Mr. Trejo thought was going to happen, you'll see in the
9 video Mr. Trejo go to the front door. By that point, two
10 officers have already arrived, Officer Thomas Carrigy, who
11 you'll hear from, and now Detective Maria Fulwiler, who was an
12 officer at the time. They were there. Their car was there.
13 They're in uniform.

14 The person that we will have identified as Mr. Trejo
15 looks out the window, sees these people. You'll hear from
16 Officer Carrigy that he sees the motorcycle helmet from the
17 front door. Mr. Trejo knows he's trapped.

18 So then, you'll -- next, you'll hear what he does.
19 He doesn't give up. Instead, he takes Adriane. After moving
20 around the store for five minutes at gunpoint, he takes her by
21 gunpoint, and you'll hear from her, drags her out of the store
22 into the line of fire of officers setting up on this robbery.

23 And by the time this happens, lucky for the evidence
24 to be presented, the air unit. You'll hear from Sergeant
25 Zachary Baughman, who is the videographer and the person who

1 gives -- you'll hear his voice actually on this clip, the
2 person who gives direction to officers on the ground.

3 (Video is played.)

4 MR. SCHWARTZER: So, as you could see from that
5 video clip, and we will present evidence of Mr. Trejo takes
6 Adriane toward that white car. As doing so, you will see that
7 Adriane made the decision some would call rash, some would
8 call brave, to decide she is not getting into that car, and
9 she fights, and she's able to get to that gun.

10 And you'll hear from Adriane that she's actually
11 familiar with the Glock 35 that was being held to her, and
12 that she went for the magazine, and the desperation she had to
13 get away. You'll hear about that fear.

14 And as soon as she gets away, you'll see from the
15 video and some -- and from clips from that video, Mr. Trejo
16 takes that Kel-Tec that's slung to his -- that was on his back
17 and points it to officers. You'll hear from Officer Carrigy,
18 who we talked about, who's right here, and Officer Graham to
19 the other side. You'll see body cam of Officer Carrigy and
20 Officer Graham during this incident.

21 And then, as soon as that rifle's pointed to them,
22 and as soon as that hostage gets out of the way, they fire,
23 and they hit Mr. Trejo once in the chest, taking him down,
24 removing the motorcycle helmet. The backpack he had with all
25 the money and jewelry, right by the car that he used to take

1 there.

2 (Video is played.)

3 MR. SCHWARTZER: As you can see here, here, he is
4 bringing up that Kel-Tec I was talking about in the direction
5 of both Officer Graham and Officer Carrigy, who will testify
6 that they shot because they were in fear of their fellow
7 officers' safety, and their own safety, as well as that of the
8 hostage. And that pointing that rifle, we will argue, is
9 assault on a police officer.

10 You also heard that first shot fired. You will hear
11 evidence that first shot fired came from Mr. Trejo's Glock 35.

12 Like I said, you also see body cam video from other
13 officers. This is Officer Carrigy, actually.

14 (Video is played.)

15 MR. SCHWARTZER: You'll see it from Officer Graham.
16 You'll see it from Officer Carrigy, the full video. You'll
17 see it from Officer Fulwiler. You'll see it from Officer
18 Farrington, who's the individual you heard saying, "shots
19 fired."

20 But not only do you see the body cam from before the
21 incident and during the shooting of the officer-involved
22 shooting, but you also see the body cam from afterwards where
23 Mr. Trejo's face is clearly shown on multiple body cams.
24 One's from the air unit. One's from Officer Fulwiler.

25 Additionally, you'll hear him say his name.

1 (Video is played.)

2 MR. SCHWARTZER: So, not only do you have his face
3 on all the body cam, but he also says his name on body cam --
4 in Officer Fulwiler's body cam. You'll hear from the
5 officers. They will all identify Mr. Trejo as the individual
6 that was coming out.

7 After the scene becomes static and stable, you'll
8 hear from multiple crime scene analysts, one of which will be
9 Tabatha Paine. She'll testify from the stand here. She'll
10 talk about the scene and about things recovered from the
11 scene.

12 The motorcycle helmet, which becomes of somewhat
13 importance, somewhat -- very important, actually -- the mask,
14 and the Kel-Tec right there were all recovered. You will hear
15 that they DNA-swabbed that Kel-Tec. Additionally, that Glock
16 35 we were talking about, that .40 caliber, that's there as
17 well. You'll hear they also swabbed from that.

18 You will hear from -- not only from CSA Paine, but
19 then, eventually, you will hear from DNA Forensic Scientist
20 Christine Whittle, who did the comparison of the DNA.

21 You'll hear about the buccal swab taken from Mr.
22 Trejo by Detective Blake Penny. You'll hear about the swabs
23 that were taken from these firearms, and it should not
24 surprise you that the comparison is -- his DNA is on all the
25 firearms.

1 Additionally, we talked about the car that he was
2 going to. You're going to hear from Mr. Trejo's friend,
3 Matthew, who loaned him the car not knowing what he was going
4 to do with the car, that in fact, that's not his -- that's not
5 the plate that's supposed to be on the car, it's a Nevada
6 plate that's supposed to be on the car, that Mr. Trejo or
7 someone else must have put that Utah plate on that vehicle.
8 You'll also hear about from Matthew that he didn't have any
9 firearms in that vehicle.

10 What was found in that vehicle -- and we'll get to
11 that. This is a backpack full of jewelry and cash that was
12 found in the black backpack that was next to the car. But
13 what was found in the vehicle was an AK-47-looking rifle, and
14 this becomes important for another reason as well. But that
15 was the car that Mr. Trejo was dragging Adriane to, the one
16 that had that type of weapon inside of it.

17 And as I previously talked about, that backpack
18 right there also had the proceeds of the money and the
19 jewelry. And you'll hear, I think, from -- today, hopefully,
20 from the custodian of records of SuperPawn the amount of
21 money, amount of jewelry. Doesn't matter for the purposes of
22 robbery as long as some was taken, but it's thousands of
23 dollars of money -- thousands of money -- dollars of jewelry.

24 This weapon was also swabbed during -- at the CSI
25 garage by another CSA. It was compared to Mr. Trejo's DNA,

1 and, again, Mr. Trejo's DNA is on that rifle.

2 That rifle is important. And why is that rifle
3 important? Because on August 4th of 2018, at the same exact
4 SuperPawn, another attempt robbery occurred. This was about a
5 month beforehand. You'll hear from Jennifer Incera as well as
6 other employees that were there at the time.

7 Around 8:00 in the morning, they park at the store.
8 You'll hear from them that the three employees park at the
9 store. They kind of wait for each other to open for safety
10 reasons. They wait for their manager to get there. You'll
11 hear from Jennifer.

12 Jennifer gets to the store. All three of them come
13 out to the store to go open it. There -- you'll hear that
14 there is a, like, security door by the front door, and
15 Jennifer is opening the door. From the exact same area where
16 that white car was, was a dark Acura. Out of the dark Acura
17 comes out a man wearing a motorcycle helmet with that rifle.

18 Now, how do we know it's that rifle? Because after
19 this incident occurred, robbery followed up because it was
20 very similar. Motorcycle helmet. Same pawn shop. The
21 clothing was described as very similar. In fact, one of the
22 employees that was at the robbery on September 3rd was like,
23 I'm pretty sure it's the same person from August 4th.

24 So you will hear from Detective Jeff Clark,
25 detective from the robbery bureau. They go see Mr. Trejo in

1 the hospital. They read Mr. Trejo his Miranda rights. Mr.
2 Trejo, you'll hear how he was desperate for money, that he was
3 having problems being employed. That's the motivation for
4 this.

5 You'll hear from his own words, because he could
6 speak at the time, that he did that attempted robbery on
7 August 4th of 2018, and that weapon was the weapon he was
8 holding during that robbery -- or attempt robbery because they
9 didn't actually get to the store, because Jennifer, Julie, and
10 Ivan, who are the three employees, all ran away when they saw
11 a guy with a motorcycle helmet and a rifle like that.

12 And some things have to go out of order just based
13 on the witnesses' schedule. So, when the first witness is --
14 in fact, the first witness you will hear from is a Detective
15 Barry Jones. Detective Barry Jones is a forensic -- a digital
16 forensic analysis individual. He does phones.

17 There was a phone found in that vehicle, that white
18 vehicle, on September 3rd of 2018. It was impounded from a
19 crime scene -- actually, it was not. It was taken by Blake
20 Penny; handed to Detective Jeff Clark. Jeff Clark impounded
21 that phone. And eventually, after a search warrant was done,
22 Detective Jones did an examination of that phone.

23 And you're going to hear very shortly from Mr. Jones
24 what was inside that phone, and you're going to have
25 incriminating text messages not only for the September 3rd,

1 2018, where he's trying -- where Mr. Trejo or the person using
2 that phone is trying to get a couple of individuals to help
3 him with the robbery, but you're also going to get a lot of
4 incriminating text messages regarding the August 4th, 2018, as
5 well.

6 So, ladies and gentlemen of the jury, what we have
7 here is a crime captured on video. It's captured on video
8 surveillance. It's captured on body cam. You can plainly see
9 Mr. Trejo's face. That's what the evidence will show.

10 Additionally, the evidence will show that his DNA
11 was on all the firearms related and that multiple people can
12 identify him as the assailant.

13 Additionally, the evidence is going to show that he
14 confesses to August 4th and that the details of the August
15 4th, 2018 robbery match up exactly with what the witnesses
16 say. And like I said at the end, you're also going to hear
17 about the phones as well.

18 So, based on this overwhelming amount of evidence
19 we're going to present to you, ladies and gentlemen, the State
20 is going to humbly ask you for a guilty of all counts. I
21 appreciate your time in listening to this.

22 THE COURT: Thank you.

23 Mr. Trejo, are you going to give an opening, or are
24 you going to reserve?

25 MR. HENRY: He's going to give a opening, Judge.

1 THE COURT: Thank you.

2 MR. SCHWARTZER: Before he starts, Your Honor, I'll
3 take off the PowerPoint.

4 THE COURT: Yeah.

5 DEFENSE'S OPENING STATEMENT

6 MR. TREJO: Good morning, ladies and gentlemen of
7 the jury. Thank you for your presence and unending patience
8 with the long jury selection process you all endured.

9 By now, you are all aware of the allegations of this
10 case, the overview of what the State, by the way -- by way of
11 Mr. Schwartzer and Ms. Heap, intend to prove beyond a
12 reasonable doubt. You will all soon take part in deciding the
13 outcome of this case, and with it, my future.

14 I know my name's been stated in our prior
15 introductions; however, I'd like a second for a proper
16 introduction. My name is Mario Bladimir Trejo. I am a
17 defendant representing myself. Family and friends know me as
18 Vladi (phonetic) -- know me as Vladi, which is short for my
19 middle name.

20 I'm 31 years old, Mexican-American, multilingual,
21 and of libertarian beliefs. I am a vehement believer in the
22 protection of rights, including those I don't agree with or
23 conflict with my interests. Above all these things, I am a
24 proud dad. It is that title that makes me -- that makes this
25 worthwhile to me.

1 Last of all, I'm mute. I'm currently cannulated due
2 to wounds suffered nearly five years ago. I realized
3 yesterday exactly how difficult it will be to relay my
4 arguments to the Honorable Judge, the Court, and the jury.
5 Yet, with said disadvantage, I must press on. I hope nobody
6 holds it against me, and I pray you all have patience and
7 understanding. I promise to make things as clear and simple
8 as possible for all of you.

9 As the wonderful Ro'Shell Hurtado read aloud
10 yesterday, I am accused of 13 felony charges. I, of those --
11 seven -- seven of those are robbery with a deadly weapon for
12 the alleged robbery of September 3rd, 2018, and the worst of
13 these charges being first-degree kidnapping, which is supposed
14 to be the premeditated variant of the kidnapping charge.
15 These were added at a grand jury hearing --

16 MR. SCHWARTZER: Objection, Your Honor. Misstating
17 legal --

18 THE COURT: Approach.

19 (Bench conference)

20 THE COURT: Mr. Schwartzer, go ahead.

21 MR. SCHWARTZER: My objection is that's -- I mean,
22 it's -- it's a very --

23 THE COURT: That's a misstatement of the law?

24 MR. SCHWARTZER: It's misstatement of law.

25 THE COURT: Right. So, Mr. Trejo, that's actually a

1 misstatement of the law. That's not what first-degree
2 kidnapping is for. So I'm going to sustain that objection and
3 ask the jury to disregard what you said first-degree
4 kidnapping is. Okay?

5 MR. SCHWARTZER: Thank you, Your Honor.

6 THE COURT: Thank you.

7 (End of bench conference)

8 THE COURT: The State's objection was the fact that
9 that definition of first-degree kidnapping is a misstatement
10 of the law. That is actually a misstatement of the law. I'm
11 going to sustain that objection. Please disregard what he
12 said about what that's going to be. What first-degree
13 kidnapping is, is going to be defined for you all at the end
14 when we give you the jury instructions. Thank you.

15 MR. TREJO: First-degree kidnapping is -- which is
16 the most serious of charges. These were added at a grand jury
17 hearing in which defendants are usually not present.

18 MR. SCHWARTZER: Objection, Your Honor. Improper
19 argument.

20 THE COURT: This is -- I'm going to sustain that,
21 Mr. Trejo.

22 So, please disregard what he said.

23 Mr. Trejo, that's argument that you can use possibly
24 at -- possibly at closing, but this is -- you're just supposed
25 to be giving what the evidence is going to show at the

1 openings.

2 MR. TREJO: (Indiscernible).

3 THE COURT: I understand, Mr. Trejo, and I know that
4 the Court didn't get that, but I understand what you're
5 saying. I'm just telling you not to do that. Thank you.

6 MR. TREJO: Which now brings us to jury trial. In
7 this legal engagement, I intend to prove many factors that
8 challenge the State's narrative and allegations through the
9 use of witness examination and cross-examination, use of
10 photographic evidence, through the use of evidence or at least
11 pieces that the State intends to use.

12 I will also challenge the integrity of techniques
13 and procedures used to gather and preserve testimonial
14 evidence. I will prove to the jury that -- the many conflicts
15 which exist within the State's narrative and which will shed
16 new light on the allegations and those making them.

17 I will finish this opening by asking that you allow
18 all information to be provided prior to passing personal
19 judgment. Thank you for your attention and careful
20 consideration.

21 THE COURT: Thank you, Mr. Trejo.

22 MR. TREJO: Thank you.

23 THE COURT: State, call your first witness.

24 MR. SCHWARTZER: State calls Detective Barry Jones,
25 Your Honor.

1 THE COURT: Thank you.

2 MR. SCHWARTZER: May I approach the clerk, Your
3 Honor?

4 THE COURT: Yes.

5 No, he said to approach the clerk.

6 MR. HENRY: Oh, sorry.

7 THE COURT: He's going to get some evidence.

8 THE MARSHAL: All right, sir, if you can step on up.
9 Remain standing. Face the clerk. She's going to swear you
10 in.

11 BARRY JONES, STATE'S WITNESS, SWORN

12 THE CLERK: Can you please state and spell your name
13 for the record?

14 THE WITNESS: Barry, B-a-r-r-y. Jones, J-o-n-e-s.

15 THE CLERK: Thank you. You can have a seat.

16 THE WITNESS: Thank you.

17 THE COURT: Proceed, Mr. Schwartzer.

18 MR. SCHWARTZER: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. SCHWARTZER:

21 Q Detective, can you let the ladies and gentlemen of
22 the jury know how you're employed?

23 A I'm a detective with the Las Vegas Metropolitan
24 Police Department. I've been employed as a police officer for
25 the last 15 years. I've been a detective for the last five.

1 Of that, I spent two years as an investigator, and the last
2 three, I've been assigned as a digital forensic examiner.

3 Q Now, in order to be a digital forensic examiner, is
4 there any type of special training you have to do?

5 A Yes. I've had both on-the-job training and, sorry,
6 formal training. I've got over 680 hours of formal training
7 from various sources, including Cellebrite, Magnet Forensics,
8 AccessData, SANS Institute, and the National Computer
9 Forensics Institute, which is run by the United States Secret
10 Service.

11 Q What is a digital forensic investigator
12 (indiscernible)?

13 A So my job involves extracting and analyzing data
14 from electronic storage devices. That includes cell phones,
15 computers, digital video recorders. Most of it is cell
16 phones.

17 Q Okay. So, as a digital forensic investigator, do
18 you sign out your own cases, or how do you end up getting
19 cases?

20 A Detectives submit a request through my supervisors,
21 and those cases get distributed to -- you know, among the
22 different examiners in our office.

23 Q Okay. And based on your experience with, you know,
24 the credit hours you were talking about in your training, have
25 you testified before in front of the Eighth Judicial District

1 Court in your role as a digital forensic investigator?

2 A I have. I've testified at one jury trial and
3 several grand juries.

4 Q That's specifically regarding that field?

5 A That's correct.

6 Q Okay. So I want to direct your attention to the
7 matter at hand. You were subpoenaed to come to this case; is
8 that correct?

9 A Yes.

10 Q Okay. Were you asked to look at a cell phone
11 regarding the matter of Mario Trejo?

12 A I was.

13 Q Okay. Let the ladies and gentlemen of the jury know
14 how that come -- how that came about.

15 A So, when my supervisor assigned the case to me, I
16 was provided a copy of a search warrant. I believe that was
17 authored by Detective Jeff Clark.

18 What I do is examine the search warrant, get an idea
19 of what I'm looking for, check out the phone from the evidence
20 vault, open it up, take pictures of it, and then work on
21 getting data off of it and going through that data.

22 Q How do you know that the phone you check out from
23 evidence is a phone related to the matter?

24 A So there's a physical description of the phone in
25 the search warrant, and that also includes the Metro event

1 number that it was impounded under. So, whenever I go to the
2 vault, there's only one item there that matches the
3 description in that search warrant.

4 Q And that leads me to my next question. Event
5 number. That's something the ladies and gentlemen of the jury
6 haven't heard yet. What is an event number?

7 A It's our way of tracking internally, like, a
8 specific event that police have been on, so whether that's a
9 reported crime, a traffic stop, anything of that nature.

10 Q Okay. Now, an event number, is it a unique number
11 that would only be for -- specific for that incident?

12 A It is. So, the way it's formatted, it begins with
13 the date followed by a sequential number starting, you know,
14 first thing in the morning at midnight. The first call that
15 we receive is Number 1, and it just advances throughout the
16 day. And then all the -- or most of the documentation for
17 that event will all be -- have that event number affixed to
18 it, so it's all easily grouped together.

19 Q Okay. So an event number -- you wouldn't have
20 duplicate event numbers for two totally separate, different
21 things, correct?

22 A No.

23 Q Sometimes you might have -- and correct me if I'm
24 wrong. You might have event numbers -- multiple event numbers
25 for multiple crimes that are related, correct?

1 A That's correct.

2 Q But you wouldn't have the same event number for two
3 totally different incidents?

4 A Correct.

5 Q So, with that event number, are you able to tell
6 that that piece of evidence belonged to that specific crime
7 that you're investigating?

8 A Yes.

9 Q Okay. So, once you receive the evidence package
10 from the vault, what do you do?

11 A Again, I'll photograph the package just to document
12 the condition it was in. I'll open it up, photograph the
13 phone itself, and then I use a variety of tools on my computer
14 to actually extract the data from it.

15 Q Okay. So, specific -- you yourself take the
16 photographs, correct?

17 A Yes.

18 MR. SCHWARTZER: May I approach the witness, Your
19 Honor?

20 THE COURT: Yes.

21 MR. SCHWARTZER: Thank you.

22 BY MR. SCHWARTZER:

23 Q I'm going to show you what's been -- State Proposed
24 Exhibits 150 through 156. Let me know if you recognize those
25 photographs.

1 A I do. Those are the photographs I took of the phone
2 that I examined.

3 Q Okay. So are these photographs you personally took?

4 A Yes.

5 Q And they fairly and accurately represent what you
6 were taking pictures of?

7 A Yes.

8 Q And the condition at the time you were taking it?

9 A Correct.

10 MR. SCHWARTZER: Move for admission of 150 through
11 156, Your Honor.

12 THE COURT: Mr. Trejo, any objection?

13 MR. TREJO: No objection.

14 THE COURT: And those will be admitted.

15 (State's Exhibits 150 through 156 are admitted.)

16 MR. SCHWARTZER: Switch over to the Elmo here.

17 Susie, are you on the --

18 THE COURT RECORDER: Oh, I'm sorry.

19 MR. SCHWARTZER: -- WePresent?

20 THE COURT RECORDER: Hold on.

21 MR. SCHWARTZER: Thank you, Susie.

22 BY MR. SCHWARTZER:

23 Q Showing Exhibit 150. Oh, maybe not.

24 (Pause in the proceedings.)

25 BY MR. SCHWARTZER:

1 Q So showing you Exhibit 150. Let me zoom out a
2 little bit here.

3 (Pause in the proceedings.)

4 MR. SCHWARTZER: All right.

5 BY MR. SCHWARTZER:

6 Q Detective, can you see Exhibit 150?

7 A Yes.

8 Q Could you tell the ladies and gentlemen of the jury
9 what we're looking at?

10 A That's the evidence package that the phone was
11 sealed up in.

12 Q Okay. And we talked about event number. Is that
13 what we were -- is this -- what I'm pointing to, is that the
14 event number?

15 A That's correct.

16 Q And you were talking about it's in sequential order.
17 So what does the 18 stand for?

18 A That's the year.

19 Q What does the 08 stand for?

20 A That's the month.

21 Q And what does the 04 stand for?

22 A The day.

23 Q So this would be from an incident that occurred on
24 August 4th of 2018?

25 A Correct.

1 Q Or related to a -- an incident that occurred on
2 August 4th, 2018?

3 A Correct.

4 Q And then these last four numbers, it's 1158?

5 A Yes.

6 Q Again, that's a unique number that would only be
7 associated with this specific case?

8 A Correct.

9 Q 1158 would be the 1,158th incident that Metro
10 responded to that day?

11 A Yes.

12 Q Okay. And we can see here that it was impounded on
13 September 3rd of 2018?

14 A That's correct.

15 Q And we have a time of possession as well?

16 A Yes.

17 Q And 1400, for those of us who don't know military
18 time?

19 A That is 2:00 p.m.

20 Q Okay. Additionally, down here, we have a impound
21 initial and P number; is that correct?

22 A Correct.

23 Q Do you recognize whose impound and P number it is?

24 A That was Detective Jeff Clark.

25 Q And the P number, the 13952, what is a P number?

1 A That's a personnel number. It's issued at the time
2 of hire for every Metro employee.

3 Q Okay. You yourself would have a P number?

4 A Correct.

5 Q Okay. Additionally, here, we have a suspect?

6 A A subject, yes, listed as Mario Trejo.

7 Q Okay. And then charges related to the August 4th
8 incident; is that correct?

9 A Correct.

10 Q Okay. And the location of the robbery -- location
11 of the recovery? Excuse me.

12 A Correct.

13 Q Okay. Specifically, in this envelope, there was
14 just one item; is that correct?

15 A Yes.

16 Q Okay. Showing you 151. What are we looking at
17 here?

18 A That's the back of the package.

19 Q Okay. Why -- what is that tape that we're looking
20 at?

21 A That red seal is a tamper-evident seal, so if
22 somebody tried to remove it or cut it, it would make it
23 obvious.

24 Q Okay. You had to obviously cut in order to open up
25 the package?

1 A Yes. So I cut the bottom off of the package so that
2 I don't disturb that original seal, and then I apply a new
3 seal to it when I'm done with it.

4 Q Okay. Showing you Exhibit 152. What are we looking
5 at here?

6 A That's the phone that came out of the package shown
7 next to the package.

8 Q Okay. 153?

9 A It's just the phone by itself with the case on it.

10 Q 154?

11 A That's the back side of the phone with the case on
12 it.

13 Q 155?

14 A That's the back side of the phone with the case
15 removed.

16 Q And then, finally, 156?

17 A That is the SIM card and SD card tray partially
18 removed from the phone, showing that there is a SIM card in it
19 but not an SD card.

20 Q Okay. So, after you take all these photographs and
21 you -- and you do your physical inspection of the phone, what
22 is your next step during your process of your investigation?

23 A So, for this particular phone, I placed the phone
24 inside a Faraday box, which is a device to keep it from
25 getting any kind of cell phone signal. That way, it can't be

1 remotely wiped. It can't download additional data from the --
2 from the internet that wasn't part of the, you know, subject
3 of the search warrant.

4 I power the phone on inside that box. I determined
5 that the phone was locked with an unknown passcode. I
6 connected the phone to my computer. I used a piece of
7 software called Cellebrite UFED 4PC. Initially, I attempted
8 to disable the passcode with that. There's a few different
9 tools in there, depending on the phone, that can potentially
10 do that. That did not work.

11 There were two methods available for bypassing the
12 encryption on the phone and downloading a copy of the data.
13 So I used UFED 4PC to obtain a physical extraction and a file
14 system extraction, again, which bypasses the encryption on the
15 phone --

16 Q So --

17 A -- and gives me a copy of the data.

18 Q Okay. I didn't mean to interrupt you there.

19 So you have to basically break into the phone in
20 order to access it?

21 A Correct.

22 Q Okay. And what is a physical extraction, and what
23 is a file system extraction?

24 A So physical extraction is a bit-for-bit copy of all
25 the data within the storage on the phone. I would split that

1 into two broad categories. There's allocated and unallocated
2 data.

3 So an allocated file is what you would normally see
4 whenever you look through your phone. It's something that has
5 not been deleted, as an example. Unallocated is the space
6 that has either not been used yet, or it can contain traces of
7 files that have since been deleted. A physical extraction is
8 going to contain all of that.

9 A file system extraction is only going to contain
10 that allocated section, the files that have not been deleted,
11 the areas of the phone that have actually been used and are
12 currently in use.

13 Q Okay. And so you get all of these extractions in
14 order to do your investigation?

15 A Correct.

16 Q Okay. Once you get these extractions, do you then
17 load them onto some type of device in order to do your
18 investigation?

19 A Yes. So UFED 4PC makes a copy of those extractions
20 onto my computer, and then I use a second program called
21 Cellebrite Physical Analyzer that automatically interprets a
22 large portion of that data.

23 Q And these are all tools that are common in your
24 field of digital forensic investigation?

25 A Correct.

1 Q Okay. Once it's on that Cellebrite -- correct?

2 A Cellebrite Physical Analyzer is the program, yes.

3 Q Is that -- then are you able to then go through the
4 phone to do your investigation?

5 A Yes. So that presents it to me in a human-readable
6 format. It categorizes it by different data categories such
7 as images, videos, instant messages, call logs, things of that
8 nature.

9 Q While doing so, you're going through what I guess a
10 layman's term would be a smartphone, right?

11 A Correct.

12 Q You know, I have a smartphone. It has like your
13 entire life on here, right?

14 A Yes.

15 Q Things that might not be totally -- would absolutely
16 not be relevant to your investigation, right?

17 A Correct.

18 Q I mean, we're talking about, like, personal data,
19 family data, friends, all that type of stuff, right?

20 A Yes.

21 Q So, during your investigation, do you -- when -- do
22 you look for certain items in order to kind of like bookmark,
23 or tag, or --

24 A Yes. So my examination is targeted based on the
25 details of the investigation. I'm only looking for things

1 that I believe would be relevant to it.

2 Cellebrite Physical Analyzer gives me -- has a
3 feature that allows me to tag artifacts. Basically, any piece
4 of information on the phone is called an artifact. If I were
5 to find an image that I believed relevant to the case, I can
6 tag that, kind of like a bookmark of just my way of saying, I
7 would like to draw attention to this specific thing.

8 When I'm finished tagging all the things that I
9 believe to be relevant, I can generate various different
10 reports.

11 I can generate a Cellebrite Reader Report, which is
12 essentially a kind of version of Cellebrite Physical Analyzer
13 with less features, and it's meant for a nontechnical user to
14 be able to go through a little easier, and I can provide
15 essentially all of the artifacts that Cellebrite Physical
16 Analyzer had -- you know, had analyzed and let somebody look
17 through all of that. Or I can generate a PDF report, which is
18 something that can be easily printed, easily viewed without
19 any kind of specialized software.

20 So, in this case, I generated a Cellebrite Reader
21 Report, which is the entirety of the artifacts that were
22 actually interpreted by Cellebrite, and I also produced a PDF
23 report, which is just those artifacts that I had tagged.

24 Q Okay. And specifically, the information you're
25 getting during your investigation, it comes from the

1 detective?

2 A Mostly from the search warrant itself.

3 Q Okay. So you were asked to look at things regarding
4 the August 4th incident, I assume?

5 A Correct.

6 Q And was there another incident as well?

7 A There was, and I don't recall the date from that
8 one.

9 Q Does September 3rd sound familiar?

10 A Yes.

11 Q Okay. And those were the -- the artifacts, to use
12 your terminology, that you were looking for?

13 A Correct.

14 Q Okay. Where are the places that you look for these
15 artifacts?

16 A I examined the images within the multimedia
17 category. I examined instant messages, which commonly
18 referred to as text messages. I went through the web history
19 and the search history.

20 Q Okay. And then did you produce a PDF report that
21 you were talking about previously in order to provide to like
22 the district attorney's office and then obviously would be
23 handed over to the defense?

24 A Yes.

25 Q Okay. And that was done during the course of your

1 digital investigation?

2 A Correct.

3 Q Okay. Do you have a copy of -- and then, after some
4 -- to be clear, we've had some conversation regarding this
5 case; is that correct?

6 A Yes.

7 Q And we've even narrowed that down even further; is
8 that correct?

9 A That's correct.

10 Q Okay. Did you bring -- did you provide a copy of
11 the more now limited data with you today?

12 A Yes.

13 Q Okay. Do you have it with you?

14 A I do.

15 Q Okay.

16 MR. SCHWARTZER: May I approach the witness, Your
17 Honor?

18 THE WITNESS: I have --

19 THE COURT: Yes.

20 THE WITNESS: I have that on a flash drive.

21 BY MR. SCHWARTZER:

22 Q So, to be very clear, everything on this flash drive
23 was on the original PDF report that was provided to -- not
24 everything, but the contents of it would have been provided to
25 -- on your original PDF report?

1 A All of the phone data that is on that PDF report was
2 in the Cellebrite Reader Report that was originally provided.

3 Q Okay.

4 A The PDF is a little bit different because there was
5 a discussion about which things to include.

6 Q Right. Some things were excluded; is that --

7 A Correct.

8 Q Okay. But everything else -- but everything -- so
9 there's less stuff on this versus more stuff that was
10 originally provided?

11 A Correct.

12 Q Okay. And you personally made this?

13 A Yes.

14 Q It personally comes from your own extraction from
15 this phone that was --

16 MR. TREJO: Objection.

17 THE COURT: What's the objection?

18 MR. SCHWARTZER: Could I ask for a non-speaking
19 objection?

20 THE COURT: And do we need to approach? Yeah, you
21 should probably approach, but I'm going to give him -- I'm
22 going to give him a few minutes to write --

23 MR. SCHWARTZER: Okay.

24 THE COURT: -- before we approach.

25 (Bench conference)

1 MR. TREJO: Your Honor, I received the shortened
2 version of this report. I got a flash drive that was
3 immediately confiscated by CCDC. This report was done
4 September of 2021. My standby never got this. There could
5 have been data in favor of my defense.

6 MR. SCHWARTZER: I mean, I provided it. I don't
7 know what else I'm supposed to do.

8 THE COURT: It's -- Mr. Trejo, come closer.

9 MR. SCHWARTZER: We have the Receipt of Copy filed.

10 MR. TREJO: He could have printed the entire report
11 since this -- it is digital.

12 THE COURT: Okay.

13 MR. SCHWARTZER: I gave him the 271 pages, which is
14 also signed by the ROC. So he got the 271 --

15 THE COURT: Okay, keep your voice down. Keep your
16 voice down.

17 MR. SCHWARTZER: He got -- he got the printout copy
18 of the content that we're using.

19 THE COURT: So --

20 MR. SCHWARTZER: We're actually using half of what
21 we gave him.

22 THE COURT: Okay. So, Mr. Trejo, what it sounds
23 like from what the witness has testified to is that this is
24 just a smaller version of something that you've already
25 received. You received the printout, the 271 pages, and this

1 is just a shortened version of it. So I'm going to overrule
2 the objection. Okay, thank you.

3 MR. SCHWARTZER: I will move to admit then.

4 THE COURT: Yes.

5 (End of bench conference)

6 MR. SCHWARTZER: I got to get -- I'm sorry. May I
7 approach your clerk?

8 THE COURT: Yes.

9 (Pause in the proceedings.)

10 THE COURT: And I don't think we were -- I think we
11 were still on the white noise when you moved to admit that.

12 MR. SCHWARTZER: Okay.

13 THE COURT: So can you --

14 MR. SCHWARTZER: Your Honor, I would move to admit
15 Exhibit 157 over defense objection.

16 THE COURT: And I thought he may have withdrawn --
17 no, no. So, I'm sorry, he didn't withdraw the objection. So
18 I am going to admit that over the defense objection. Thank
19 you.

20 (State's Exhibit 157 is admitted.)

21 MR. SCHWARTZER: Your Honor, permission to publish?

22 THE COURT: Yes.

23 MR. SCHWARTZER: Permission to give the witness the
24 laptop in order to use it?

25 THE COURT: Yes.

1 MR. SCHWARTZER: Can I switch over to --

2 THE COURT RECORDER: Yeah.

3 MR. SCHWARTZER: And for the record, this is my
4 laptop, hence the badge that's on it. All right.

5 BY MR. SCHWARTZER:

6 Q So could you tell the ladies and gentlemen of the
7 jury what we're looking at?

8 A One moment. Let me open this in a --

9 Q Of course.

10 A -- different program. Okay.

11 Q Okay. Can you tell the ladies and gentlemen of the
12 jury what we're looking at?

13 A This is a copy of the PDF report I generated with
14 Cellebrite Physical Analyzer.

15 Q Okay. Can you show where it would show the phone
16 number for this phone?

17 A Yes. So this section over on the left is a list of
18 bookmarks. It just takes me to different pages within the
19 PDF. If I click on SIM data, this section right here listed
20 as the MSISDN, that's the phone number. It's 702-927-6973.

21 Q Great. And while we're going through this, why
22 don't you explain what the bookmarks are and that Table of
23 Contents we have?

24 A Okay. So everything -- or most of these categories
25 over here that you see on the left, these bookmarks represent

1 a category of data. So you'll see chats and instant messages;
2 those are both forms of messaging. Searched items; those are
3 things that were searched on Google. Web history; those were
4 activity on the Chrome web browser. There's a category here
5 for images; those are images that were contained on the phone.
6 Timeline will show all of those things in order -- in the
7 order that they happened.

8 And then, down at the bottom, there's a tags
9 section. That's a repeat of the things that you would see in
10 the other categories, except those are organized in an order
11 based on when I tagged them, and I'm allowed to -- I'm able to
12 put descriptions of why I'm tagging things in that section.

13 Q Some of that -- just looking at where we are right
14 now, it shows web history. The first item or artifact says,
15 Number 1, Title: SuperPawn Rainbow and Charleston. What is
16 that?

17 A So that was a Google search. If you look at the
18 URL, that's the actual website that was visited. You would
19 see that in the address bar at the top of a web browser.

20 There's a couple sections to this that I would draw
21 your attention to. The first part of it just shows that it is
22 a Google search. If you see, it's Google.com/search. If I
23 were to actually click on this, I could potentially open this
24 in a web browser and show you the results of this search.

25 Within this web address, there's a couple pieces of

1 information that are going to be important. Right here,
2 beginning with the letter OQ and an equal sign, this next
3 section after it, you'll see the word SuperPawn + RA. That's
4 what the user of this phone actually typed into the search
5 bar.

6 If you go to Google and you start typing something,
7 it will start suggesting autofill options so that you don't
8 have to type the entire query. So if you were to type
9 SuperPawn RA, it would give you a few different options that
10 you could click on to complete your search.

11 The next line up, you see the letter Q, followed by
12 an equal sign. It says, SuperPawn Rainbow and Charleston.
13 That was one of those autofill selections that the user
14 actually clicked on. So what was typed was SuperPawn RA.
15 What was eventually searched was SuperPawn Rainbow and
16 Charleston.

17 Q And what's the column with last visited?

18 A That was when that actual search occurred, when that
19 visit to that Google page occurred.

20 Q And the time there -- and I'm going to have you read
21 -- can you read the time and date on that?

22 A Yes. That was September 1st, 2018, at 12:28 and 30
23 seconds Pacific Time.

24 Q Now, that UTC minus 7, what -- UTC minus 7, what is
25 that?

1 A So this piece of information was stored on the phone
2 in a different time zone. It's typically stored in UTC, which
3 is Coordinated Universal Time, synonymous with Greenwich Mean
4 Time. In order for standardization, the phone stores all the
5 dates and time -- or most of the dates and times, sorry, in
6 UTC and then converts them to whatever time zone the phone was
7 set to.

8 This phone was set to Pacific Time at the time I did
9 the extraction. We were located in Pacific Time. So,
10 whenever I load this information into Cellebrite Physical
11 Analyzer, it allows me to adjust the displayed timestamps to
12 Pacific Time. So, when you see this UTC minus 7, that is
13 Pacific Time. It's the time in UTC minus 7 hours.

14 Q Perfect. Now, if we can go to images. Okay. So
15 that first image, I want to start with Number 1. Can we
16 actually look at -- if you hit the thumbnail, would it
17 actually --

18 A It should.

19 Q Okay. So that's the thumbnail for Number 1, right?

20 A That's the actual image.

21 Q Okay. And then --

22 A And then on the PDF is the smaller-sized thumbnail
23 of it.

24 Q And for the Court, that is a picture of an
25 individual wearing a mask that's covering their face with

1 sunglasses; is that correct?

2 A Correct.

3 Q And that's a skull mask?

4 A Yes.

5 Q Okay. Could you click out of that? Okay.

6 Tell us about the -- how we -- about the additional
7 file information regarding the created, modified, accessed,
8 and the camera make and model.

9 A Okay. So there's two sections here. This entire
10 section is what we would refer to as metadata. It's
11 information about the file. Now, that's stored in two
12 different places.

13 This bottom section that I'm going to highlight is
14 what's commonly referred to as embedded metadata. So this
15 image file, that information is built into that file. If I
16 were to make a copy of the file or move the file, that
17 information would travel with it. Now, that information
18 includes the camera make and model, which, in the case of a
19 smartphone, is generally the make and model of the phone. So
20 this image was taken with a Samsung SM-G925T, which is, to be
21 clear, not this phone.

22 The capture time, we discussed earlier that UTC
23 minus 7 on another timestamp. This doesn't have anything next
24 to it. What that means is this timestamp is stored in
25 whatever time zone that phone was set to at the time. That

1 may be Pacific, that may be Eastern, we don't know, but that
2 was the time that phone was set to when this image was taken.
3 Now, that date will not change if I move that image from one
4 device to another, one folder to another. That travels with
5 it.

6 Now, above it, there's another section of metadata.
7 I'm going to highlight it. That's what you would commonly
8 refer to as file system metadata. So that is stored on the
9 phone itself, separate from the file, and it's information
10 about that copy of the file. So, if I were to take a copy of
11 this image and put it on a different phone, those times would
12 change.

13 So this image was obviously created with a different
14 phone; at some point was put on this phone. These three times
15 are when that copy was created on this phone.

16 Q Okay. And for the record, what is that date?

17 A That was March 22nd, 2018, at 9:44 p.m. and 45
18 seconds Pacific Time.

19 Q Okay. Now, can you go down on the images?

20 So, to be clear, we can tell based on the metadata
21 that this is a -- this wasn't -- this was not taken by this
22 phone?

23 A Correct.

24 Q It was just synced to this phone?

25 A Synced or transferred. I mean, it came from another

1 phone, and at some point, a copy was made on this phone.

2 Q Such as if someone buys a new phone and wants to
3 sync their old data, that can happen?

4 A That's correct.

5 Q Okay. Can you click on Image Number 3? Well,
6 that's 2, but we could do that too.

7 A Oh, sorry. I'll do 3.

8 Q Okay. And then could you go exit out of this?

9 A Okay.

10 Q Can you go down to Number 4?

11 A Would you like me to click on it?

12 Q Yes, please. Okay. So here we have a name of an
13 individual on this Bill of Sale?

14 A That's correct.

15 Q And what's the name on that?

16 A I'm going to zoom in a little bit if that's all
17 right.

18 Q That's absolutely fine.

19 A That has a buyer name listed as Mario Trejo, and a
20 seller listed as Daniel Wirig.

21 Q And you have various Bills of Sales on this with
22 Mario Trejo's name on it?

23 A Correct.

24 Q Okay. So can you exit out of there?

25 Now, with these images where we have the metadata

1 matching the same time as the captured image, what does that
2 say to you?

3 A So this matches the -- these are the characteristics
4 I would expect to see from a picture that was taken with this
5 phone. Would you like me to point those things out?

6 Q Sure.

7 A So, looking in this embedded metadata section, which
8 is, again, the data that's part of the file, travels with it,
9 it lists the make and model of the camera as a Samsung
10 SM-G960U. That matches the phone I was doing the examination
11 on.

12 The capture time is April 7th, 2018, at 12:54 p.m.
13 Pacific Time. And you will notice that that matches the file
14 system metadata, which was, again, April 7th, 2018, at 12:54
15 p.m. Pacific Time. I would expect those to match if that
16 image had been created in one location and not moved or
17 copied.

18 Additionally, if -- this section over here under
19 Path, this is where it was actually located on the phone.
20 These are equivalent to folders. If you look at this root
21 media -- Root/Media/0/DCIM/Camera, that's where this phone
22 stores pictures that it takes by default.

23 Q Okay. Now, can you scroll down to the images?
24 Okay, keep going. Keep going. There you go. I want to do
25 Number 8. Now, is this different --

1 A Sorry.

2 Q -- in some way regarding whether it was captured by
3 the phone or not?

4 A This particular one would still match those same
5 characteristics.

6 Q Okay. Could you blow up that photograph? So this
7 was likely taken by the phone?

8 A These are the characteristics it would have if it
9 was, yes.

10 Q Okay, thank you. You can exit out of that.

11 Now, there's -- some of these images would be
12 attached to text messages; is that correct?

13 A Yes.

14 Q Can you go to ones that do -- can you show that to
15 the ladies and gentlemen of the jury so they can view it?

16 A Here's one that was an attachment to a text message.
17 You'll notice within the file system metadata, the created,
18 modified, and accessed times all match, indicating that copy
19 -- I mean, that copy of the image had not been changed since
20 it was created.

21 So, typically, when you take a picture with a cell
22 phone and you want to send it through a text message, it's too
23 large to fit in a text message. The phone will create a
24 smaller version of it that does fit in the text message.
25 That's a new file, so it will have its own separate created,

1 modified, and accessed times, but if you look, those are
2 different than the capture time stored within the file.

3 So this copy of this file was created approximately
4 three -- a little less than three minutes after the picture
5 was actually taken. That indicates to me that this is not,
6 you know, the image as it was taken with the phone. This is a
7 copy, possibly modified, possibly not, but it's not that
8 original image.

9 If you look at the file path of it here, you'll see
10 /Root/Media/0/Android/Data/Com.Samsung.Android.Messaging.
11 That's the name of the default text messaging application on
12 this phone.

13 Q Thank you. Now, I want to move on to conversations
14 that are on the phone, you know, typically referred to as like
15 text messages, I guess, instant messages.

16 Are there differences in your field regarding like
17 instant messages, text messages, et cetera?

18 A Broadly, all of them could be considered instant
19 messages. Originally, with older phones that didn't have
20 internet connectivity, they were called text messages.

21 Now, with modern smartphones, you can use other
22 applications such as WhatsApp, Instagram, things of that
23 nature. At one point, those were called instant messages.
24 The terminology has just kind of merged. I mean, they're all
25 referred to instant messages. Anything where you're typing a

1 message and sending it to a person, that would fall under that
2 category.

3 Q Perfect. Could I go specifically to a text message
4 or instant message conversation involving -- last four are
5 5067, contact name is M-e-g-a-y?

6 A Okay. I'm going to navigate to the tags area simply
7 because those are grouped by conversation. It'll be a little
8 easier to navigate. Again, as I said earlier, these are
9 duplicates of what I would find up in the chats and instant
10 messages categories. Same data.

11 Q And so that tags thing is to help you also and
12 people who are viewing your documents to --

13 A It's to help find it quicker.

14 Q Perfect.

15 A And which specific message would you like me to
16 navigate to?

17 Q Could you group them into conversations?

18 A Yes. Let me go --

19 MR. SCHWARTZER: And for the ladies and gentlemen of
20 the jury, they will have Exhibit 157 with them when they go
21 back to deliberate.

22 THE WITNESS: This is the beginning of the content
23 from that text message conversation.

24 BY MR. SCHWARTZER:

25 Q Okay, and that's starting -- what's the date?

1 A So the first two messages are a little bit out of
2 order as far as the timeline, but the date of this message was
3 September 1st, 2018, at 11:09 p.m. Pacific Time and 47
4 seconds.

5 Q Okay. Why is it out of order?

6 A So two of the messages out of this conversation were
7 stored in a different location on the phone. That's normal.
8 So the first two were stored in the call log database.

9 If you were to open up the phone application on this
10 phone and go click on a person's name, it would give you the
11 option to look through the history with that person. That
12 would include text messages in there. So it maintains its own
13 database of those messages, separate from the actual text
14 messaging database. It's essentially an extra copy of the
15 same data.

16 So two of those came from that call log database,
17 and the rest came from the actual text messaging database.

18 Q And I want to just draw the attention of the jury
19 regarding the item -- the Artifact Numbers 41 instant message.
20 Do you see what I'm talking about with those headers?

21 A Yes.

22 Q What -- could you kind of go through those headers
23 and what they are?

24 A Okay. So I'm going to highlight an area. This
25 entire section is one artifact. This is all related. The top

1 row of this that's in bold is related to the actual tag I
2 created within Physical Analyzer. So, whenever I tag
3 something, it issues it a number that's not relevant to the
4 order it appeared on the phone or anything like that. That
5 was the 41st thing that I tagged.

6 Next to it is a category that's filled in
7 automatically by Cellebrite.

8 The fourth column here is a note that I made when I
9 tagged it just to explain why that's in here, what its
10 relevance is.

11 Next to it is a copy of the actual body of the text
12 message, the thing that was actually typed.

13 The next column is a tag category. So, whenever I
14 tag something in Cellebrite, I can assign it a category. By
15 default, most things I just tag as evidence. I can -- there's
16 a few things in here tagged as both evidence and important.
17 We can address that later, but that was added by me. That's
18 just the category. These times are when I actually made that
19 tag. They're not relevant to the actual data on the phone.

20 If I go down to the next section, everything from
21 this gray bar down to where my mouse is at right now, that's
22 the actual data from the phone, a copy of it.

23 Q Okay.

24 A First -- would you like me to continue?

25 Q No, keep going, yeah.

1 A This first column shows the actual source of the
2 data. As I said, there was -- you know, this is from the
3 phone calls database, which also happened to have a copy of
4 the instant messages.

5 There's a from column. Commonly, depending on the
6 application in use, sometimes outgoing messages won't list
7 anything there because they don't need to.

8 There's a to column, so this is the person the
9 message was sent to. It includes the phone number and a
10 contact name. Now, that contact name is filled in by
11 Cellebrite from the contacts list. That may not have existed
12 in this actual database, but it was stored on the phone in the
13 contacts list, so it just cross-references the two.

14 Q Okay. Oh, were you done? I'm sorry.

15 A No. Sorry.

16 There's a timestamp section. That's when it
17 actually occurred. Body is -- right here is the actual
18 content of the text message. Participants is kind of just a
19 repeat of what's in the from and to columns. And if you go
20 down a little further, it'll tell you the type of message,
21 which is an SMS, synonymous with just a regular text message
22 through the default application.

23 Q Okay. So, in this conversation, I want to get to
24 the point where it says, "Shift change is at 3:00, bro."

25 A Okay.

1 Q Okay. So this -- so you've already talked about
2 what everything is here. Here, we actually have the from; is
3 that correct?

4 A Yes.

5 Q And the from is that number that you stated in the
6 very beginning, the number associated with this phone?

7 A That's correct.

8 Q Okay. And so this is an outgoing message; is that
9 correct?

10 A Yes.

11 Q To, again, this person with the 5067 number?

12 A Yes.

13 Q And this was sent on September 2nd at 1:25 p.m.?

14 A Correct.

15 Q 2018, to be clear?

16 A Yes.

17 Q What does the message actually say?

18 A Says, "Shift change is at 3:00, bro."

19 Q Okay. Going down to the next message, Artifact 47.
20 Another outgoing message?

21 A Yes.

22 Q What does that say?

23 A "Can you at least drive me, bro?"

24 Q And that's at 1:36 p.m.; is that correct?

25 A Yes.

1 Q And then go down to Artifact 48. Again, it's an
2 outgoing message to the 5067 number?

3 A Yes.

4 Q What does the message say?

5 A It says, "My truck is hella recognizable."

6 Q And that's at 1:36 p.m.?

7 A Yes.

8 Q Go down again. This is a continuation of that
9 conversation, correct?

10 A Yes.

11 Q Again, another outgoing message?

12 A Correct.

13 Q What does this message say?

14 A It says, "You down or not, bro?"

15 Q And what -- and this is at 1:30 -- 1:55 p.m.?

16 A Correct.

17 Q Okay. Again, September 2nd of 2018?

18 A Correct.

19 Q Going down again. Another outgoing message?

20 A Yes.

21 Q This is Artifact 50?

22 A Yes.

23 Q At 1:55 p.m. on September 2nd of 2018?

24 A Yes.

25 Q And what does that say?

1 A "I will protect you no matter what."

2 Q Go down again to Artifact 51. What -- another
3 outgoing message --

4 A Correct.

5 Q -- at 2:03 p.m.?

6 A Yes.

7 Q What is -- September 2nd, 2018. And what does that
8 say?

9 A It says, "I'mma get ready."

10 Q Go down again. It's another message from September
11 2nd of 2018 at 2:18 p.m. Another outgoing message?

12 A Correct.

13 Q What does that message say?

14 A Says, "Please, broski, help me out one last time."

15 Q Go down again. Another outgoing message on Artifact
16 53 from September 2nd of 2018?

17 A Correct.

18 Q 2:33 p.m.?

19 A Yes.

20 Q And what does that say?

21 A "So, no-go, bro?"

22 Q Let's go to Artifact 54. And just can you tell me
23 if it's outgoing or incoming, and time, and --

24 A That is outgoing at 2:51 p.m., and it says, "Wish me
25 luck, bro."

1 Q And then go down to 55. Same thing.

2 A This message is outgoing at 3:54 p.m., and it says,
3 "This chick stopped answering too."

4 Q Okay. And then, 56?

5 A It's an outgoing message at 3:54. It says, "I guess
6 I'm going solo, (indiscernible)."

7 Q Okay. Now, I want to go to text messages with the
8 number ending in 0733.

9 A Okay.

10 Q You know what, before we get there, I want to do one
11 message beforehand, and that's with a text message, Number
12 8480, with the contact name of Michelle Padilla (phonetic).

13 A Okay.

14 Q Okay, starting with August 4th of 2018. Okay, I
15 want to go to the -- to the sixth message. Right there.

16 A This one?

17 Q Yeah. So what artifact number is that?

18 A That is Tag Number 74.

19 Q Okay. And is that an outgoing message?

20 A It is an outgoing message to Phone Number
21 702-417-8480. The time was 8:28 a.m. And it states, "There
22 was a hiccup."

23 Q Okay. So that was on August 4th of 2018?

24 A Correct.

25 Q Same day as your event number?

1 A Yes.

2 Q Okay. Could you go down to the message, same text
3 message from August 5th of 2018, outgoing, where it starts
4 with, "I think"?

5 A This one?

6 Q Yeah. Can you read that one off?

7 A It was an outgoing message on August 5th, 2018, at
8 3:36 p.m. And it says, "I think you better go to your mom's
9 today."

10 Q Okay, thank you. Now I want to go to the message we
11 were talking about at -- with the last four of 0733.

12 MR. TREJO: Objection.

13 THE COURT: I'm going to give him a minute to write
14 it down, so.

15 MR. SCHWARTZER: Okay.

16 MR. TREJO: Relevance.

17 MR. SCHWARTZER: What's -- relevance for the last
18 message or this message?

19 MR. TREJO: The last message was irrelevant.

20 MR. SCHWARTZER: I mean, I would argue that August
21 4th, saying that there was a hiccup 15 minutes after the
22 robbery would be relevant.

23 THE COURT: So I'm just going to give him a second
24 to --

25 MR. SCHWARTZER: Or attempt robbery.

1 MR. TREJO: Quote, "Better go to your mom's," end
2 quote, is not relevant.

3 Then, quote, "There was a hiccup," end quote, has no
4 mention of facts connecting to allegation. If -- it could
5 mean anything.

6 MR. SCHWARTZER: I would argue it's circumstantial
7 evidence. Both messages are.

8 THE COURT: I think that they're going to be
9 circumstantial evidence, and he can -- he can argue what they
10 mean, and the timing of them makes them relevant. So that's
11 going to be overruled, Mr. Trejo. Thank you.

12 BY MR. SCHWARTZER:

13 Q So we're at Artifact now 121, so this is the last
14 text string I want to go through. Where it says -- well,
15 describe what's going on here.

16 A So this one --

17 Q Or maybe I'm off. Maybe one -- Artifact 122.

18 A So I think I need to go to the next one.

19 Q Yeah, I'm sorry.

20 A 122. So this was a outgoing text message to Phone
21 Number 702-425-0733. It was sent on September 2nd, 2018, at
22 2:51 p.m. And it says, "Hey, girl."

23 Q Okay. Just go through the whole -- if you could
24 just go through this whole text string.

25 A Sure. The next message is Tag Number 123. It's an

1 outgoing message, and these will all be with the same phone
2 number. It's on September 2nd, 2018, at 2:51 p.m. It says,
3 "WYD today?"

4 Q What does "WYD" mean to you?

5 A When I've seen it, it typically refers to what are
6 you doing.

7 Q Thank you.

8 A The next message, Tag Number 124, is an incoming
9 message that was read. It was received on September 2nd at
10 2:52 p.m., and it says, "Chilling right now."

11 Next message, Tag Number 125, was sent at 2:53 p.m.
12 on the same day. It says, "Wanna make some money?"

13 Next one is Tag Number 126. It was an incoming
14 message that was read. It was received at 2:53 p.m. and says,
15 "Yeah."

16 Next message, Tag Number 127. It was an incoming
17 message that was read. It was received at 2:53 p.m. It says,
18 "What's up?"

19 Tag Number 128 was outgoing. Close some windows.
20 That was outgoing at 2:53 p.m. It says, "I have a job I need
21 to do, but I can't do it alone."

22 Tag Number 129 was a incoming message that was read,
23 received -- looks like it was received a little after it was
24 actually sent. It was sent at -- no, I'm sorry, those match.
25 It was received at 2:54 and six seconds. It says, "Talk to

1 me."

2 Tag 130 was a sent message at 2:54. It says, "You
3 can get at least 20 racks."

4 Tag 131 was an outgoing message at 2:54. It says,
5 "I have all the gear, and it won't take more than 10 minutes."
6 Sorry, it says "mins."

7 Q And "mins," during -- based on your experience of
8 investigating these type of things, what does "mins" typically
9 mean?

10 A Typically, an abbreviation of minutes.

11 Q Thank you.

12 A Tag Number 132 was an outgoing message at 2:55 p.m.
13 It says, "At least 20 racks each."

14 Tag 133 is an incoming read message at 2:55 p.m.
15 Says, "Doing what? LOL."

16 Tag 134 is an incoming read message at 2:55 p.m. It
17 says, "And when?"

18 Tag 135 is an incoming read message at 2:55 p.m. It
19 says, "Cause I'm leaving town tomorrow."

20 Tag 136 is a outgoing message at 2:56 p.m. It says,
21 "Hitting a lick rn."

22 Q What is hitting a lick?

23 A Every time I've heard it is referred to somebody
24 going to do a robbery.

25 Q And what does "rn" mean?

1 A Typically, right now.

2 Q Thank you.

3 A Tag 137 is an outgoing message at 2:56 p.m. It
4 says, "I have an inside man."

5 Tag 138 is an incoming read message at 2:56 p.m. It
6 has a face emoji followed by the text, "Who and where?"

7 Tag 139 is an outgoing message at 2:56 p.m. It
8 says, "A plan ready to go."

9 Tag 140 is an outgoing message at 2:56 p.m. It
10 says, "Come over."

11 Tag 141 is an incoming read message at 2:57 p.m. It
12 says, "Where you at?"

13 Tag 142 is an outgoing message at 2:57 p.m. It
14 says, "Torrey Pines and Washington."

15 Tag 143 is an outgoing message at 2:59 p.m. It
16 says, "You in?"

17 Tag 144 is an incoming read message at 2:59 p.m. It
18 said, "What's the penitentiary chances?"

19 Tag 145 is an incoming read message at 2:40 -- 2:59
20 p.m. Excuse me. It says, "You know I'm on probation, so I
21 need to be a smooth go."

22 Q And that's incoming, so that's not from the phone?

23 A Correct.

24 Tag 146 is a sent message at 3:00 p.m. It says, "It
25 is a smooth go, and I'm not going to jail."

1 Tag 147 is a sent message at 3:00 p.m. It says,
2 "Plan is set."

3 Tag 148 is an incoming read message at 3:00 p.m. It
4 says, "How many people you need? I have a HG2."

5 Tag 149 is a sent message at 3:00 p.m. It says,
6 "Just one."

7 Q And stopping you there -- right there. Do you know
8 what HG2 means?

9 A I've seen it as an abbreviation.

10 MR. TREJO: Objection. Excuse me. Withdrawn.

11 THE COURT: Okay.

12 THE WITNESS: I've seen it as an abbreviation for
13 handgun before.

14 BY MR. SCHWARTZER:

15 Q Okay, thank you. And we're back on --

16 A Tag 150.

17 Q Yes.

18 A Tag 150 is a sent message at 3:01 p.m. It says,
19 "It's a two-person job."

20 Tag 151 is an incoming read message at 3:01 p.m. It
21 says, "Okay," followed by a couple of emojis. "When do I need
22 to be there by? Because I want to eat and get incognito."

23 Tag 152 is a sent message at 3:01 p.m. It says,
24 "ASAP."

25 Q And for the record, what does that mean to you?

1 A I use it as, as soon as possible.

2 Q Thank you.

3 A Tag 153 is an incoming read message at 3:02 p.m. It
4 says, "Okay, okay, got you."

5 Tag 154 is a sent message at 3:02 p.m. Says, "I
6 have everything. Just where clothe that hides tattoos."

7 Tag 155 is an incoming read message at 3:02 p.m. It
8 says, "I have to probably go buy some real quick because I
9 didn't bring winter clothes. LOL."

10 Tag 156 is a sent message at 3:03 p.m. It says, "I
11 might have a long sleeve for you."

12 Tag 157 is an incoming read message at 3:03 p.m. It
13 says, "Okay. I need some pants too. I only got white."

14 Q You can skip down to the message outgoing, "I have
15 all the gear," because, again, the jury will get to read this
16 at their own leisure.

17 A Okay. Tag Number 164 is an outgoing message at 3:37
18 p.m. It says, "I have all the gear ready, girl."

19 Tag 165 is a sent message at 3:42 p.m. It says,
20 "Still in? I just want to know. If not, I got find someone
21 else."

22 Tag 166 is a outgoing message at 3:49 p.m. It says,
23 "I take it as a no."

24 Tag 167 is a sent message at 3:53 with a emoji of a
25 hand making a peace sign.

1 Tag 168 is a sent message at 3:59 p.m. It says,
2 "I'll hit you up after for a date."

3 Tag 169 is an outgoing message at 4:25 p.m. It
4 says, "Damn, girl, I thought you were a G. LOL."

5 Tag 170 is a incoming read message at 5:40 p.m. It
6 says, "I fell asleep. OMG. Sorry."

7 Q Now, let's go to the message with, "Be ready
8 tomorrow."

9 A Okay. All right. So that is Tag Number 179. It's
10 an outgoing text message to Phone Number 702-425-0733. It was
11 sent on September 3rd, 2018, at 12:18 a.m. It says, "Be ready
12 tomorrow. Come by at 11:00 a.m."

13 Q And by 12:18 a.m., you mean the (indiscernible) --

14 A The morning of the 3rd.

15 Q Right. So, September 2nd, 11:59; September 3rd,
16 12:00?

17 A Correct.

18 Q Okay.

19 A Tag 180 is an outgoing message sent at 9:33 a.m. It
20 says, "Sup, girl?"

21 Q So that's 9:33 a.m. on September 3rd of 2018?

22 A Correct.

23 Q Okay.

24 A And we're still on the same day here. Tag 181 is an
25 incoming message that is marked as unread that was at 3:16

1 p.m. It says, "Sorry, I've been at this room sleep."

2 Q Okay. We can end that conversation.

3 THE COURT: And, Mr. Schwartzer, it's almost
4 lunchtime.

5 MR. SCHWARTZER: I got --

6 THE COURT: You're ending that conversation. Can we
7 end the questioning, or --

8 MR. SCHWARTZER: I got one more brief conversation,
9 and then I'm done with my examination --

10 THE COURT: Okay.

11 MR. SCHWARTZER: -- if the jury can bear with me.
12 I'll take less than five minutes, hopefully.

13 THE COURT: Okay.

14 MR. SCHWARTZER: Thank you, Your Honor.

15 BY MR. SCHWARTZER:

16 Q And I know I said that was the last conversation,
17 but I do want to do one more with the contact Matt PH. The
18 last is 9691.

19 A Okay.

20 Q And so that starts with 189, correct?

21 A Yes.

22 Q And this would be a incoming call; is that correct?
23 Or text message. Excuse me.

24 A That was an incoming unread text message that was
25 received on September 3rd, 2018, at 1:52 p.m. And it says,

1 "How far away are you guys?"

2 Q Okay.

3 A Would you like me to continue?

4 Q I want you to -- during -- I want to jump, but
5 you're familiar with this conversation, correct?

6 A Yes.

7 Q The conversation is all incoming; is that fair?

8 A I don't recall --

9 Q Okay.

10 A -- if it was all incoming.

11 Q Okay. So just go -- you can scroll through it to --
12 I want to get to the message of, "Hey, you said an hour."
13 Just scroll through until you get there and note if there are
14 any outgoing. Okay, so right there.

15 A So everything up to this point has been an incoming
16 message marked as unread.

17 Q Okay. So this message right here, which is Artifact
18 198 --

19 A Correct.

20 Q -- what does -- that's another incoming one?

21 A So it's an incoming unread message. It was received
22 at -- sorry, on September 3rd, 2018, at 7:51 p.m. It says,
23 "Hey, you said an hour. Now been seven. You really need to
24 call me now."

25 Q And then the next one?

1 A Tag Number 199, incoming unread message, sent --
2 received at 8:39 p.m. It says, "Where the fuck are you? I'm
3 going to report car stolen if I don't hear from you now."

4 Q Keep going.

5 A Tag 200. Incoming, unread, received at 8:41 p.m.
6 It says, "Seriously need to hear from you. Causing me all
7 kinds of issues. Call me."

8 Q Okay.

9 A And tag --

10 Q That's --

11 A Oh, sorry.

12 Q You can keep going if you want.

13 A Tag 201 was incoming and unread, received at 10:29
14 p.m. It says, "I'm calling the police and reporting my car
15 stolen. No word from you. I'm getting worried about you.
16 Call me now."

17 Q And then what's the last message in this string?

18 A So, want me to skip over to the last one, or?

19 Q Yes.

20 A Okay. Oh, sorry, that was the last.

21 Tag Number 202 is incoming and unread. That was
22 received the next day on September 4th, 2018, at 6:22 a.m.,
23 and it says, "Where is my car?"

24 Q So all these text messages with the contact name
25 Matt PH occurred on September 3rd -- except for the last one,

1 occurred on September 3rd of 2018 and are all incoming
2 messages, and they generally are about where is my car?

3 A Correct.

4 Q Okay.

5 MR. SCHWARTZER: I have no further questions of this
6 witness, Your Honor. I'll pass.

7 THE COURT: Okay. Mr. Trejo, I'd normally let you
8 do him right now, but we are going to take our lunch break.

9 And, ladies and gentlemen, during the recess, you're
10 admonished not to talk or converse among yourselves or with
11 anyone else on any subject connected to this trial, or read,
12 watch, or listen to any report of or commentary on the trial,
13 or any person connected with this trial, by any medium of
14 information, including, without limitation, newspapers,
15 television, the internet, and radio, or form or express any
16 opinion on any subject connected with the trial until the case
17 is finally submitted to you.

18 It is 12:00. We'll come back at 1:15.

19 THE CLERK: (Indiscernible) I just need to --

20 THE COURT: She needs to secure it.

21 MR. SCHWARTZER: I just got to exit out of it.

22 (Outside the presence of the jurors)

23 THE COURT: Anything outside the presence?

24 MR. SCHWARTZER: Not by the State, Your Honor.

25 MR. TREJO: Not by the defense.

1 THE COURT: Okay, thank you. We'll see you all back
2 here at 1:15.

3 (Court recessed at 11:59 a.m. until 1:21 p.m.)

4 (Outside the presence of the jurors)

5 MR. SCHWARTZER: Your Honor?

6 THE COURT: Yes.

7 MR. SCHWARTZER: So, you said Steve is coming from
8 2:00 to 4:00. Are we ending at 4:00, or is --

9 THE COURT: I don't know. That's what time you said
10 you weren't going to be available, so I was --

11 MR. HENRY: Correct.

12 THE COURT: -- assuming you were coming back.

13 MR. HENRY: I can come back.

14 THE COURT: Okay.

15 (Pause in the proceedings.)

16 THE COURT: Anything outside the presence?

17 MR. SCHWARTZER: Not by the State, Your Honor.

18 MR. TREJO: Not by the defense.

19 THE COURT: Okay. So we can go -- we lost Bill. We
20 can get the jury.

21 MR. SCHWARTZER: Do you want me to give him back --

22 THE COURT: Yeah, give him back that and the disc.

23 THE WITNESS: Thank you.

24 THE COURT: Um-hum.

25 THE WITNESS: Should I go ahead and just have it

1 loaded up?

2 THE COURT: Yeah.

3 THE WITNESS: Okay.

4 THE COURT: If you wouldn't mind.

5 Did you stick your head out and tell Bill?

6 THE CORRECTIONAL OFFICER: Yeah, I'll tell him.

7 THE COURT: Okay. Thank you.

8 THE MARSHAL: I was working through some parking
9 issues, Judge.

10 THE COURT: Oh, okay.

11 THE MARSHAL: Are we ready for the jury?

12 THE COURT: Yeah, we are. No problem.

13 (In the presence of the jurors)

14 THE COURT: Did you get it taken care of, Bill?

15 THE MARSHAL: Missing one on the end there.

16 THE COURT: I was like, somebody's missing. Looks
17 like a couple people.

18 MR. SCHWARTZER: Looks like three because there's
19 one right there, too, right?

20 THE COURT: Mariya Veleva is missing.

21 UNIDENTIFIED SPEAKER: She's here. She's here.

22 THE COURT: Michael. Okay. We're also missing the
23 two on the end.

24 THE CLERK: And Michael.

25 THE COURT: Yeah.

1 THE MARSHAL: They were here, Judge, just enjoying
2 some fresh air on the balcony.

3 THE COURT: Isn't that the smokers balcony? So it's
4 probably not very fresh.

5 THE MARSHAL: There's a breeze.

6 THE COURT: Will the parties stipulate to the
7 presence of the jury?

8 MR. SCHWARTZER: Yes, Your Honor.

9 MR. TREJO: Yes, Your Honor.

10 THE COURT: Thank you. Have a seat.

11 And, Mr. Schwartzer, you were completed.

12 So, Mr. Trejo, if you can go ahead and start your
13 cross of this witness.

14 CROSS-EXAMINATION

15 BY MR. TREJO:

16 Q Good afternoon, Detective Jones. How are you doing
17 today?

18 A I'm good.

19 Q So we have established that you were the forensic
20 investigator who scanned and completed the full investigation
21 of the device known as the Galaxy S9; is that correct?

22 A Correct.

23 Q Do you think you have pretty good recall of most of
24 the conversation collected as evidence?

25 A I have a general idea. I'd have to refer to the

1 actual Cellebrite report for specifics.

2 Q And if I place part of the conversation that was
3 just heard before lunch, could you give me what you would
4 think certain language meant?

5 A Just to clarify, you're asking for my opinion?

6 Q Yes.

7 THE COURT: Yeah. Can you switch it to the Elmo,
8 Susie?

9 MR. SCHWARTZER: Has this been introduced into
10 evidence?

11 THE COURT: Can you show it to Mr. Schwartzer?

12 THE COURT RECORDER: Oh, it is on the Elmo.

13 MR. SCHWARTZER: Okay.

14 THE COURT RECORDER: I think I turned it off.

15 THE COURT: Bill, can you help him?

16 BY MR. TREJO:

17 Q So the State brought this up earlier. It was a text
18 number in 0733. Can you tell me, where it says, quote, "I
19 have an inside man," end quote, what would you say that means
20 in plain English, if you would?

21 A To be clear, that's open to interpretation. My
22 interpretation of that is that the sender of this message is
23 claiming that they are working with an employee of the
24 business.

25 Q And that's just your opinion, correct?

1 A Correct. That's what you asked for.

2 Q Now, moving back, should -- should I say I wanted to
3 inquire about the warrant you stated receiving, the phone
4 which was bagged, and other details pertaining to this chain
5 of custody, do you think you can recall certain facts?

6 A Depends on what the facts are, but yes.

7 MR. SCHWARTZER: I'm going to object to hearsay
8 regarding anything that's in the search warrant unless it's
9 for purposes besides the matter of truth.

10 THE COURT: Unless it's for purpose of what?

11 MR. SCHWARTZER: Unless it's for purposes other than
12 the matter of the truth of it.

13 THE COURT: Okay. So I think that's a little
14 peremptory, so we'll see what the question is.

15 MR. SCHWARTZER: Thank you, Your Honor.

16 THE COURT: Premature, I should have said, not
17 peremptory.

18 MR. SCHWARTZER: I agree, Your Honor. Thank you.

19 MR. TREJO: Just facts, and dates, and times
20 regarding the items I just asked about. Is that okay?

21 THE WITNESS: We most likely need to look at at
22 least the first page of the search warrant. I wouldn't
23 remember them off the top of my head.

24 MR. TREJO: Would it be possible to bring up the
25 exhibit brought up prior to our lunch break --

1 THE COURT: Yeah.

2 MR. TREJO: -- that has said images? And I'm asking
3 the Court if this is possible.

4 THE COURT: I don't have it, but do you have a copy
5 of the search warrant? Did -- was that --

6 MR. TREJO: Is it in a flash drive?

7 THE WITNESS: The flash drive just has a copy of the
8 Cellebrite report that I went over. The actual images of the
9 phone you'd have to coordinate with the district attorney for.

10 MR. SCHWARTZER: What are you looking for? The
11 search warrant? I just have pictures of the phone. You want
12 pictures of the phone? I'd be 150 to 156 with Madam Clerk.

13 THE COURT: And for the record, this is Exhibit 150?

14 MR. SCHWARTZER: Looks like 150.

15 THE COURT: Yeah, that's 150.

16 BY MR. TREJO:

17 Q I recall you mentioning receiving this packet by
18 request of detectives to have a Cellebrite report done; is
19 that right?

20 A Correct.

21 Q And do you have any knowledge of where the phone was
22 bagged?

23 A I don't.

24 Q It states on this packet the time marked as time of
25 possession is 1400 military time or 2:00 p.m. 12-hour standard

1 time; is that right?

2 A That's how it's marked.

3 Q So would that mean that the time that it was
4 collected from wherever it was collected, would you have been
5 2:00 -- would it have been 2:00 p.m., September 3rd of 2018?

6 A I can't speak to that. I wasn't there.

7 Q So, to your knowledge, would the proper procedure
8 when collecting and bagging evidence, perhaps even evidence
9 you worked with, would be to mark the time it's collected?

10 A That's correct.

11 Q So then would you assume that is the time it was
12 collected by whomever collected and from where -- and from
13 where?

14 A Yes.

15 MR. TREJO: Mr. Schwartzer --

16 THE INTERPRETER: Oh, I apologize.

17 (State's counsel and Mr. Trejo confer.)

18 BY MR. TREJO:

19 Q Sorry about that, Mr. Jones. Do you recall about
20 what time you began your investigation this device -- on this
21 device, meaning when did you begin to access the device?

22 A I don't know specifically. On my actual written
23 report, it would list the date that I began it but not the
24 time. I could refer to the Cellebrite report that would
25 likely show when the actual extraction started by the tool.

1 Q And is that information on your flash drive of the
2 report?

3 A I would need to look if that's okay.

4 Q Yes, please.

5 A Yes, that is on here.

6 Q And according to the Cellebrite report, what time
7 did that process begin?

8 A So the first extraction I did, which was the one
9 from the SIM card, was on September 14th, 2021, and that was
10 at 4:29 p.m. in UTC time zone. It doesn't have the adjustment
11 in here for Pacific Time for me. The physical extraction was
12 done the same day at 8:41 p.m. UTC time zone. And let's see.
13 The file system extraction was done the same day at 9:31 p.m.
14 UTC time zone.

15 Q So this report was done to over three years later?

16 A Correct.

17 MR. TREJO: All right, Mr. Jones, that would be all
18 for now. Thank you. The defense is done cross-examining.

19 THE COURT: Thank you.

20 Anything based on that, Mr. --

21 MR. SCHWARTZER: One thing, Your Honor.

22 THE COURT: We might need to give him a minute to --

23 MR. SCHWARTZER: That's --

24 THE COURT: -- get his computer back and things, so.

25 MR. SCHWARTZER: It's fine, or I can ask from here.

1 REDIRECT EXAMINATION

2 BY MR. SCHWARTZER:

3 Q Detective Jones, when you received the phone from
4 evidence, was it already in what's known as airplane mode?

5 A I don't recall. I'd have to look at my written
6 report.

7 Q Would that help refresh your memory?

8 A Yes.

9 MR. SCHWARTZER: May I approach, Your Honor?

10 THE COURT: Yes.

11 BY MR. SCHWARTZER:

12 Q Showing you page 2 of your report.

13 A It was already in airplane mode when I received it.

14 Q What is airplane mode?

15 A Airplane mode prevents it from receiving any kind of
16 wireless signals. It prevents it from downloading data from
17 the internet, sending data to the internet, prevents it from
18 being remotely wiped, anything of that nature. It just makes
19 it a standalone device.

20 MR. SCHWARTZER: Thank you, Your Honor.

21 Thank you, Detective.

22 No further questions, Your Honor.

23 THE COURT: Anything based on that, Mr. Trejo?

24 MR. TREJO: No more questions.

25 THE COURT: Okay. You are excused, Detective Jones.

1 Please don't discuss your testimony with anyone. Thank you.

2 THE WITNESS: Thank you.

3 MR. SCHWARTZER: Your Honor, can we approach?

4 THE COURT: Yes.

5 (Bench conference)

6 MR. SCHWARTZER: I'm having a stomach issue. Can I
7 just have like five minutes?

8 THE COURT: Yeah, absolutely.

9 MR. SCHWARTZER: Thank you.

10 THE COURT: Yeah, I am as well. I -- yeah, so.

11 (End of bench conference)

12 THE COURT: Ladies and gentlemen of the jury, we are
13 going to take a few minutes' recess.

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

22 It is 1:56. Let's come back at 2:10.

23 (Outside the presence of the jurors)

24 THE COURT: Real quick, anything outside the
25 presence? Okay.

1 MR. SCHWARTZER: Not by the State, Your Honor.

2 THE COURT: Go ahead, Mr. --

3 MR. SCHWARTZER: Thanks.

4 THE COURT: Okay. Hold on for just a second.

5 (Court and marshal confer.)

6 THE COURT: So I screwed up and forgot to see if the
7 jurors had any questions of that witness. So can you call him
8 before he leaves the building and see if you can get him back
9 if there are any juror questions?

10 MS. HEAP: Sure.

11 THE COURT: I'm so sorry. And I know that you had
12 something to say, but I needed to get that -- oh, absolutely,
13 go ahead.

14 Yeah, I always forget that. So you guys, anybody,
15 please just remind me to see if there are any juror questions
16 because I always forget that.

17 And, Steve, I wanted to thank you so much for doing
18 this this week and next week.

19 MR. ALTIG: Anytime.

20 MS. HEAP: I got to find Mike.

21 THE COURT: Okay.

22 MS. HEAP: I don't have his number.

23 THE COURT: Okay. Yeah, I completely screwed up on
24 that one. Sorry, I always forget.

25 (Off the record at 2:00 p.m. until 2:06 p.m.)

1 (Outside the presence of the jurors)

2 THE COURT: So, if anybody ever sees me mess up,
3 just please -- I have no ego about this, so just -- and then,
4 where's Bill? Is he still in the back? Let me find Bill so
5 we can get started. He might be out front with the jurors.

6 Did Schwartzer say what time the --

7 MS. HEAP: I thought he meant --

8 THE COURT: -- witness would be back?

9 MS. HEAP: I thought he meant immediately.

10 THE COURT: Oh, okay.

11 You can have a seat, Mr. Trejo. I just get tired of
12 sitting.

13 MR. TREJO: (Indiscernible).

14 THE COURT: No, not this second, so. I'll have to
15 put the robe on, so you'll know when the jury's coming in when
16 I have to put the robe on.

17 So, as soon as we get the witness back. He should
18 be back any second. I don't think he's far.

19 THE MARSHAL: Oh, okay.

20 THE COURT: We'll be able to bring the jury.

21 (Off the record at 2:07 p.m. until 2:17 p.m.)

22 (Outside the presence of the jurors)

23 THE COURT: And Bill indicated that they might have
24 questions, so that's what made him -- I think somebody said, I
25 thought we got to ask questions, when they were leaving.

1 Hopefully, this wasn't for nothing. Hopefully, they didn't --
2 that wasn't just a rhetorical question.

3 (In the presence of the jurors)

4 THE COURT: Will the parties stipulate to the
5 presence of the jury?

6 MR. SCHWARTZER: Yes, Your Honor.

7 MR. TREJO: The defense does.

8 THE COURT: Thank you. Have a seat.

9 I have to apologize to you all. This break was my
10 fault. Needed a bathroom break, and then I had let the
11 detective go before I allowed you guys to ask questions, so I
12 apologize. We had to then find him to get him back.

13 So, does the jury have any questions of this
14 witness? No questions. Okay.

15 So sorry we had to bring you back for that.

16 THE WITNESS: It's quite fine. Thank you.

17 THE COURT: Now you're excused, Detective Jones, so
18 please don't discuss your testimony with anybody.

19 And, Mr. Schwartzer, who's next?

20 MR. SCHWARTZER: Tim Hiner, Your Honor. Timothy
21 Hiner.

22 THE COURT: Thank you.

23 THE MARSHAL: A couple steps for you. If you'll
24 remain standing. Face the clerk. She's going to swear you
25 in.

1 THE CLERK: Please raise your right hand.

2 TIMOTHY ALAN HINER, STATE'S WITNESS, SWORN

3 THE CLERK: Can you please state and spell your name
4 for the record?

5 THE WITNESS: Timothy Alan Hiner. It's
6 T-i-m-o-t-h-y, A-l-a-n, H-i-n-e-r.

7 THE CLERK: Thank you. You can have a seat.

8 THE WITNESS: Thank you.

9 THE COURT: Proceed, Mr. Schwartzer.

10 MR. SCHWARTZER: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. SCHWARTZER:

13 Q Mr. Hiner, can you tell the ladies and gentlemen of
14 the jury how you're employed?

15 A Yes. I am a regional loss prevention investigator
16 for FirstCash and Cash America Pawn Company.

17 Q Do you also act as their custodian of record in
18 certain things?

19 A That's correct, sir.

20 Q Specifically, the district attorney's office here in
21 Clark County sent out a subpoena regarding being a custodian
22 of record of surveillance and some other things regarding a
23 incident that occurred on September 3rd and August 4th of
24 2018, and you were deemed the party most knowledgeable?

25 A That is correct, sir.

1 Q Okay. Now, could you tell the ladies and gentlemen
2 of the jury, what does a regional investigator do for First
3 America?

4 A Yes. As a regional investigator, I investigate all
5 internal crimes that may take place at any number of stores
6 spread between Colorado and Alaska. Also, on top of that, any
7 time there would be a burglary, a robbery, any sort of outside
8 crime that would take place in one of our locations, I would
9 investigate that.

10 By investigating, what I would do is I would
11 interview employees, interview anybody I need to, and also
12 review all video that pertained to the incident.

13 Q Now, I want to direct your attention to certain
14 events that occurred on September 3rd of 2018. Are you aware
15 that there was a robbery that occurred at one store owned by
16 First America?

17 A That's -- I am aware.

18 Q Okay. Specifically, what store -- what was the name
19 of the store?

20 A It is Cash America Pawn.

21 Q And is that a SuperPawn?

22 A It is a SuperPawn that's owned by the parent company
23 First Cash.

24 Q Okay. So, and Super -- this specific SuperPawn, is
25 that located at 1150 South Rainbow?

1 A That's correct.

2 Q And just generally, that's like Rainbow and
3 Charleston?

4 A Correct.

5 Q Okay. And that's one of the stores that would be
6 under your kind of wing of like investigations?

7 A Yes, sir. That's correct.

8 Q Okay. Additionally, that same store, on August 4th
9 of 2018, are you aware there was an attempt robbery?

10 A I am aware of that, yes.

11 Q Okay. And, again, that would be a store that's
12 underneath your wing of responsibilities?

13 A That is correct, yes.

14 Q Just to go first to the August 4th of 2018, was
15 there any video recovered from the SuperPawn for that
16 incident?

17 A Yes.

18 Q There was for August 4th?

19 A There was for August 4th. That would have been
20 retained by our command center and is no longer available,
21 unfortunately.

22 Q Okay. Now, but there -- when we asked you to go
23 look for the video, there was no video?

24 A That's correct.

25 Q Okay. Were you around in 2018?

1 A I was not.

2 Q Okay. So, if a detective was investigating it, that
3 would be a person to ask regarding whether they tried to
4 obtain the video or not?

5 A That is correct.

6 Q Okay. Now, September 3rd of 2018, was there video
7 that was recovered?

8 A Yes.

9 Q And was there video that you have been able to view
10 as well?

11 A Yes.

12 Q And are you familiar with the system of the -- the
13 video surveillance at that store on September 3rd of 2018?

14 A Yes, sir.

15 Q Okay. And now specifically regarding that video
16 surveillance, back in 2018, was there different video
17 surveillance than there was now in 2022?

18 A Yes, there was.

19 Q Okay. What's the system you have now?

20 A The system we have now is called the Next Level
21 system. It's a digital recording and storage system for the
22 -- for the stores.

23 Q Okay. What is -- what was the system -- when was
24 that system changed over?

25 A It was approximately April of 2019.

1 Q Okay, so about a year after -- or less than a year
2 after everything occurred?

3 A That's correct.

4 Q Okay. Are you familiar with the system before that?

5 A I am.

6 Q And what was that system called?

7 A It's called ATVision.

8 Q Okay.

9 A And --

10 Q What is AT -- what kind of system is that?

11 A ATVision is more of a analog system. The video is
12 not near as clear or crisp, but --

13 Q And that's -- is that a system that is used in some
14 of the stores still to this day?

15 A Yes, that is.

16 Q But it's somewhat outdated technology?

17 A Yes.

18 Q Now, you were able to view -- you actually have
19 viewed the surveillance system from that September 3rd, 2018
20 incident; is that correct?

21 A That's correct, sir.

22 Q And you have obviously -- not only have you observed
23 it yourself, but at some point, you actually came to my office
24 and watched the video as well?

25 A That is correct.

1 Q So you're -- you're familiar with it?

2 A Yes, sir.

3 MR. SCHWARTZER: Your Honor, permission to publish
4 Exhibit 9 for the limited purpose to establish authentication,
5 foundation?

6 THE COURT: Any objection? It's going to just be --

7 MR. TREJO: No objection.

8 THE COURT: Okay. Absolutely, sir.

9 MR. SCHWARTZER: Could we switch over? Thank you.

10 THE COURT RECORDER: I apologize.

11 MR. SCHWARTZER: That's fine. Sorry. Compact disc
12 is apparently a slow technology.

13 BY MR. SCHWARTZER:

14 Q But while we're talking about this, were you asked
15 to research whether there was an individual by the name of
16 Mario Trejo employed by SuperPawn?

17 A Yes, sir, I was.

18 Q And were you able to find records, or were you
19 informed of records of Mr. Trejo's employment?

20 A Yes, sir, I was.

21 Q And when was that employment?

22 A I was informed that he was employed with the company
23 between July of 2011 until November of 2012.

24 Q Okay. Now, do you know, from the records that you
25 were able to be informed by, were you able to tell whether he

1 was at that -- the 1150 store or any other store?

2 A I was not.

3 Q Okay. While that's loading, let's show you another
4 exhibit. Showing you what's been stipulated, admitted as
5 Exhibit 52. Do you recognize that photograph?

6 A Yes, sir.

7 Q Okay. And showing you Exhibit 3. Do you recognize
8 that?

9 A Yes, sir.

10 Q Is this the -- do you recognize what store that is?

11 A Yes, sir. That is the SuperPawn in question at --

12 Q So that's -- go ahead.

13 A That is the SuperPawn. Yes, sir.

14 Q Okay. So this Exhibit 3 is 1150 South Rainbow?

15 A Yes, sir.

16 Q And showing you Exhibit 52, that's 1150 South
17 Rainbow?

18 A That's correct.

19 Q In fact, we can see something in this photograph in
20 the middle. What is that?

21 A That would be a camera, sir.

22 Q Okay. And that's one of the cameras that were --
23 that were operational at that SuperPawn on September 3rd of
24 2018?

25 A That's correct.

1 Q Okay. Now, is there a lot of outdoor cameras for
2 this SuperPawn?

3 A No, sir, there were not.

4 Q And I guess I should be more specific. Back in
5 2018, were there a bunch of outdoor cameras for this store?

6 A No, sir, there were not.

7 Q Okay.

8 MR. SCHWARTZER: (Indiscernible). Thank you. Okay.

9 BY MR. SCHWARTZER:

10 Q Now that we have it finally blown up here, what are
11 we looking at?

12 A Those are 16 separate views from 16 separate cameras
13 inside the SuperPawn.

14 Q Do all 16 of the cameras work back in September 3rd
15 of 2018? And I'll press play so you can start watching them.

16 (Video is played.)

17 MR. TREJO: Objection.

18 THE COURT: Can you put it on pause, Mr. --

19 MR. SCHWARTZER: I did.

20 THE COURT: Okay, thank you.

21 MR. SCHWARTZER: And before Mr. Trejo goes into his
22 full objection, I'm just establishing the angles here before I
23 go into the full foundation of the video surveillance.

24 MR. TREJO: Your Honor, are we able to approach?

25 THE COURT: Sure.

1 He's asking to approach, Mr. Schwartzer.

2 (Bench conference)

3 MR. TREJO: Prejudice, this outweighs --

4 THE COURT: Probative.

5 MR. TREJO: -- probative value --

6 THE COURT: Value.

7 MR. TREJO: -- for the purpose of establishing

8 camera angles. Playing video would not serve purpose.

9 THE COURT: Okay. That's not a legal objection to
10 this. That's not a legal objection to what this is. It would
11 have to be relevance, or foundation, or something like that.
12 Prejudice outweighing probative value is something that is a
13 legal term, but it's not an objection.

14 Mike, do you want to come back?

15 MR. TREJO: I just think that playing this video
16 again would not serve purpose other than to shock and
17 prejudice the jurors.

18 THE COURT: Okay. That -- that's not an actual
19 legal basis for an objection, so I'm going to overrule it
20 based on that.

21 MR. SCHWARTZER: Thank you, Your Honor.

22 THE COURT: Thank you.

23 (End of bench conference)

24 MR. SCHWARTZER: May I proceed, Your Honor?

25 THE COURT: Yes.

1 MR. SCHWARTZER: All right.

2 BY MR. SCHWARTZER:

3 Q So, as we can see now after it's played a little bit
4 and some of the video has populated, not all 16 video cameras
5 appear to be working?

6 A Correct.

7 Q Okay. Now, this is from, again, September 3rd,
8 2018, correct?

9 A That is correct.

10 Q As far as you know, regarding -- and you're the
11 person most knowledgeable as deemed by SuperPawn. This date
12 is accurate?

13 A Yes, sir.

14 Q The time, 1300, that's military time?

15 A Yes, sir.

16 Q Again, as the person most knowledgeable from the
17 SuperPawn, is that time accurate?

18 A Yes, sir.

19 Q Okay. We see various different views here. Are you
20 familiar with the cameras for each of these views?

21 A Yes, sir.

22 Q Can you talk about the cameras for -- from each of
23 these views?

24 A Yes, sir.

25 Q I'm not going to ask you to do it right now.

1 And this, again, is a fair and accurate
2 representation, as the person most knowledgeable at SuperPawn,
3 regarding the video surveillance that was recovered from
4 September 3rd, 2018, between 1:00 o'clock and 1:20 p.m.?

5 A That's correct.

6 Q Okay.

7 MR. SCHWARTZER: I'll move for admission of Exhibit
8 9, Your Honor.

9 THE COURT: And, Mr. Trejo?

10 MR. TREJO: No response.

11 THE COURT: No objection?

12 MR. TREJO: No objection.

13 THE COURT: Okay. That'll be admitted without
14 objection.

15 MR. SCHWARTZER: Okay.

16 (State's Exhibit 9 is admitted.)

17 MR. SCHWARTZER: Okay.

18 THE COURT: And you said that was Number 9?

19 MR. SCHWARTZER: That's Exhibit 9, Your Honor.

20 THE COURT: Thank you.

21 MR. SCHWARTZER: May I have permission to publish
22 and freely go about the video?

23 THE COURT: Yes.

24 MR. SCHWARTZER: Thank you, Your Honor.

25 BY MR. SCHWARTZER:

1 Q So now, before we get into actually playing the
2 video, I want to talk about these angles. Number 1, could you
3 -- and just so the jury knows, when you're within the system,
4 if you double click on one of the views, in theory, the view
5 will blow up and be a bigger view, correct?

6 A Exactly. You may have to press play in order to
7 make it --

8 Q Okay. So when they're -- when the jury has this
9 video back in their deliberations, if they want to see
10 multiple views, that's -- or a view more close up, that's the
11 way to do it?

12 A That's correct.

13 Q And then to go back, you just keep pressing this
14 system right here, correct?

15 A That's correct.

16 Q Okay.

17 (Video is played.)

18 MR. SCHWARTZER: So I'm going to play it again.
19 Again, this time is accurate. I'm going to pause it here.
20 BY MR. SCHWARTZER:

21 Q So let's start with exhibit -- or what's been
22 labeled as 1 Entry in the top left corner of Exhibit 9. What
23 is that?

24 A That, sir, is the actual camera that you saw in the
25 picture that you -- you put up earlier, the black bulb inside

1 the camera from the exterior of the building. That camera is
2 mounted in the ceiling and pointed at the front door, and it
3 is a view of anybody coming in or going out of the building.

4 Q Okay. Exhibit 2, labeled as Exit, what is that?

5 A That would be what's considered a height strip
6 camera. The height strip camera is actually a hidden camera
7 that is positioned next to the doors. It's positioned in a
8 height strip that is not obvious and not viewable to the
9 general public as they were to come in or go out.

10 Q So, going back to the Number 1 where it says Entry,
11 where -- do you see where I'm moving, toggling the mouse?

12 A That's correct, sir. That is where the height strip
13 is at.

14 Q Okay. Going to Number 3, which is Loan Counter 1,
15 what are we looking at there?

16 A That's going to be a view look --

17 THE COURT: I'm sorry. Mr. Schwartzer, just for the
18 record, you are in the top left corner along the left side of
19 the door from where we're viewing this; is that correct?

20 MR. SCHWARTZER: I believe that is a correct
21 reflection of what I was --

22 THE COURT: Okay.

23 MR. SCHWARTZER: -- toggling between.

24 THE COURT: Thank you.

25 BY MR. SCHWARTZER:

1 Q Now I'm going to go to what's been labeled as Number
2 3 in Exhibit 9. Again, we're looking at a multi-camera angle.
3 What is in Number 3?

4 A Camera Number 3 is going to be located almost center
5 behind what we call the pawn counter or the register area.
6 That's going to cover the registers from the back view looking
7 down so that you'd be able to see customers coming up, as well
8 as that view would also be used for internal investigations.

9 Q Number 4, Loan Counter 2, is that similar to Loan
10 Counter 1?

11 A It is. Camera Number 4 is actually going to be
12 located -- if you were looking at Camera Number 3, it is going
13 to be located to the left of that, looking back down towards
14 the right.

15 Q So, going back to Camera Number 3, we see this woman
16 behind the counter?

17 A Correct.

18 Q Now, going to Camera 4, is this that you get a side
19 view?

20 A That would be her right there, right where the
21 pointer's -- that -- that would be that female.

22 Q Okay. And I'm pointing to -- it would be Camera 4,
23 to the individual to the most right in the camera angle?

24 A Correct. Well, there's --

25 Q Oh, the middle one. I didn't see --

1 A The middle person.

2 Q Okay.

3 A Yeah, that's correct.

4 Q Going to Camera Number 5. Where are we looking
5 there?

6 A That is the opposite view of Camera Number 4. So
7 that would be looking down to the left from the corner of the
8 store.

9 Q Camera Number 7. Where are we looking there?

10 A Camera Number 7 is a general view of the showroom
11 floor of the store.

12 Q And I'm just going to start playing them while we're
13 going through them.

14 What's Camera Number 9?

15 A Camera Number 9 is going -- it's another corner view
16 of the -- a general view of the showroom floor. It's going to
17 cover all the jewelry and general merchandise that's for sale.

18 Q Okay. Going to Camera Number 10.

19 A Camera Number 10 is looking directly down at the
20 pawn -- or at a pawn counter. That pawn counter is actually
21 located, as you were to enter to the store -- or enter the
22 store at the front doors, directly to the right.

23 Q Okay. And speaking of which, so if I'm pointing --
24 when I'm pointing in Camera Number 10, to the very right part
25 of that angle, we see kind of a popcorn machine?

1 A That's correct.

2 Q And then, going back up to Number 1, pointing to
3 the popcorn machine in the left part of that angle, is that
4 the same popcorn machine?

5 A That is the same popcorn machine, sir.

6 Q So, going back to Camera 10, this window area that
7 I'm toggling in the right corner of Angle 10, that's the
8 window to the front door; is that correct?

9 A That's correct.

10 Q Going to Camera Angle Number 14. What are we seeing
11 there?

12 A Camera Number 14 is going to be the interior of the
13 manager's office.

14 Q Okay. So we see two individuals in that -- in the
15 office; is that correct?

16 A That's correct.

17 Q Camera 15. What are we looking at?

18 A Camera Number 15 is going to be an exterior camera
19 that is looking down into the front parking lot of the
20 location kind of in a southerly direction. And almost
21 directly in front of that white car -- that -- the white car
22 that the cursor's on right now would be -- that'd be very
23 close to where the front door of the building is.

24 Q Okay. And then Camera Number 16 --

25 THE COURT: And I'm sorry. There are two cars that

1 appear to be white, so which -- can you just for the record
2 state which one you're talking about? They appear to be white
3 to me, so.

4 THE WITNESS: The one to the -- to the left of the
5 picture.

6 THE COURT: Okay, thank you.

7 THE WITNESS: That one.

8 MR. SCHWARTZER: Okay.

9 THE WITNESS: I apologize.

10 BY MR. SCHWARTZER:

11 Q So I'm pointing to the -- as you just described, the
12 car to the left in Angle 15, and that's listed as Outside 1;
13 is that correct?

14 A That's correct.

15 Q And then, Outside 2, we can see a white car and a
16 silver car. Is that a different angle from the same -- is
17 that a different angle for the same cars that we see in Angle
18 15?

19 A Yes, sir. That's correct.

20 Q Okay. And then, in -- Camera 8 has now since
21 populated. What's -- where are we looking in Camera Angle 8?

22 A That's going to be the jewelry display inside the
23 store.

24 Q Okay. These are a total -- these 12 angles are the
25 total amount of camera angles we have in the store; is that

1 correct?

2 A That's correct.

3 Q Okay. So there's no, like, Camera 11, I guess 12,
4 and 13?

5 A That's correct.

6 Q Okay. And the system kicked me off. Okay.

7 So what I saw from those angles was some outdoors,
8 but not -- but there's some covered, so you don't have
9 (indiscernible) outside; is that correct?

10 A That's correct.

11 Q So, specifically, I'm going to show you what's been
12 admitted by stipulation Exhibit 14. This area right here, is
13 there any camera angle in this area?

14 A No, sir.

15 THE COURT: Just for the record, say which area
16 you're --

17 MR. SCHWARTZER: Thank you, Your Honor.

18 I'm talking to the right side of the picture, which
19 is of the -- if you're facing the SuperPawn, on the right side
20 of that SuperPawn appears to be an alleyway with parking spots
21 by a brick wall that separates the SuperPawn from another
22 store.

23 THE WITNESS: Correct.

24 THE COURT: And in that -- in that picture, there is
25 a white car and it looks like a red car?

1 MR. SCHWARTZER: That's correct, Your Honor.

2 THE COURT: Okay.

3 BY MR. SCHWARTZER:

4 Q So there's no camera angles that would show this
5 general area where we're talking about where the white car and
6 the red car is, and where this alleyway is?

7 A Correct. There are no cameras.

8 Q Okay. Additionally, there's no cameras -- I noticed
9 when we were going through the camera angles there's no
10 cameras of the, like, front door outside area; is that
11 correct?

12 A That's correct.

13 Q Okay. So like if I'm showing you -- this is now
14 Exhibit 13 that's been admitted by stipulation. There is
15 nothing -- where I'm pointing right now, which is the very
16 front of the store in Exhibit 13, we can see what appears to
17 be a police officer there.

18 Right outside that area where those three yellow
19 pillars are, there's no camera angles that would capture that
20 area; is that correct?

21 A That's correct.

22 Q Okay. Additionally, there would be no -- so where
23 like -- do you know where the security door is in this
24 SuperPawn?

25 A Yes, sir.

1 Q Okay.

2 A The security door's -- yes, sir.

3 Q Okay. So where is the -- where is the security
4 doors for this SuperPawn?

5 A It would be a roll-down that is actually just on the
6 outside of the front glass doors.

7 Q Okay. And maybe we can get a better angle here
8 again by Exhibit 16, which has been admitted by stipulation.

9 Would it roll down? And where would it be on -- if
10 you were looking at Exhibit 16, where would these roll-down
11 doors be?

12 A It would be directly up against the --

13 MR. SCHWARTZER: Do you guys have --

14 THE COURT: I think that it went away during the
15 pandemic, so --

16 MR. SCHWARTZER: Oh, did it really?

17 THE COURT: Yeah.

18 MR. SCHWARTZER: Okay.

19 BY MR. SCHWARTZER:

20 Q All right, I guess I'm going to ask you to get off
21 the stand and show the ladies and gentlemen where it would be.

22 THE COURT: And also, if you can describe it for the
23 record.

24 THE WITNESS: Yes, Your Honor.

25 THE COURT: Thank you.

1 THE WITNESS: So the roll-down security doors at
2 this location --

3 THE COURT: Susie, can you hear him?

4 THE WITNESS: -- are actually here. They go
5 directly across the top of the door here and would roll down,
6 straight down, and then lock at the bottom.

7 THE COURT: So are you describing, sir, between the
8 pillars? It looks like between the yellow pillars in the area
9 -- no. I'm trying to describe what you're saying, and I can't
10 really see what you're pointing to.

11 THE WITNESS: Your Honor, the roll-down doors would
12 be -- they are attached to the front door itself that would
13 run across right here --

14 THE COURT: And that's --

15 THE WITNESS: -- up against the glass -- the front
16 glass doors.

17 THE COURT: Okay. So, in Number -- this is Exhibit
18 16 --

19 MR. SCHWARTZER: Correct, Your Honor.

20 THE COURT: -- Mr. Schwartzer?

21 In Number 16, it would be almost directly under the
22 J in Jewelry Center but back further, so it's flush against
23 the -- flush against the glass door. Is that what you're
24 describing?

25 THE WITNESS: That's correct, Your Honor.

1 THE COURT: And did that accurately describe it, Mr.

2 --

3 MR. SCHWARTZER: I believe it did, Your Honor.

4 THE COURT: Okay.

5 BY MR. SCHWARTZER:

6 Q So I'm going to actually make it a little bit easier
7 for you after you went through all that trouble.

8 Showing you Exhibit 4, which is admitted by
9 stipulation, we can actually see it; is that correct?

10 THE COURT: Can you make it smaller so that they can
11 see --

12 MR. SCHWARTZER: Sure.

13 THE COURT: -- the whole thing?

14 MR. SCHWARTZER: Does that work?

15 THE COURT: I think the -- I think the top is what
16 you kind of want to show them.

17 THE CLERK: You're zooming in.

18 THE COURT: Yeah, you're zooming the wrong way.
19 Yeah, there it is.

20 MR. SCHWARTZER: So there we go. There's the
21 security door.

22 BY MR. SCHWARTZER:

23 Q Showing you Exhibit 5, again, admitted by
24 stipulation. I'll bring it down a little bit. We can see
25 also the same security door.

1 THE COURT: And that is in the top left corner of
2 Exhibit -- what number was that?

3 MR. SCHWARTZER: Exhibit 5.

4 THE COURT: 5.

5 BY MR. SCHWARTZER:

6 Q So, after that, that's where the security door was;
7 is that correct?

8 A That's correct.

9 Q Okay. There's no camera of that security door?

10 A No, sir.

11 Q Okay. All right, so going back to the video.

12 (Video is played.)

13 BY MR. SCHWARTZER:

14 Q Now we're at 1303. That's 1:03, now about to be
15 1:04 p.m. on September 3rd, 2018?

16 A That's correct, sir.

17 Q Okay. I'm going to fast-forward it. Okay. So now
18 we're at -- we're at 1:08 p.m. with one second?

19 A Yes, sir.

20 Q And that's where we can see a person enter exhibit
21 -- through Entry 1 on Exhibit 9 with a motorcycle helmet,
22 appearing to be pointing something; is that correct?

23 A That's correct, sir.

24 Q Okay. Now, this video eventually ends about 1:20;
25 is that correct?

1 A That's correct, sir.

2 Q And is that because nothing else of substance occurs
3 in the store after that?

4 A That's correct, sir.

5 Q Okay. Is it your -- based -- as the person most
6 knowledgeable regarding this store, regarding that incident on
7 September 3rd of 2018, was jewelry actually taken outside of
8 the store?

9 A Yes, sir.

10 Q Do you know the -- roughly, approximately what the
11 cost amount of that jewelry was?

12 A The cost amount was, I believe, somewhere around
13 \$9,000.

14 Q And how about -- do you recall the retail amount?

15 A The retail amount was approximately 38,000.

16 Q Okay. And by cost amount, that's how much it cost
17 SuperPawn to have the jewelry?

18 A Yes, sir.

19 Q And the retail amount, just -- and correct me if I'm
20 wrong. That's the amount that you would sell it for?

21 A That's correct.

22 Q Okay. And then was there cash also taken as well?

23 A Yes, sir.

24 Q And roughly how much -- how much cash was taken?

25 A Roughly \$3500 in cash.

1 MR. SCHWARTZER: Thank you, sir. I have no further
2 questions.

3 THE COURT: Mr. Trejo?

4 MR. TREJO: No cross-examination.

5 THE COURT: Okay, thank you.

6 Do you have your next witness, Mr. Schwartzer?

7 I'm sorry. Questions. Thank you, Ro.

8 MR. SCHWARTZER: Your Honor, if I can just reopen or
9 redirect. I know there wasn't direct, but recall and do
10 direct about something that I forgot to ask.

11 THE COURT: Mr. Trejo, any objection to him asking
12 additional questions? You didn't have anything.

13 MR. TREJO: No objection.

14 THE COURT: Okay. So go ahead, Mr. Schwartzer.

15 MR. SCHWARTZER: I guess I -- I was -- while I was
16 talking with my co-counsel, I don't know if I was clear.

17 BY MR. SCHWARTZER:

18 Q So, on August 4th of 2018, you had video
19 surveillance working, correct?

20 A That's correct.

21 Q And that surveillance has since been gone, correct?

22 A That's correct.

23 Q But there was no video of the front door -- we
24 established there's no video surveillance of the front door;
25 is that correct?

1 A That's correct.

2 Q And there's no video surveillance of that parking
3 area where we saw the photograph of the white and -- the white
4 and red vehicle; is that correct?

5 A That is correct.

6 Q So, even if that wasn't erased, those -- there
7 wouldn't be video of those angles no matter what?

8 A That's correct.

9 Q Okay.

10 MR. SCHWARTZER: That's all I have, Your Honor.
11 Thank you.

12 THE COURT: Thank you.

13 Anything based on those questions, Mr. Trejo?

14 MR. TREJO: No, Your Honor.

15 THE COURT: Okay. So, juror questions? I don't see
16 any juror questions on this witness.

17 So, Mr. Hiner, you are excused. Please do not
18 discuss your testimony with anyone.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: Does anyone need a bathroom break
21 besides me, or is it just me? Looks like it's just me. I
22 will hold it.

23 Who's your next witness?

24 MR. SCHWARTZER: Julie Saldana.

25 THE MARSHAL: Say that again.

1 MR. SCHWARTZER: Julie.

2 THE MARSHAL: Julie?

3 We got a couple steps for you. Remain standing and
4 face the clerk. She's going to swear you in.

5 THE CLERK: Please raise your right hand.

6 JULIANA SALDANA, STATE'S WITNESS, SWORN

7 THE CLERK: Can you please state and spell your name
8 for the record?

9 THE WITNESS: Juliana Saldana. J-u-l-i-a-n-a,
10 S-a-l-d-a-n-a.

11 THE CLERK: Thank you. You can have a seat.

12 MR. SCHWARTZER: May I proceed, Your Honor?

13 THE COURT: Yes. And do you want to take it off
14 WePresent, or do you need her --

15 MR. SCHWARTZER: I'm going to eventually use that --

16 THE COURT: Okay, then don't worry about it.

17 MR. SCHWARTZER: -- (indiscernible) switch over.

18 THE COURT: I was like, don't worry about it then.

19 DIRECT EXAMINATION

20 BY MR. SCHWARTZER:

21 Q Do you mind if I call you Julie?

22 A Yes.

23 Q You have to --

24 A Yes.

25 Q You have to answer --

1 A Yes.

2 Q Okay. So just some rules before we go forward.
3 Everything's being taken down by the court reporter here. So
4 --

5 A Okay.

6 Q -- I know we typically say "uh-huh," and we've
7 talked before. "Uh-huh" and stuff like that doesn't translate
8 to the court record. So if the question requires a yes or no,
9 just state a yes or no, okay?

10 A Okay.

11 Q I know it's hard to do. I'll remind you sometimes.

12 A Okay.

13 Q I'm sure you're nervous to be here, right?

14 A Yes.

15 Q Okay. Julie, could you tell the jury where you
16 worked in August of 2018?

17 A I worked at SuperPawn. Well, Cash America,
18 SuperPawn.

19 Q And where was that?

20 A 1150 South Rainbow Boulevard.

21 Q Okay. And what did you do there?

22 A I was a pawn broker.

23 Q What's a pawn broker?

24 A I've taken loans and buy and sell hard goods and
25 jewelry.

1 Q How did you get into it?

2 A It was a very, like, close-knit little company. I
3 got into it with two of my friends, and my brother also worked
4 for another shop, so that's how I got the job.

5 Q Okay. How long were you working there by 2018?

6 A I worked there for a little over -- oh, back in
7 2018?

8 Q Yeah.

9 A Just a few months.

10 Q Okay.

11 A Yeah.

12 Q Do you remember, like, roughly when you were hired
13 or when you started working there?

14 A January. Oh, so, yeah, almost a year.

15 Q Okay. So you started working there about January of
16 2018?

17 A Yes.

18 Q So, by August, you were there about -- about eight
19 months?

20 A Yeah.

21 Q Okay. So what were your typical hours at the store?

22 A I believe we -- our opening shift was 8:00, and I
23 would get off at like 5:00 or 6:00.

24 Q Okay. Did you -- so you said opening shift was 8:00
25 to 5:00?

1 A Yes.

2 Q Did people come in afterwards typically to work, or
3 did the store close around 5:00?

4 A The store closed --

5 Q Okay.

6 A -- at 8:00. There was like a closing shift, which
7 is like noon to 8:00.

8 Q Noon to 8:00?

9 A Um-hum.

10 Q So you would work 8:00 to 5:00, but some people
11 would work from noon to 8:00?

12 A Um-hum, or 9:00.

13 THE COURT: Can you just say yes or no?

14 THE WITNESS: Yes. Sorry.

15 THE COURT: Thank you. Sorry about that.

16 MR. SCHWARTZER: See, I forget sometimes, too.

17 BY MR. SCHWARTZER:

18 Q Now, in the holidays -- and we'll get into September
19 3rd at some point, but I'm going to start with August. On
20 holidays, is there sometimes shortened hours as well?

21 A Yes.

22 Q So, as a pawn broker in the opening shift, did you
23 sometimes get to the store when it opened?

24 A An hour before it opened.

25 Q Okay. And when would that typically be?

1 A Like, so, if our store opened at 9:00 that day, we'd
2 be in at 8:00.

3 Q Okay. And so what was the procedure in opening?

4 A We would wait till everyone got to the store so that
5 we could all open the locks in the front of the store
6 together. So the pawn brokers typically would just wait out
7 until whatever store manager was available to open the locks.

8 Q Okay. So what would you do when you were waiting
9 for the manager?

10 A Just wait in our cars.

11 Q So I want to direct your attention to August 4th of
12 2018. Do you remember that day?

13 A Yes.

14 Q Okay. Do you remember when you were supposed to
15 start that day?

16 A I believe 8:00.

17 Q Okay. So did you arrive -- how did you get to the
18 SuperPawn?

19 A I drove there.

20 Q To be clear, that SuperPawn, that's at 1150 Rainbow?

21 A Yes.

22 Q And that's here in Clark County, Nevada?

23 A Yes.

24 Q Okay. What did you drive?

25 A At the time, I drove a 2002 Jeep Liberty.

1 Q Okay. Who was -- who was meeting you there?

2 A It was my coworker Ivan and my manager Jennifer.

3 Q Okay. Do you remember either of their last names?

4 A Ivan Jaquez and Jennifer Incera.

5 Q Okay. Do you know if you got there first, second,
6 third?

7 A I don't remember who got there first, but it was me
8 and Ivan first, and then Jennifer.

9 Q Okay. What did you do while you were waiting for
10 Jennifer?

11 A We were just waiting in our cars.

12 Q Who was the manager that day?

13 A Jennifer.

14 Q Is -- was Jennifer the manager of that store?

15 A Yes.

16 Q Okay. What does a manager typically do, if you
17 remember?

18 A Like, in the opening procedures?

19 Q Yes.

20 A She just gets out of her car, and then we have two
21 locks to unlock, and then she pulls down -- or she pulls up
22 the gate that is covering the store door.

23 Q Okay. That's in the -- kind of like flush against
24 the -- flush against the front door?

25 A Um-hum. And then she just unlocks the front door,

1 and then we lock it behind us, and then we do some opening
2 procedures.

3 Q You said "um-hum" in the beginning there. Did you
4 mean yes?

5 A Oh, yes.

6 Q Okay. Okay. So that day, Jennifer got there last?

7 A Yes.

8 Q Okay. Do you remember where you parked, where Ivan
9 parked, and where Jennifer parked?

10 A I just remember where I was parked, on the left side
11 of the building.

12 Q Okay. Once you -- once Jennifer got there, what
13 happened?

14 A Jennifer got there. We met in front of the store.
15 She went to go unlock one lock, and as she's going to unlock
16 the other lock, we see somebody pacing towards us. And it
17 took us a while to realize, but Jennifer was -- she said,
18 we're getting robbed, we're getting robbed. And then we ran
19 to the left side where my car was parked, and we hid behind my
20 car and --

21 Q I'm going to stop you right there because I got to
22 break it down a little bit more, okay?

23 A Okay.

24 Q So Jennifer already unlocked one of the locks?

25 A Um-hum. Yes.

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MARIO TREJO,) No. 84724
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 Appellant,)
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 v.)
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 THE STATE OF NEVADA,)
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 Respondent.)
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