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IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIO TREJO,	)	No. 84724
	)	
Appellant,	)	Electronically Filed
	)	Feb 16 2023 01:59 PM
v.	)	Elizabeth A. Brown
	)	Clerk of Supreme Court
THE STATE OF NEVADA,	)	
	)	
Respondent.	)	
	)	

APPELLANT’S APPENDIX VOLUME XIII PAGES 2926-3175

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**Case No. 84724**

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1 THE COURT: Mr. Trejo, it sounds like you didn't --  
2 I mean, you knew that -- that there were things that could  
3 happen with you representing yourself. And you didn't provide  
4 the reciprocal discovery to the State. You didn't give a  
5 notice of witness or a notice of expert witness.

6 Expert witness has to be 21 days prior to -- is it  
7 21 days prior trial or 21 days prior to calendar call? It's  
8 going to --

9 MR. SCHWARTZER: Prior to trial, Your Honor.

10 THE COURT: I was going to say, I thought it was  
11 prior to trial. That's supposed to be three weeks prior to  
12 trial, and this is the third week of the trial. So if you  
13 were going to use her as an expert, it's long past the time.

14 If you were just going to use her as a non-expert,  
15 it still has to be five days prior to trial, and this is week  
16 three of the trial and you haven't done a -- an expert -- or a  
17 witness notice.

18 And so based on that, Mr. Trejo, I'm sorry, but I'm  
19 going to have to exclude this witness.

20 MR. SCHWARTZER: Thank you, Your Honor.

21 One other thing outside -- outside the presence --

22 THE COURT: I was going to ask him about the *Carter*  
23 instruction.

24 MR. SCHWARTZER: Oh. Thank you, Your Honor.

25 THE COURT: So -- before we forgot.

1           So Mr. Trejo, there is an instruction called a  
2 *Carter* instruction that talks about the fact that jurors  
3 cannot take into any part of their deliberation that a  
4 defendant did not testify. And sometimes you want to use it,  
5 sometimes you don't want to bring attention to the fact that  
6 you didn't testify or anything like that.

7           So do you want the State to include that *Carter*  
8 instruction as part of their packet of instructions to give?

9           THE COURT: While he's writing I'm just going to run  
10 to the restroom. Hopefully I can -- I got dizzy when I stood  
11 up again, so.

12                           (Pause in the proceedings)

13           THE COURT: Okay. Sorry about that.

14           Go ahead, Mr. Trejo.

15           MR. TREJO: I was actually considering testifying on  
16 Tuesday --

17           THE COURT: Okay.

18           MR. TREJO: -- perhaps Wednesday if there's no time  
19 on Tuesday. But just in case, the State can include the  
20 *Carter* instruction.

21           THE COURT: Okay.

22           MR. SCHWARTZER: There's --

23           THE COURT: So if you'll include the *Carter*  
24 instruction in your packet of instructions.

25           MR. SCHWARTZER: We will, Your Honor.

1 THE COURT: And you said there was something else?

2 MR. SCHWARTZER: Yes, Your Honor. Could we start at  
3 -- I know you typically, on Tuesday, we start at 10:30. Could  
4 we start at 11:00 on Tuesday?

5 THE COURT: Yeah.

6 MR. SCHWARTZER: Thank you.

7 That's it.

8 THE COURT: Okay. Thank you.

9 And just so you guys all I know, I know Ms. Heap saw  
10 it, but I was sitting here and I got dizzy this morning and I  
11 keep getting dizzy spells. So there might be some times where  
12 we might have to stop, because I'm -- I'm -- I don't know  
13 what's going on, but I'm not feeling great so.

14 Okay, you can go grab the jury.

15 (In the presence of the jury)

16 THE COURT: Will the parties stipulate to the  
17 presence of the jury?

18 MR. SCHWARTZER: Yes, Your Honor.

19 MR. TREJO: I do, Your Honor.

20 THE COURT: Thank you. Please be seated.

21 Ladies and gentlemen, I just have to apologize to  
22 you all for the late start. I've been having asthma issues  
23 all morning and so with all the wind that's going on and stuff  
24 like that so my asthma's been going crazy. So sorry about the  
25 late start this morning.

1 Mr. Schwartzer, can you call your next witness?

2 MR. SCHWARTZER: State calls Adriane Serrano-  
3 Borjorquez.

4 ADRIANE SERRANO-BORJORQUEZ, STATE'S WITNESS, SWORN

5 THE CLERK: Can you please state and spell your name  
6 for the record?

7 THE WITNESS: Yes, ma'am. Adriane Serrano-  
8 Borjorquez, A-d-r-i-a-n-e, S-e-r-r-a-n-o, B-o-j-o-r-q-u-e-z.

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

10 THE WITNESS: Thank you, ma'am.

11 THE COURT: Mr. Schwartzer, please?

12 MR. SCHWARTZER: Thank you.

13 DIRECT EXAMINATION

14 BY MR. SCHWARTZER:

15 Q Do you mind if I call you Adriane?

16 A Go ahead.

17 Q Adriane, thank you for coming to Court today. We're  
18 going to talk about some things that occurred on September 3rd  
19 of 2018. And you know that that's why you're here today;  
20 right?

21 A Yes.

22 Q Okay. Can you tell the ladies and gentlemen of the  
23 jury where you worked on September 3rd of 2018?

24 A Yes. So on September 3rd, 2018, I was working as an  
25 assistant store manager at SuperPawn. And that's located at

1 1150 South Rainbow Boulevard.

2 Q And I want to show --

3 MR. SCHWARTZER: Your Honor, can I publish  
4 previously admitted exhibits?

5 THE COURT: Yes.

6 BY MR. SCHWARTZER:

7 Q Showing you Exhibit 14, real quick. Is that the  
8 SuperPawn you worked at?

9 A Yes.

10 Q What does the assistant manager do?

11 A So my role as an assistant manager was to make sure  
12 that the shop would run smoothly and making sure that any  
13 customers that needed help would be helped, taking collateral  
14 loans, tell people if they were short on rent. Also, selling  
15 objects that were either sold to us or no longer picked up by  
16 the original owner.

17 I am also responsible at the time for taking in  
18 jewelry, batching it, and boxing it, which essentially just  
19 translates to getting it ready to be shipped out so that they  
20 can refurbish it and send it back to our store so we can sell  
21 it.

22 Q And where do you do that jewelry inventory and  
23 boxing?

24 A So because it is, you know, really expensive  
25 jewelry, we typically do that in the manager's office away

1 from the sales floor, away from the view of any customers or  
2 people who are doing pawn loans.

3 Q So on September 3rd of 2018, were you working that  
4 day?

5 A Yes.

6 Q Do you know what kind of day it was?

7 A Yeah. So it was a pretty slow day. It was Monday.  
8 And it was a holiday, Labor Day, if I'm not mistaken. And so  
9 I was the only manager on duty at the time. Usually if it's a  
10 holiday, we can run the store with shortened hours, 9:00 to  
11 5:00.

12 So I was in the office with a co-worker batching,  
13 getting all the jewelry ready for transport.

14 Q Do you recall how many people were working that day?

15 A Yes. There were seven employees.

16 Q Okay. Can you name them?

17 A Yeah. So there's Julie, Gio, Jonathan, Melani,  
18 Carla, myself, and Ivan.

19 Q And do you know Carla's name

20 A Yes. Carla Reck.

21 Q And does -- Carla doesn't live here in Las Vegas  
22 anymore?

23 A No. She moved.

24 Q Okay. And so all seven of you are entrusted with  
25 that property at that SuperPawn?

1           A     Correct.

2           Q     Okay. So you said it was a relatively slow day.

3           A     Yes.

4           Q     Is that typical for holidays?

5           A     Not normally. We usually have sales where customers  
6 can get special discounts, discounted rates for jewelry or a  
7 wide variety of things that they sell. So usually they're a  
8 little bit busier, but it was super slow that week.

9           Q     Okay. Now, I want to bring your attention to  
10 roughly about 1:07 p.m., going to 1:08 p.m. that day. What  
11 were you doing at the time?

12          A     So I was continuing the process of batching jewelry,  
13 getting it ready for transport. And I was having Giovanni  
14 verify the jewelry. We want to make sure that we don't have  
15 any missing pieces and that, you know, everything is accounted  
16 for when it goes out, and when it comes in. So I was in the  
17 office with him verifying everything.

18          Q     What's the view like from the office? Are you able  
19 to see out into the store floor?

20          A     So there is a large window that has a -- like a one-  
21 way you can see out, but you can't really see in. So I had a  
22 view of the sales floor from there. But I was facing the  
23 computer that was in the corner.

24          Q     So was this, you and Giovanni were in the office?

25          A     Correct.

1 Q Was the other employees out on the floor?

2 A Yes. Jonathan, he was what we call a floor general.  
3 That's someone who stands by the door, greets our customers,  
4 and it is essentially a presence on the sales floor in case  
5 customers need help. And then, I believe, Ms. Carla was in  
6 the back warehouse. Melani and everyone else, they were on  
7 the -- the sales floor or the loan counter.

8 Q Okay. So what happened at 1:00 -- around 1:07 p.m.?

9 A So I hear the door open and Julie just started  
10 screaming two-ten, two-ten, two-ten.

11 Q How did Julie look when she ran in?

12 A She was terrified. She was so scared. And I -- I  
13 knew that something was wrong. You know, when we typically  
14 use 210, which is verbiage that we use in order to identify  
15 suspicious activity or anything that we need to keep an eye  
16 on, whether it's someone trying to take something discreetly,  
17 or if it is like an event that needs attention.

18 So when I saw her face, I knew something was wrong.  
19 So she -- she came in and -- sorry.

20 Q It's okay. Take your time.

21 Just if you're (indiscernible) you can have some  
22 (indiscernible).

23 A So that's when I looked up. And I saw Jonathan who  
24 had a gun pointed at his head. And I knew we were being  
25 robbed.



1           Q     The person who was pointing the gun at Jonathan's  
2 head, were you able to get a look at that person?

3           A     I saw him initially, but through the course of the  
4 robbery, I did get to see his -- his eyes, his eyebrows --

5           Q     Well --

6           A     This portion (indicating).

7           Q     -- did you see what the person was wearing at the  
8 time he was pointing a gun at Jonathan?

9           A     Yes.

10          Q     Can you --

11          A     He was wearing a black helmet. He had a -- a --  
12 what looked like a Kevlar vest. He had a belt on with knives  
13 on it and it was a black jacket, black gloves, black helmet,  
14 and the firearm. And then another weapon strapped to his  
15 shoulder.

16          Q     What -- what did that firearm that he was holding at  
17 Jonathan look like?

18          A     It looked like a Glock.

19          Q     Okay.

20          A     A handgun.

21          Q     Do you kind of use those terms indiscriminating,  
22 like Glock handgun --

23          A     Interchangeably. So --

24          Q     Interchangeably. Thank you.

25          A     -- yes.

1 Q What did this handgun look like, like color-wise?

2 A So it was black, full metal black. I couldn't tell  
3 the caliber. But, I mean, a gun is a gun. And he -- he was  
4 aiming it at Jonathan ordering everyone to, you know, come out  
5 and to lay down on the sales floor.

6 Q What did you do?

7 A I didn't comply to the get down. I exited the --  
8 the office. But before he could see that I was in there, I  
9 grabbed all the jewelry I was working on and I threw it under  
10 the -- the counter. I didn't want him to get anything. Or at  
11 least minimize what he could do in terms of damage.

12 So then Gio goes out first. And I follow holding my  
13 sales keys in my right hand to show that I was the manager so  
14 he wouldn't hurt my employees.

15 Q Did you hear him ask for the manager or did you just  
16 volunteer yourself to be the manager?

17 A When we go through training as management, they  
18 always tell us to give the person who is doing the robbery  
19 what they want so they can get out. So by identifying myself  
20 as the manager, I was hoping to reduce the damage that could  
21 have potentially been done to my staff.

22 Q Were you afraid that he could harm you if you didn't  
23 volunteer as the manager?

24 A Absolutely.

25 Q Were you afraid he might hurt the other employees if

1 you didn't volunteer yourself as the manager?

2 A Yeah.

3 Q How old is Julie at the time?

4 A Julie hadn't even turned 21. She was the youngest  
5 of our staff. I hired her myself. I'm sorry.

6 Q That's okay.

7 Now you also mentioned there was a weapon strapped  
8 to the helmet guy's back. Can you describe what you saw to  
9 the ladies and gentlemen of the jury?

10 A I'm sorry. The weapon on his back?

11 Q Yes.

12 A So it to me is like some type of automatic weapon, a  
13 rifle, it looked like an AK. I couldn't tell the specific  
14 make or model. And but it looked just like an assault weapon,  
15 the more aggressive kind that you see on TV and so I wasn't  
16 familiar with that one, but I knew the Glock.

17 Q Did that also add to your fear, having that weapon  
18 attached to the helmet guy's back?

19 A Absolutely.

20 Q And then the helmet, was it like -- what kind of  
21 helmet was it?

22 A So it's a motorcycle helmet. It was black. The  
23 visor was down upon entry.

24 Q With the visor down --

25 A And --

1 Q -- are you able to see into the helmet?

2 A No. It was like a reflective coating on the glass  
3 or the visor.

4 Q So once you come up and say you're the manager,  
5 what's going on with the other employees?

6 A He's ordering them onto the ground in front of the  
7 loan counter, to remain there. He said, everybody out. Get  
8 down. I don't want to shoot you. Get down. And that's when  
9 he asked who's the manager and I told him, I'm right here.  
10 Just tell me what you want.

11 And so he had me go into the office and set the  
12 safe. He told me to set the safe.

13 Now, our safe is a time delay safe so we can't just  
14 open it whenever we want. We have to put in a code. We have  
15 to wait approximately five minutes. At that point, it will  
16 beep again. And at that point you can put the code in again  
17 to open it. But there's no way to get in.

18 Q Before we get to the safe, did he have you do  
19 anything at the front door?

20 A Yes. So he handed me zip ties.

21 Q Okay.

22 A And instructed me to zip tie the door. So I -- I  
23 went and he was standing where the swinging door is keeping an  
24 eye on everyone who was on the floor.

25 So I go and I try to zip tie the door but it -- it

1 was not working. So I just -- I left it on as best I could.

2 And you know, went back for further instruction.

3 Q Did he ask you to set the safe before or after the  
4 zip ties, if you remember?

5 A Before.

6 Q Okay. And did the terminology "set the safe" or was  
7 it something just like "get to the safe" if you recall?

8 A I can't recall with 100 percent certainty.

9 Q Sure. I don't want you to guess at it. So did you  
10 go, just quote/unquote "set the safe?"

11 A I did.

12 Q Okay. So after doing that, and zip tying the door,  
13 what was the next thing that happened?

14 In my mind, in my memory, I recall going to the  
15 tills and having him order me to open them.

16 Q Now, you're saying in your memory.

17 A Right.

18 Q Fair to say that you've seen the video since this  
19 has occurred?

20 A Correct.

21 Q Specifically, while you've talked with me in -- and  
22 you've -- and shown portions of the video; is that correct?

23 A Right.

24 Q Okay. So and I want just what you remember in what  
25 order; okay?

1           A     Okay.

2           Q     So before we get to the tills, is there any money  
3 from the office that was provided?

4           A     Yes. There's a small portion on the top half of the  
5 safe that you can access with a key. So he instructed me,  
6 told me to get the money from the top. And then he had me  
7 open the backpack and put the money in there. So --

8           Q     Where was this backpack?

9           A     -- the -- his backpack?

10          Q     Did he bring that backpack in --

11          A     Yes.

12          Q     -- with him?

13          A     A black backpack, tons of pockets in it.

14          Q     And by him we're talking about the motorcycle helmet  
15 person?

16          A     Correct.

17          Q     Okay. So you provide the money from inside the  
18 office and you put it inside the backpack?

19          A     Yes.

20          Q     Okay. After that, is that when you go to the tills?

21          A     Yes. So we go to the tills and he tells me to open  
22 them, to give him all the money from them. And when I go to  
23 reach for the first till, which was my till, he stopped me and  
24 said, no, I don't want any of that track pack shit -- pardon  
25 my language.

1           And so I was confused because people don't know that  
2 we have track packs in our money unless you're a frequent  
3 customer or have formerly worked for the company. So he  
4 checked it and saw that there wasn't anything. And then I  
5 proceeded to open four more tills and put the money in the  
6 backpack.

7           Q     Do you know roughly how much cash you were able to  
8 get to him?

9           A     So typically I would not have kept more than 2,000  
10 in the top of the till -- or the -- the safe. And in the  
11 tills I never kept more than ten -- or \$1,025. So maybe  
12 5,000.

13          Q     And that's just you guessing?

14          A     That's -- yeah, like it's been a minute. I don't  
15 recall the exact amount. But if I had to take a guess, it  
16 would be approximately \$4,000 to \$5,000.

17          Q     And you weren't like counting the dollars as  
18 you're --

19          A     No, I just shoved the money in the backpack.

20          Q     And why did you do that?

21          A     Because he had a gun to my head. And I didn't want  
22 to get hurt.

23          Q     Okay. After the tills, what happened?

24          A     So after the tills, he ordered me to open the  
25 jewelry cases and to give him jewelry. I didn't have the key

1 that he wanted for the -- the back case. So I tried to go  
2 into what we call our high line case. Our high line case is  
3 where we have our high end pieces. But we also have a jewelry  
4 fixture that when you lift it up, it has a silent alarm. And  
5 when I tried to open that case he said, no, no, no. I don't  
6 want anything from the cases. I want everything from the  
7 wall.

8           So that was another indication that he had some type  
9 of insight to how the SuperPawn functioned. But I didn't have  
10 the key to that wall. We had a very limited number of keys.  
11 So I -- my associates have them, but we had an extra set in  
12 the office.

13           So I had to go back to get that key. And while I  
14 was grabbing that, I recall him telling them, don't every --  
15 don't anybody move. I don't want to hurt you guys. Don't  
16 move. I don't want to have to shoot you.

17           So when I get back and I'm trying to get the lock  
18 off of it, but I couldn't figure out which key it was. I  
19 don't typically show jewelry myself. I usually do more  
20 managerial things, more administrative things.

21           So I got frustrated. And the key broke, the ring  
22 that holds it. But I finally was able to get it opened. And  
23 I went for all the lower end pieces trying to, again, minimize  
24 the amount of money that he would be taking.

25           We did have larger pieces, but I didn't want him to



1 get any of that.

2 Q And why is that?

3 A Why would I want to help someone who is stealing  
4 from us? If I can reduce the damage that's done for the  
5 company, that I've worked for for years, why would I willingly  
6 do that? It doesn't make sense. So I was trying to give him  
7 the thinnest chains that I could.

8 Q And so did you give him that jewelry?

9 A I had to. He had a gun to me.

10 Q Of course. And where did he place that jewelry?

11 A He had me place it inside of the same backpack.

12 Q Okay. And how about -- and I guess I don't think to  
13 ask about the money in the tills. Where did that money go?

14 A In the backpack as well.

15 Q Now, you were talking about the -- the security  
16 functions, the jewelry, the track pack. Is there also other  
17 alarms in the SuperPawn as well?

18 A Yes. So we have, at the time, alarm pendants. I  
19 had my pendant on me. And it's a -- it looks like garage door  
20 opener, but it's designed to alert the security company,  
21 subsequently, Las Vegas Metropolitan Police Department, that  
22 their service, their help is needed at a specific location.

23 So earlier, before he had me do anything, I smashed  
24 the buttons on the pendent to try to get them here either  
25 directly after he left or beforehand so they can stop him.

1           Q     So after you able to get that jewelry opened and  
2 give the man with the motorcycle helmet the chains, do you  
3 recall what happens after that?

4           A     He took me back into the office and was frustrated.  
5 He asked me why it was taking so long. I told him it's a time  
6 delay. I can't do anything, you know, and while we were  
7 standing before he took me into the office we were standing by  
8 the swinging door and a couple came in.

9           Q     Let me stop you right there. You said a couple came  
10 in. But you -- you zipped it -- you zip tied the door; is  
11 that correct?

12          A     I did. So the male, he tried to open the -- the  
13 door. They looked at the hours. And so he managed to pull  
14 the door hard enough for the zip tie to come off and he became  
15 angry. He said, I thought I told you to zip tie the door.  
16 And I told him, I did, I did, but the zip ties suck.

17                 So I mentally yelled at myself because you should  
18 never say anything stupid to someone who has a gun on you, but  
19 I -- I couldn't help it. So he managed to get the door open.  
20 And so he had said, no, come on guys. Come on in. Let's go.

21          Q     Who's saying come on in?

22          A     The man with the gun and the helmet.

23          Q     Who was he talking to?

24          A     To the customers that were by the door. And I just  
25 kept shaking my head and I told them, no, no, go, run.

1 Q Can you describe the people at the door?

2 A Yes. It was a 6-foot-5 black male and a shorter,  
3 five -- maybe 5-foot-5 black female.

4 Q And so the person with the motorcycle helmet's  
5 trying to get them inside the store?

6 A Yeah.

7 Q And then you say something to them as well?

8 A Yeah. I told them, don't. I told them run. Go. I  
9 didn't want them in that situation.

10 Q What did that couple do?

11 A They ran thankfully.

12 Q Okay. Let's go back to after the jewelry, after the  
13 tills, when you're back in the office waiting on the safe.  
14 You said the person with the motorcycle helmet was getting  
15 frustrated --

16 A Yeah.

17 Q -- because of the time. Is that correct?

18 A That is correct.

19 Q How did that make you feel?

20 A Panicked. I didn't know if he would shoot us or,  
21 you know, target any of my employees. And when people become  
22 desperate they -- they will do anything to get out.

23 Q And was this going through your mind when this was  
24 happening?

25 A Absolutely. And then --

1           Q     So what happens while you guys are there in the  
2 office?

3           A     He had lifted his visor to get a -- assumably a  
4 better look towards the front door. He was frustrated. He  
5 said, why isn't it opening? And I told him, again, I -- I --  
6 it's a time delay. There's nothing I can do. And he had  
7 lifted the visor and I got a look at his eyes, his eyebrows,  
8 the bridge of his nose and I had recognized him. It took me a  
9 minute to figure out who he was.

10                But so then he -- he goes to the front door and I'm  
11 standing by the swinging door. And he said, you have to let  
12 me out through the back, the back door. You have to let me  
13 out through the back door. And --

14           Q     I'll stop you before we get to the back door. You  
15 said you recognized the person when they opened up the visor.

16           A     Yes.

17           Q     The person in the motorcycle helmet. Were you able  
18 to name him at that time?

19           A     It --

20           Q     Or did it take you awhile to kind of figure out who  
21 he was?

22           A     It took me a minute. After we were separated and at  
23 the AutoZone they told us don't talk to anybody until after we  
24 get your statements. So after we had completed the  
25 statements, I went to my store manager, Jennifer, and I told

1 her that he looked really familiar. And I told her, I believe  
2 his name is Mario. And like I can't remember the last name  
3 right now, but I just kept thinking about it, thinking it  
4 over, and over, and over, and eventually it did click, that  
5 his name was Mario Trejo.

6 Q Do you see the person who had that motorcycle helmet  
7 and that gun, in the courtroom today?

8 A Yes.

9 Q Can you identify a piece of clothing he's wearing  
10 and point to him?

11 A (Indicating).

12 Q What is he wearing, Adriane?

13 A I don't want to look at him.

14 Q I'm only going to ask you to do it briefly. I just  
15 need a description of something he's wearing.

16 A A coat, a jacket, his shoes.

17 Q Okay. Is he at the table or away from the table?

18 A He's at the table sitting next to a woman with brown  
19 hair.

20 Q Okay.

21 MR. SCHWARTZER: Let the record reflect  
22 identification of the defendant, Your Honor.

23 THE COURT: Yes.

24 THE WITNESS: I'm sorry.

25 BY MR. SCHWARTZER:

1 Q Just let me know when you're ready.

2 A Okay. Okay.

3 Q You said you recognized him. Have you seen the  
4 defendant before September 3rd, of 2018?

5 A Yes.

6 Q Can --

7 A We --

8 Q Can you tell the ladies and gentlemen of the jury  
9 where?

10 A We went to high school together.

11 Q And when did you graduate high school?

12 A In 2009.

13 Q What high school?

14 A So he was at Rancho High School. My senior year, I  
15 had moved to Clark. So I graduated from there, but he  
16 graduated from Rancho, presumably.

17 Q Okay. So the last time you saw him in high school  
18 was in 2008?

19 A Yes.

20 Q Did you see him after 2008?

21 A I did, at a SuperPawn training class.

22 Q Do you recall what year that was?

23 A Maybe three years before the incident. And so, I --  
24 2011.

25 Q Okay. So you -- you went to high school with the

1 defendant and you -- he was at a SuperPawn training, I guess,  
2 an employee training?

3 A Yes. An employee training. They held them every  
4 few months to train us on how to identify jewelry properly and  
5 how to identify counterfeit merchandise, watches. We did gun  
6 training, how to talk to patients (sic) -- or sorry, not  
7 patients -- customers. And, you know, round out their  
8 employees. They do invest a lot into making sure that their  
9 customers are happy and that we're well-trained.

10 Q Did you see him any other time besides in high  
11 school and that 2011 training?

12 A My apologies. Briefly, I was at the mall with my  
13 mom just doing some shopping. And he called me from behind.  
14 He called my name. And so, I turned around to see who was  
15 calling me and I saw that it was him, and I believe at the  
16 time he worked at the T-Mobile. But that was it.

17 Q And when was that, if you remember? Like from the  
18 incident.

19 A Maybe a few years before that. I --

20 Q I'm sorry. Did you say two years?

21 A Maybe two to three --

22 Q Okay.

23 A -- I'm not entirely certain. Sorry.

24 Q That's okay. Besides that, had you had any  
25 interaction with the defendant?

1 A No.

2 Q What's the last four numbers of your phone number?

3 A 2436.

4 Q Okay. Okay, so now I'm going to refer to motorcycle  
5 helmet as the defendant, based on your identification; okay?

6 A Okay.

7 Q When you guys are in the office and he's getting  
8 frustrated, we talked about the visor went up; is that  
9 correct?

10 A Yes.

11 Q What happened next with the defendant? What was his  
12 next actions?

13 A So I told him I couldn't open the back door. My key  
14 had actually broken in the hole maybe two or three weeks  
15 beforehand so I didn't have a way to open that door. And I  
16 told him that. I didn't have a key. He called me a liar and  
17 said that all managers have the keys. And I told him at the  
18 time my only key was with the store manager who wasn't there.  
19 And that's Jennifer.

20 So he went to check the front door. And then I  
21 thought he was leaving. My aim was to get his license plate  
22 number, what he was driving, so that when Metro did eventually  
23 show up, I could provide them with that information so they  
24 could get him. But he -- he went to the door and saw that --  
25 I guess they were already there.



1 Q I don't want you to speculate. But --

2 A He was -- so he saw that they were there.

3 Q How do you know that?

4 A Because he came and grabbed me.

5 Q Okay. When you said he came and grabbed you, what  
6 did he -- did he say anything to you?

7 A He said, come. Let's go. We're leaving. And I  
8 told him, no, I don't want to go.

9 Q Why didn't you want to go?

10 A Because I knew that if I left with him I wouldn't be  
11 here now.

12 Q But you still complied? You still went toward him,  
13 is that right?

14 A He came to grab me. Then he grabbed me.

15 Q Did -- did you want to go out --

16 A No.

17 Q -- the store?

18 A No.

19 Q Did you willingly to out the store?

20 A No.

21 Q Why did you go out the store?

22 A Because he made me. He held the gun to my head and  
23 he pushed me in front of him, and while the gun was to my  
24 head, he was using me as a shield.

25 Q Did you guys exit the -- the store?

1           A     Yes.

2           Q     What did you see when you exited the store?

3           A     Initially, I heard the helicopter. And then I saw  
4 that there was a cop car by the entrance on the -- by the palm  
5 tree there's a trash can that we usually throw our things to  
6 and then there's a wall. And to the left there was a white  
7 car parked there and -- and so I saw a few officers and --

8           Q     Where did -- where did he take -- where did the  
9 defendant take you?

10          A     He was leading me to the white car.

11          Q     How was he leading you?

12          A     By pushing me. He was pulling my -- my -- my  
13 cardigan and moving me with the gun to the right side of my  
14 head. And I didn't realize how close we got.

15          Q     So he's pulling you with one hand he has a gun aimed  
16 at you in another?

17          A     Yes.

18          Q     Are you side by side? Are you in front of him? Are  
19 you --

20          A     I was in front of him. He was using me to block the  
21 police officers from hitting him with the firearms or to shoot  
22 at him.

23          Q     Were you between the defendant and the officers?

24          A     Yes.

25          Q     I know -- I hate to keep asking this question and

1 I'm sorry, but how did that make you feel?

2 A Like I was going to die. And it's a horrible  
3 feeling to not know if you'll be there and to not know if my  
4 family would see me again. I couldn't get in that car. I  
5 couldn't.

6 Q So what happened?

7 A He -- he -- so he was leading me to the car. And he  
8 was holding the gun to my head. And he went to aim down at  
9 the officers and I realized that I could give them an opening,  
10 an opportunity, and it was a split second decision. I was  
11 either going to get shot while they tried to take him down, or  
12 he was going to shoot me himself. So I decided to give them  
13 the opening so he couldn't hurt anybody else.

14 Q What did you do?

15 A I took his gun. I fought him for it. I brought it  
16 down with my right hand and I tried to wedge my left hand in  
17 between his gloved hand and the handle of the gun. So that  
18 way I could pull it from him. And I started hitting him with  
19 my left shoulder. And he kept fighting me saying, no, let go.  
20 And I was like, no. No, because if I do, I won't make it.

21 So I finally managed to get the gun away from him.

22 Q Did anything happen while you were fighting for the  
23 gun?

24 A Yeah. It went off immediately after I brought it  
25 down to aim it away from officers so they wouldn't get hurt.

1 And so he fired the one shot and he kept trying to click it  
2 over and over trying to see --

3 Q Why didn't he click it?

4 A Pulling the trigger, trying to pull the trigger  
5 over. And so he couldn't, because of where I was holding the  
6 gun on the slide. And when you hold the back it prevents the  
7 slide from moving back and forth. So the shell, the casing,  
8 the bullet, it won't eject and it will jam the gun.

9 Q And you're someone who has experience with guns?

10 A Yes.

11 Q Do you go shooting?

12 A Yes.

13 Q Do you actually own a Glock?

14 A I do. I do.

15 Q So you --

16 A So I was familiar with the gun.

17 Q So you were holding the slide to prevent him from  
18 shooting?

19 A Yes.

20 Q Who were you trying to stop him from shooting?

21 A The officers. There was one directly in front of  
22 us.

23 Q Then what happens?

24 A So I finally get the gun away from him. And I eject  
25 the -- the magazine. There's a button to the left of the gun

1 and that will release the magazine so you can't use anymore  
2 bullets. So I threw the gun. And I started to run. But I  
3 turned around and saw him reaching for his other weapon.

4 Q And that's the weapon -- was it the weapon -- the  
5 knives or was it the other firearm?

6 A It was the other firearm that was strapped over his  
7 shoulder.

8 Q What was he doing with that firearm?

9 A He was trying to shoot other people with it.

10 Q Just from the way you were watching his movements?

11 A He was going to grab it to continue firing.

12 Q Where was he aiming that firearm toward?

13 A I turned around, so by that point, I was already  
14 running towards the store and I heard the gunshots.

15 Q So you saw the defendant go for the firearm on his  
16 back, and then you ran toward to the store?

17 A Yes.

18 Q As you're running down the -- running to the store,  
19 you said you heard gunshots?

20 A I did.

21 Q Do you know how many gunshots you heard?

22 A Four from what I heard. But then after that, I had  
23 gotten into the building and the doors have a -- like  
24 hydraulic hinges so they don't slam. So I was pulling them as  
25 hard as I could to get them to close so that I could lock the

1 door so that he couldn't come in.

2 Q Why were you pulling so hard to lock the door?

3 A Because I didn't want anyone to come in. I didn't  
4 want anyone to be able to hurt my staff again. And I was  
5 trying to -- to get somewhere safe. And so with the keys, I  
6 -- I locked it and I just -- I stood there trying to  
7 understand everything that just happened. And someone -- one  
8 of the other victims just said get away from there, hide. And  
9 so that's when I started to move behind the loan counter.

10 Q And what happened once you got to the loan counter?

11 A I just kept repeating, I took his gun, I took his  
12 gun. I guess, I couldn't believe it, you know? And I lost  
13 it. Ivan jumped over to try to console me. And then everyone  
14 came rushing over trying to stay down because they heard the  
15 shots.

16 And one of the customers, she looked at me over the  
17 loan counter and she held my gaze and she said, breathe.  
18 Breathe. You're safe. But I didn't know that to be true,  
19 because to me, I -- I didn't see him go down.

20 And he saw my face and I was afraid that he would  
21 come find me. But then officers -- I had stood up at this  
22 point, been able to breathe, to recenter myself. And I saw  
23 them release the K-9 Unit. And they only do that if the --

24 Q Where did you see that from?

25 A From behind the loan counter through the front door.

1 Q Did you see where the -- you saw the release the  
2 dog? But you didn't actually see where the K-9 went to?

3 A Well, he had gotten towards the south side, towards  
4 the wall where we had come --

5 Q Okay.

6 A -- from so that would have been to the left of the  
7 car.

8 Q Okay.

9 A But they released him from what would have been the  
10 front parking of -- of the SuperPawn.

11 Q And why did that scare you?

12 A You don't release a dog when someone is complying.  
13 You don't release the dog if you have him. So I didn't know  
14 if they had had him or not, but they only release the dog if  
15 they -- the suspect or the defendant isn't complying.

16 Q Eventually, did the police get to the store?

17 A Yes. As they came in and I was in the office,  
18 Melani had come for my keys so she could let them in. And  
19 they asked if anyone else was in there. And I told them, no.

20 Q What did they -- what happened after that?

21 A They had took us to the front of the store and they  
22 told us don't touch anything. So, we were lined up on the  
23 side of the building that faces north. And we were told to  
24 wait there until they could secure somewhere for us to, I  
25 guess, like a safe house. They told us not to talk to each

1 other so that we wouldn't mix our stories. And -- and so we  
2 were then led to the AutoZone that's to the south of the  
3 SuperPawn and we were led to a back room.

4 At that point, we sat at tables in their back  
5 warehouse and we just sat there and waited for officers to  
6 bring us the voluntary statement form. And again, we weren't  
7 allowed to talk amongst ourselves until after they had  
8 collected our forms.

9 Q And these are the written forms?

10 A The what? I'm sorry.

11 Q The -- are they written forms?

12 A Yes. It's a handwritten statement.

13 Q Okay. And did you provide a handwritten statement?

14 A I did.

15 Q Okay. And now, a handwritten statement, it's like  
16 one-page, is that correct?

17 A Right. There's not a lot of room for detail.

18 Q So you provided what you could in that statement?

19 A And a small synopsis.

20 Q Okay. Eventually, did you give a more thorough  
21 statement?

22 A I did, with the detective.

23 Q Were you at AutoZone for awhile before you gave that  
24 statement?

25 A Maybe like -- I mean, it felt like it was forever.



1 But realistically, I think it was only 20 minutes to an hour.  
2 I don't recall the exact time.

3 Q That's fine.

4 What was the mood like while you were waiting?

5 A It was somber. We were in disbelief. You hear  
6 about things like this happening, but you don't ever expect to  
7 live through anything like that.

8 Q And do you -- eventually you talk to detectives?

9 A I did. I did.

10 Q Did they talk to you separately from the group or --

11 A Separately. I was interviewed, I believe, in an  
12 unmarked car with the detective. And it was recorded. It was  
13 a little hot that day. It was a little windy. But I think it  
14 was a black car. I don't recall if it was a Mustang or a  
15 Charger. It was -- but it was a nice car.

16 Q Okay. So, Adriane, I'm going to start -- I'm going  
17 to play some video for you.

18 A Okay.

19 MR. SCHWARTZER: Your Honor, may we approach real  
20 quick?

21 THE COURT: Yes.

22 (Bench conference)

23 MR. SCHWARTZER: I just don't know if you want me --  
24 this is -- I'm going to go for another like 30 minutes or so.  
25 I don't know if you want to take the break now before the

1 video or do you want --

2 THE COURT: Okay. Yeah. Let's take a break now  
3 before --

4 MR. SCHWARTZER: Okay.

5 THE COURT: -- the video.

6 MR. SCHWARTZER: Okay.

7 THE COURT: Okay.

8 MR. SCHWARTZER: Thank you.

9 THE COURT: Thank you.

10 (End of bench conference)

11 THE COURT: Ladies and gentlemen, we're going to  
12 take our lunch recess right now.

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

21 It is 12:15. So we'll come back at 1:30.

22 (Outside the presence of the jury.)

23 THE COURT: Ms. Serrano, you are excused for now.

24 Do not discuss your testimony with anyone while we're on this  
25 break.

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: Thank you.

3 (Witness exits the courtroom)

4 THE COURT: I don't know who all these people are  
5 and so I wanted to see if we can -- if you had anything we  
6 needed to discuss. But I don't -- I want to clear the  
7 courtroom.

8 MR. SCHWARTZER: This is friends and family of  
9 Adriane are here.

10 THE COURT: Okay.

11 UNIDENTIFIED SPEAKER: I used to be her boss, if  
12 that matters.

13 THE COURT: Okay. Well, I need the courtroom  
14 cleared. Thank you.

15 So just outside the presence.

16 I got you guys's jury instructions. Does anyone  
17 mind if I fix like breaks like where it's like weirdly broken  
18 in some places and things like that?

19 MR. SCHWARTZER: The State doesn't, Your Honor.  
20 And, in fact, I was looking at the order -- and this is -- I  
21 was hoping we can move some stuff around.

22 THE COURT: Oh, we'll absolutely be able to --

23 MR. SCHWARTZER: Yeah.

24 THE COURT: -- move things around. I just -- like  
25 there are things where a -- like a sentence ends like at the

1 -- before -- and then the next sentence is on the next line  
2 and it's just weird. And there are places where there are  
3 breaks where it has those three dashes where it's in the  
4 middle of a page and things like that.

5 So I'm going to fix those. I'll print them out and  
6 give them to everybody when we come back.

7 MR. SCHWARTZER: Thank you, Your Honor.

8 THE COURT: Okay. Anything else?

9 MR. SCHWARTZER: We -- we did provide a -- a written  
10 copy to Mr. Trejo.

11 THE COURT: Right. I just -- I'm going to give them  
12 to everybody, a written copy when I make the changes. There  
13 won't be anything substantive. It's just, it's bothering me.

14 MR. SCHWARTZER: Yeah. We -- we appreciate the  
15 help, Your Honor.

16 MS. HEAP: Yes. Thank you.

17 THE COURT: Thank you.

18 Anything else outside the presence?

19 MR. SCHWARTZER: Not from the State.

20 THE COURT: Okay.

21 Mr. Trejo?

22 MR. TREJO: No, Your Honor.

23 THE COURT: Okay. Thank you.

24 CORRECTIONS OFFICER: 1:15?

25 THE COURT: I said 1:30. But --

1 CORRECTIONS OFFICER: Oh, okay.

2 THE COURT: -- 1:30 for the jury. So yeah, like  
3 1:15 for you --

4 CORRECTIONS OFFICER: 1:30.

5 THE COURT: -- guys.

6 CORRECTIONS OFFICER: Okay.

7 THE COURT: I try and give everybody a little bit  
8 more than an hour, so.

9 THE CLERK: Mr. Schwartzer, do you have the disk?

10 MR. SCHWARTZER: I do. I do. Could I leave Number  
11 10 in my disk drive or -- you need it? Okay.

12 THE CLERK: You seen my face.

13 MR. SCHWARTZER: I did.

14 THE COURT: Thanks, you guys.

15 (Court recessed at 12:17 p.m., until 1:31 p.m.)

16 (Outside the presence of the jury.)

17 THE COURT: Back on the record on Case Number C-18-  
18 335315-1. State of Nevada versus Mario Trejo. Mr. Trejo and  
19 Mr. Henry are present in court, along with the interpreter on  
20 Mr. Trejo's behalf. Mr. Schwartzer and Ms. Heap are here for  
21 the State.

22 Anything outside the presence?

23 MR. SCHWARTZER: Not from the State, Your Honor.

24 THE COURT: I put a -- anything, Mr. Trejo?

25 MR. TREJO: No, Your Honor.

1           THE COURT: I put a copy of the jury instructions on  
2 each of your desks. Like I said, nothing substantive. I did  
3 take out the one about readback because this is a court  
4 recorder, so it's a playback. So there is one missing from  
5 the one you guys sent me.

6           And other than that, I just changed like some of the  
7 formatting where it had the three dashes and things like that.  
8 So nothing substantive changed.

9           But I think -- Ro, did you also e-mail a copy to Ms.  
10 Heap?

11          THE CLERK: I did.

12          THE COURT: Okay.

13          THE CLERK: And then I don't know if you got the  
14 additional instruction for the *Carter* instruction?

15          THE COURT: No, because I was reading a search  
16 warrant, so no.

17          MR. SCHWARTZER: I just sent the -- it's -- I just  
18 sent the *Carter* instruction along with another instruction  
19 that Mr. Trejo testified.

20          THE COURT: Okay. I did -- still -- okay, here it  
21 is. No. Just got it, just now. So I'll take a look at  
22 those. But other than that, we can get the witness back and  
23 then have you continue.

24          MR. SCHWARTZER: Yes, Your Honor.

25                               (Witness enters)

1 (In the presence of the jury)

2 THE COURT: Will the parties stipulate to the  
3 presence of the jury?

4 MR. SCHWARTZER: Yes, Your Honor.

5 MR. TREJO: I do, Your Honor.

6 THE COURT: Thank you. Please be seated.

7 Mr. Schwartzer, please continue.

8 BY MR. SCHWARTZER:

9 Q Adriane, we ended right before lunch talking about  
10 going -- watching some video; okay?

11 A Yes.

12 MR. SCHWARTZER: So I am going to publish, for the  
13 Court, Exhibit 10, which has been admitted.

14 THE COURT: That's admitted. Ro?

15 THE CLERK: Yes.

16 THE COURT: And, go ahead, Mr. Schwartzer.

17 MR. SCHWARTZER: So for -- for the record, this is  
18 State's Exhibit 10, which has been labeled as Adriane POV as  
19 in point of view.

20 THE COURT: Okay.

21 BY MR. SCHWARTZER:

22 Q Adriane, this video starts at -- do you see the  
23 bottom where that shows the date and all that?

24 A Yes.

25 Q So it shows September 3rd, 2018?

1           A     Correct.

2           Q     And it shows that 13:07:46, which is 1:07 p.m.; is  
3 that correct?

4           A     Correct.

5           Q     Okay. I'm going to play just a little bit right  
6 now. And I'm going to stop 7 seconds in.

7                   Do you see yourself in this video?

8           A     I do.

9           Q     Okay.

10                  MR. SCHWARTZER: May I approach, Your Honor?

11                  THE COURT: Yes.

12 BY MR. SCHWARTZER:

13           Q     There might be times throughout the course of your  
14 testimony regarding this video, so I might ask you to point  
15 things out. You can do it by going down to the toolbar right  
16 here, click on the red pen. That will allow you to circle  
17 things. And then I will ask you to clear, and that's -- when  
18 I ask you to clear, I will ask you to hit the arrow.

19           A     Okay.

20           Q     Okay? Okay. Can you show the ladies and gentlemen  
21 of the jury where you are?

22                   Okay. And you just circled on Exhibit 10, at 7  
23 seconds in, the individual on the -- there's two individuals  
24 at a desk. You picked the person to the right of the video;  
25 is that correct?



1 A Correct.

2 Q Okay. And now could you clear that for you -- for  
3 me?

4 What are you doing at this time?

5 A So I was entering in what's called an IC -- ICN,  
6 which is an item -- or an inventory control number into the  
7 system so that I could vouch the -- the jewelry, so I was  
8 trying to get everything shipped out.

9 Q And who is next to you?

10 A Giovanni.

11 Q I'm playing at 7 seconds.

12 (Video playing.)

13 BY MR. SCHWARTZER:

14 Q Pausing now at 25 -- oh, 27 seconds. Who just ran  
15 in?

16 A Julie.

17 Q And is that what you previously testified to  
18 regarding her running in at 2 -- say, 2:10?

19 A Yes.

20 Q And that she was terrified?

21 A Yes.

22 Q Starting up again at 27 seconds.

23 (Video playing)

24 BY MR. SCHWARTZER:

25 Q Stopping at 50 seconds.

1                   We see an individual wearing a helmet; is that  
2 correct?

3           A       Yes.

4           Q       That person seems to be directing people?

5           A       Yes.

6           Q       Who was that person?

7           A       The defendant.

8           Q       Thank you.

9                   Starting up again at 50 seconds.

10                               (Video playing)

11 BY MR. SCHWARTZER:

12           Q       What did the defendant just hand you there at about  
13 1 minute and --

14           A       The zip tie.

15           Q       What are you doing now at 1:07?

16           A       I'm attempting to zip tie the door as he had  
17 ordered.

18           Q       Okay. We're at 1:34 in. Where are you at now?

19           A       I'm in the office.

20           Q       And what are you doing?

21           A       Setting the safe.

22           Q       At 1:49 you reach for something at a computer. What  
23 are you reaching for?

24           A       My phone.

25           Q       And why is that?

1           A     It was on the charger. And I wanted to be able to  
2 record any information that I needed for the detectives and be  
3 able to call 911 as soon as he was gone. I didn't want to be  
4 without any kind of communication.

5           Q     And where is the defendant at this time?

6           A     He is on the sales floor by the swinging door.

7           Q     Is he able to see you from that perspective?

8           A     Yes.

9           Q     And now at 2 minutes and 35 seconds. Is that where  
10 he was standing while you were in the office?

11          A     Yes.

12          Q     So when you went back to the office, what did you  
13 get?

14          A     Till keys. The keys to the -- the case.

15          Q     So now about 3:13 in we see you in a different part  
16 of the store. Where do we see you now?

17          A     These are the jewelry cases. And the case where I'm  
18 currently standing in front of in the video is the high line  
19 case that I was attempting to get into

20          Q     And that's when the defendant directs you to a  
21 different case?

22          A     Correct.

23          Q     Three minutes and 35 seconds in, what are you doing  
24 now?

25          A     Struggling with the keys. I couldn't find the

1 appropriate key to unlock the cases.

2 Q How was the defendant acting while you were doing  
3 this?

4 A Nervous. He was pacing, looking at the people on  
5 the floor, coming back to me.

6 Q And where are you putting that jewelry that you're  
7 taking out of the case at 4:20?

8 A The backpack he brought with him into the store.

9 Q Who directed you to do that?

10 A The defendant.

11 Q Now, about 5:20, where are you at now?

12 A I'm in front of my cash register at the time,  
13 grabbing the money from my till to put into the backpack as he  
14 ordered.

15 Q Do you, in fact, put that money in the defendant's  
16 backpack?

17 A I did. But not before he made sure that there  
18 weren't any tracers or track packs in the money.

19 Q So after the jewelry and the cash, you go back to  
20 the office?

21 A Yes.

22 Q And what's happening here in the office?

23 A He's becoming frustrated that the safe's not  
24 opening. He's mad that it's not time to open it yet.

25 Q And we're at about 6:20 -- it's to 6:25 now.

1           So right there you can see --

2           A     That's where he lifts his visor.

3           Q     Thank you. So that's at 6:53. So at that point  
4 you're able to get a look at the eye and nose area?

5           A     Yes.

6           Q     So what is he doing here at 7:13, the defendant?

7           A     He's checking to see if Metro had gotten there.

8           Q     Now, what's going on at 7:20?

9           A     He had tried to order me to come here and I tried to  
10 tell him no at first, and then he pointed the gun at me and  
11 came to retrieve me from the swinging door forcing me out.

12          Q     Now at 7:38 we're seeing a different view of that?

13          A     Correct.

14          Q     Now, at 8 minutes, 18 seconds in, do we see you  
15 coming back?

16          A     Yes. That was me --

17          Q     What are you doing here?

18          A     -- pulling on the door trying to get it to close as  
19 fast as I could. And there I'm locking the door. It happens  
20 in a blink, but it felt like it was forever.

21          Q     Okay. I'm going to switch over to Exhibit 143.

22               THE COURT: And you said 1-4-3, Mr. Schwartzer?

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

24               THE COURT: Thank you.

25               MR. SCHWARTZER: Publishing Exhibit 143.

1 (Video playing - Exhibit 143)

2 MR. SCHWARTZER: And I'm going to fast forward it.  
3 Starting at 40 seconds in, Your Honor.

4 THE COURT: Okay. Thank you.

5 (Video playing - Exhibit 143)

6 MR. SCHWARTZER: I'm stopping at 1 minute 22  
7 seconds.

8 BY MR. SCHWARTZER:

9 Q Do you recognize someone in this video?

10 A Yes.

11 Q Who do you recognize?

12 A Myself and the defendant.

13 Q Can you -- using that arrow, draw who you are?

14 A (Witness complies).

15 Q And for the record, you drew in the center of screen  
16 of Exhibit 143, at 1 minute, 22 seconds, what appears to be a  
17 female, to the south of the SuperPawn.

18 A Yes.

19 THE COURT: And just for a better record, it's just  
20 to the left and below the sign that says SuperPawn, as well.

21 MR. SCHWARTZER: Thank you.

22 BY MR. SCHWARTZER:

23 Q The person behind you, who was -- who's that?

24 A The defendant.

25 Q Please clear it. Thank you.

1                   At this point, where's the gun the defendant has?

2       Where is it trained on?

3           A       That's where he started to move it from the right of  
4       my head down towards the officers.

5           Q       Okay. Continuing 1 minute, 22 seconds.

6                   (Video playing - Exhibit 143)

7       BY MR. SCHWARTZER:

8           Q       Pausing that at 1:39.

9                   What happened there?

10          A       That's when I managed to take the gun from him and  
11       eject the magazine. And so I threw --

12          Q       When --

13          A       -- the -- the gun and then started to run.

14          Q       On that video in Exhibit 143, we heard, shots fired,  
15       shots fired.

16          A       Yes.

17          Q       Is that about the time that the discharge from the  
18       defense weapon occurred?

19          A       Correct.

20                   MR. SCHWARTZER: Finally, Your Honor, I'm going to  
21       move to Exhibit 9. Which I will need the Court's indulgence,  
22       because it takes a little while to load.

23                   THE COURT: Thank you.

24       BY MR. SCHWARTZER:

25          Q       Adriane, this is going to take about a minute to --

1 to load up.

2 A Okay.

3 Q But we're almost done.

4 A Thank you.

5 Q You previously, in your testimony, talked about that  
6 there was two individuals that tried entering into the store?

7 A Correct.

8 Q In fact, even got into the store?

9 A Yes.

10 Q Okay. And you believe you and the defendant were  
11 aware when that occurred?

12 A I'm sorry?

13 Q You -- you and the defendant were aware when that  
14 occurred?

15 A Yes.

16 Q Where were you two?

17 A I was standing by the -- the swinging door in view  
18 of the front doors.

19 Q So now we're seeing what's been marked as Exhibit 9  
20 that's been previously admitted. I'm going to go to 13:10:20  
21 in the video.

22 Now, I blew up camera angle 1 in Exhibit 9 at  
23 13:10:33. This is the front door of your store; is that  
24 correct?

25 A Correct.



1 Q So at 13:10:42, what are we seeing?

2 A The previously mentioned gentleman coming into the  
3 store.

4 Q Okay. Now I'm going to shift camera angles, to  
5 camera angle 4, at the same time, 13:10:43. Is this a -- the  
6 defendant and yourself?

7 A Correct.

8 Q Okay. And you're facing toward what direction?

9 A I am facing towards the -- the front door to see who  
10 just opened it.

11 Q And how about the defendant?

12 A He's also looking at them.

13 Q Okay. Going back to camera angle 1.

14 And that's when that couple fled?

15 A Correct.

16 Q And that was at 13:10:52, 53.

17 Fast-forwarding. So we're at 13 -- well, let me  
18 fast-forward. One second.

19 So now we're at 13:15:52, blowing up camera 4. Do  
20 you recognize who's in that screen?

21 A That's me.

22 Q And what's going on there?

23 A At this point, I had gotten back from taking his  
24 gun, coming in, I locked the door and that's where I proceed  
25 to break down.

1           Q     Okay. So stopping at 13:16:04. Changing the camera  
2 angle to camera angle 5, loan counter 3. Starting play from  
3 13:16:04.

4                                 (Video playing)

5 BY MR. SCHWARTZER:

6           Q     So at 13:16:32, what are seeing now?

7           A     Ivan jumped over the loan counter.

8           Q     Was he followed by other people as well?

9           A     Julie, Jonathan, Carla, and there is Gio.

10          Q     What's going on here?

11          A     They're trying to console me. Because I couldn't  
12 catch my breath. The customer, that's actually right behind  
13 the -- the divider is the one that kind of snapped me back and  
14 was able to refocus my breathing. And then Carla started  
15 panicking because her kids were on the way to the store.

16          Q     By Carla panicking, was she crying as well?

17          A     She was crying. Her kids were just a few minutes  
18 down the road when everything happened.

19          Q     Pause it right here at 13:17:32.

20                   Adriane, do you still feel that fear from that day?

21          A     Yes.

22          Q     Can you tell the ladies and gentlemen of the jury  
23 how -- how it's -- how you still have that fear?

24          A     When I enter any building, I have to know who's  
25 there, and whether they can hurt me. I had to change jobs

1 completely.

2 Q So you don't work at SuperPawn anymore?

3 A No.

4 Q Do you even work in that field anymore?

5 A No. I -- I work in the medical field now.

6 Q Okay.

7 A I wanted to be able to give more back having  
8 survived that. To be able to take care of others. To support  
9 them.

10 Q And I know this is sensitive, but have you had any  
11 type of diagnosis because of this?

12 A I was diagnosed with PTSD, anxiety, and depression.  
13 And I've been going to therapy for over four years to try to  
14 get a handle. And I was doing pretty good until today.

15 Q Adriane, thank you for coming in and sharing your  
16 story.

17 A Thank you.

18 MR. SCHWARTZER: I'm going to pass this witness,  
19 Your Honor.

20 THE COURT: Thank you.

21 Mr. Trejo?

22 MR. TREJO: I would need ten minutes prior to cross-  
23 examination, Your Honor.

24 THE COURT: Okay. So ladies and gentlemen, During  
25 the recess, you are admonished not to talk or converse among

1 yourselves or with anyone else on any subject connected to  
2 this trial, or read, watch, or listen to any report of, or  
3 commentary on the trial, of any person connected with this  
4 trial, by any medium of information, including without  
5 limitation, newspaper, television, the Internet and radio, or  
6 form or express any opinion on any subject connected with the  
7 trial until the case is finally submitted to you.

8 We will come back at 2:10.

9 THE COURT: And ma'am, if you could just wait in the  
10 room on the side. Thank you.

11 (Outside the presence of the jury.)

12 (Witness exits the courtroom)

13 THE COURT: Anything outside the presence?

14 MR. SCHWARTZER: Not from the State, Your Honor.

15 MR. TREJO: No, Your Honor.

16 THE COURT: Okay. Thank you. I'll just give you  
17 guys ten minutes.

18 (Court recessed at 2:02 p.m., until 2:14 p.m.)

19 (Outside the presence of the jury.)

20 (Pause in the proceedings - defendant writing)

21 MR. SCHWARTZER: Your Honor, could I use the  
22 restroom for (indiscernible).

23 THE COURT: Yeah. I was just about to say, I am,  
24 too. So, yeah.

25 (Court recessed at 2:24 p.m., until 2:38 p.m.)

1 (Outside the presence of the jury.)

2 (Witness enters the courtroom)

3 (In the presence of the jury)

4 THE COURT: Will the parties stipulate to the  
5 presence of the jury?

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

7 MR. TREJO: I do, Your Honor.

8 THE COURT: Okay. Thank you.

9 Please proceed, Mr. Trejo.

10 CROSS-EXAMINATION

11 BY MR. TREJO:

12 Q Good afternoon, Adriane. Thank you for your time.  
13 So I'd like to ask a few questions about September  
14 3rd, 2018. Did you give a recorded statement to the  
15 detectives about the events on September 3rd, 2018?

16 A Yes.

17 Q So a suspect entered your shop that day completely  
18 covered with a helmet; is that correct?

19 A Correct.

20 Q Did you single yourself out as a manager and key  
21 holder or did you wait until he asked for the manager?

22 A I'm sorry. Can you repeat that?

23 Q Did you single --

24 THE INTERPRETER: The Defendant has made some  
25 changes I'm going to read.

1 THE COURT: Okay.

2

3 BY MR. TREJO:

4 Q When he entered, did you single yourself out as a  
5 manger and key holder or did you wait until he asked for the  
6 manager?

7 A So when the defendant entered, yes, I waited until  
8 he asked.

9 Q Was he armed?

10 A Yes, you were.

11 Q And at the time, were you able to identify his  
12 weapons?

13 A I did the Glock.

14 Q Do you recall stating that he gave you a zip -- that  
15 he gave you zip ties on the recorded statement?

16 A You handed me zip ties.

17 Q Was this out of sight from the other witnesses?

18 A I don't recall.

19 Q So did the suspect actually turn his back on you  
20 after he gave zip ties, Adriane?

21 A I don't know what you did after you gave me the zip  
22 ties.

23 Q Okay. Do you recall stating that Jonathan Rivera-  
24 Sandoval hit his panic button, in your recorded statement?

25 A I didn't know it at the time, but I did find out

1 after that he hit his pendent. I just know that I hit mine  
2 when you came in.

3 Q Do you know if he did so as soon as the suspect  
4 entered the store?

5 A No, I don't know.

6 Q Do you recall stating that he had a, quote, "gypsy  
7 accent" in your recorded September 3rd, 2018 statement?

8 A I do. It was the best that I could do to offer some  
9 type of connection, just like Hispanics, I have an accent in  
10 Spanish. It was the only thing I could identify it as closest  
11 to, at the time.

12 Q So just to clarify, was his accent a Spanish one, or  
13 something else?

14 A It was a mixture of an accent.

15 Q And in your experience, what does a gypsy accent  
16 sound like?

17 A It's a type of dialect that is usually around a  
18 specific type of people. We had a lot of those specific  
19 accents coming in through the -- into the pawn shop. Again,  
20 it's the closest that I could relate to his accent.

21 Q Did you discuss with anyone after the events of that  
22 day, or over, that the suspect sounded like a gypsy?

23 MR. SCHWARTZER: Your Honor, I'm going to ask for a  
24 time reference.

25 THE COURT: Can you be more specific, Mr. Trejo?

1 BY MR. TREJO:

2 Q After your group was moved from the shop, and prior  
3 to the detectives pulling you guys out for recorded  
4 statements, did you discuss with anyone details regarding what  
5 you thought was the suspect's accent?

6 A No. Not until after. And that's to the best of my  
7 knowledge.

8 Q Do you also recall claiming to have seen the  
9 suspect's face after he allegedly lifted his helmet visor?

10 A I saw your eyes, your eyebrows, your nose, the mole  
11 on top of your eyebrow. So, yeah, I did.

12 Q Was there anything covering his face under the  
13 helmet?

14 A I don't know.

15 Q Do you recall in the statement you gave on September  
16 3rd, 2018, that he looked familiar?

17 A I do.

18 Q Before the break, you said that while at AutoZone  
19 you recognized a name and a face after -- after thinking about  
20 it for awhile; is that correct?

21 A Yes. Your name and your face.

22 Q Do you recall not giving my name to detectives  
23 during your recorded statement?

24 A I gave it to Jennifer after giving my written  
25 statement.



1           Q     Adriane, do you recall the Grand Jury testimony you  
2 gave on October 3rd, 2018?

3           A     I do.

4           Q     Do you recall being asked at the Grand Jury hearing  
5 if you knew the name of the suspect to be, quote, "Mario  
6 Trejo," end quote?

7           A     Yes.

8           Q     And do you recall alleging you did not know his name  
9 until after, when the detectives pulled you aside?

10           THE INTERPRETER: Oh, I'm going to -- interpreter is  
11 going to reread the --

12           THE COURT: Okay.

13 BY MR. TREJO:

14           Q     And do you recall alleging you did not know his name  
15 until when, quote, "the detectives pulled you aside," end  
16 quote?

17           A     I recognized you. I knew your name. They just  
18 confirmed it after.

19           Q     Adriane, they didn't pull you aside until it was  
20 time take your recorded statement; is that correct?

21           A     Can you clarify who "they" are?

22           Q     By "they" I mean the detectives, Adriane.

23           A     I'm sorry. When we went into the AutoZone, they  
24 separated us all into tables. We wrote down our statements.  
25 We weren't allowed to talk to each other while we were there,

1 while we were standing in the line. And then they did pull us  
2 aside individually to try to get our statements.

3 Q I'm a little confused. You stated in the Grand Jury  
4 testimony that you didn't know his name until the detectives  
5 pulled you aside. Earlier, you stated you realized while at  
6 AutoZone, awaiting for detectives to take down your statement,  
7 that you realized who the suspect was. And just now you  
8 stated that you didn't realize until after your recorded  
9 statement. Can you please clarify?

10 A I had to sit and wait for a little, in order for  
11 your full name to come back. But your first name stuck in my  
12 mind and has since then. So I don't know what you want from  
13 me.

14 Q So do you recall claiming in your original recorded  
15 statement given on September 3rd, 2018, that the suspect had a  
16 nine millimeter Glock?

17 A You had a Glock, yes. I thought it was a .9  
18 millimeter at the time. Upon review the footage that was  
19 released three days after the incident, it was shown that it  
20 was a .40 caliber.

21 Q Did you also recall claiming he carried also an AK  
22 assault rifle and that it had holes bored over where the  
23 barrel would be?

24 A I do recall that. And I also didn't know the make  
25 and model initially. After review the footage that was

1 released three days later in the OIS, that's when I was aware  
2 that it was a Kel-Tec which is why I specified during the  
3 Grand Jury. Because at that point, I was aware what kind of  
4 weapon it was.

5 Q Do you also recall claiming it was a really short  
6 rifle?

7 A It was a firearm. It looked like a short rifle.  
8 But a gun is a gun.

9 MR. TREJO: Permission to publish one of the defense  
10 exhibits. I am not sure which one it is.

11 MR. SCHWARTZER: If it's one of the admitted ones,  
12 the State has no objection.

13 THE COURT: Yeah. If it's already been stipulated  
14 to, then it can be admitted.

15 And is the Elmo on, Bill?

16 THE MARSHAL: Um-hum.

17 THE COURT: Okay.

18 THE MARSHAL: Yes, Judge.

19 THE COURT: Oh, because it's a black screen right  
20 now.

21 THE COURT: Mr. Schwartzer, or Ms. Heap, do you guys  
22 have it on one of your computers? Because there's the seal in  
23 the corner.

24 MR. SCHWARTZER: I'm sorry?

25 THE COURT: I said, do you have it on one of your

1 computer? Because it's the seal. I don't know how to use  
2 that technology. Thank you.

3 Thanks, Mr. Schwartz.

4 MR. SCHWARTZER: Of course, Your Honor.

5 BY MR. TREJO:

6 Q Does this Exhibit look kind of like what you were  
7 describing on September 3rd, 2018?

8 A It looks like a gun, but it's not the one you used.

9 MR. SCHWARTZER: What's the exhibit, Mr. Trejo?

10 MR. TREJO: Exhibit U.

11 THE COURT: Exhibit U? Is that what you said? Is  
12 there an Exhibit U? I thought it was --

13 THE CLERK: Yes. It's (indiscernible).

14 THE COURT: Okay.

15 THE CLERK: Is it U? Yeah. It's a U.

16 THE COURT: It is a U.

17 BY MR. TREJO:

18 Q Based on your description on -- in September 3rd,  
19 2018 statement, Adriane, does this sound more like what you  
20 were describing?

21 A It sounds like it, but it's not it.

22 Q So before our lunch break you described that you  
23 looked -- you took the gun from the suspect and that you held  
24 it from behind. You then proceeded to describe what's known  
25 as a stovepipe malfunction; is that correct?

1 MR. SCHWARTZER: I -- I'm going to object to  
2 misconstrued statement in testimony. She never uttered the  
3 word stovepipe.

4 THE COURT: I don't -- I don't think he's saying  
5 that what -- she said that. I think he's saying that she's --  
6 she described what can be called a stove type -- or  
7 stovepipe --

8 MR. TREJO: That's correct, Your Honor.

9 MR. SCHWARTZER: Okay.

10 THE COURT: -- whatever it's called.

11 MR. SCHWARTZER: All right.

12 THE COURT: So --

13 MR. SCHWARTZER: Thank you, Your Honor. I thought  
14 he was recounting testimony.

15 THE COURT: No. No, what it sounded like to me, and  
16 he says that what I said is right, what it sounded like to me  
17 is he was saying she was describing what -- what other people  
18 have called a -- what a -- stovepipe --

19 MR. HENRY: Stovepipe.

20 THE COURT: -- stovepipe something or other  
21 malfunction.

22 MR. TREJO: Stove -- stovepipe --

23 MR. SCHWARTZER: Thank you, Your Honor.

24 MR. TREJO: -- malfunction.

25 THE WITNESS: I was not familiar with that term. I

1 just know that I was able to grab the gun from the top, push  
2 it down, and grab the top of the slide. If that's called a  
3 stovepipe, then I guess that's what it's called.

4 BY MR. TREJO:

5 Q Let me be clear for the record. Did you claim prior  
6 to lunch, that by holding the pistol from the back while it  
7 fired, you prevented the gun from cycling causing what is  
8 known as a stovepipe malfunction; correct?

9 MR. SCHWARTZER: Again, I'm going to have to object.  
10 Because she doesn't know what a stovepipe is. That's another  
11 witness that testified, a crime scene analyst, if I recall  
12 right, who she was using a technical term.

13 THE COURT: Right.

14 MR. SCHWARTZER: So there's --

15 THE COURT: So --

16 MR. SCHWARTZER: -- no way for her to answer that  
17 question.

18 THE COURT: Right. And so the first time, Mr.  
19 Trejo, what you were doing was you were using that term, and  
20 now what you're seeming to do is -- is asking her a fact, what  
21 it is, and that -- she doesn't know that. So I'm going to  
22 uphold this objection.

23 MR. SCHWARTZER: Thank you, Your Honor.

24 MR. TREJO: I'll withdraw the question.

25 BY MR. TREJO:

1           Q     Let me be clear for the record. Did you claim prior  
2 to lunch that by holding the pistol from the back while it  
3 fired you prevented the gun from cycling, causing a  
4 malfunction with the weapon; correct?

5           A     It stopped you from continuing to shoot, yes.

6           Q     Now, do you recall back to the September 3rd of  
7 2018, recorded statement you gave, claiming that you, quote,  
8 "took the gun, stripped the magazine, but you were not able to  
9 clear the chamber," end quote? Is that correct?

10          A     Correct.

11          Q     When you -- when you gave that statement, did you  
12 believe that there was a live round in the chamber of the  
13 Glock?

14          A     I'm not sure. I knew there was a live round  
15 initially.

16          Q     Okay. So then how did you go from believing that  
17 you weren't able to clear the live round from the chamber, to  
18 knowing that, in fact, there was a malfunction, like the one  
19 you described?

20          A     All I know is that when I aimed the gun down, while  
21 I was in the fight between us, it fired. And I didn't want it  
22 to be able to fire again, so I ejected the magazine. It's too  
23 technical a question to break down right now.

24          Q     I'm going to avoid the technical aspect, Adriane.  
25 How did you gain knowledge there was a malfunction with the

1 weapon now being that --

2 THE INTERPRETER: Oh, okay. The interpreter is  
3 going reread the question.

4 BY MR. TREJO:

5 Q I'm going to avoid the technical aspect, Adriane.  
6 How did you gain knowledge there was malfunction with the  
7 weapon now being that during your September 3rd statement you  
8 did not know that?

9 MR. SCHWARTZER: Objection. Misstates testimony.  
10 This -- she never used the word "malfunction". That's always  
11 been Mr. Trejo.

12 THE COURT: But she describes a malfunction though,  
13 Mr. --

14 MR. SCHWARTZER: She describes holding the slide.  
15 She never calls it a malfunction.

16 THE COURT: I mean, if -- you can call it something  
17 different, Mr. Trejo. But she didn't ever use that word, so.

18 MR. SCHWARTZER: Thank you, Your Honor.

19 BY MR. TREJO:

20 Q I'm going to avoid the technical aspect, Adriane.  
21 How did you gain the knowledge the weapon was rendered unable  
22 to fire, now be that during your September statement you  
23 didn't know that?

24 MR. SCHWARTZER: Again, objection. Misstates the  
25 testimony.



1 THE COURT: What's your response to that?

2 MR. TREJO: I'm not quoting her testimony, Your  
3 Honor. I'm asking a question about the testimony Adriane gave  
4 today in comparison to statements made three-and-a-half years  
5 ago. She did just testify that through whatever actions she  
6 took, there was a certain effect on the alleged weapon.

7 THE COURT: But I think you're asking it in a way  
8 that makes it appear that she's -- that she's the one who said  
9 it. And so you need to change the way you're asking that, Mr.  
10 Trejo, and so you -- you have to ask it a different way.

11 MR. SCHWARTZER: Thank you, Your Honor.

12 THE COURT: And so that is going to be sustained.

13 And while I'm letting you gather your thoughts, I'm  
14 going to just take a quick break.

15 Ladies and gentlemen, during the recess, you are  
16 admonished not to talk or converse among yourselves or with  
17 anyone else on any subject connected to this trial, or read,  
18 watch, or listen to any report of, or commentary on the trial,  
19 of any person connected with this trial, by any medium of  
20 information, including without limitation, newspaper,  
21 television, the Internet or 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 It is 3:30. Let's come back at three -- 3:40.

25 MR. SCHWARTZER: Thank you, Your Honor.

1 (Pause in the proceedings)

2 (Outside the presence of the jury.)

3 THE COURT: I just need to go to the bathroom. So  
4 if anybody has anything outside the presence, we can do it  
5 when I get back.

6 MR. SCHWARTZER: Thank you, Your Honor.

7 (Court recessed at 3:30 p.m., until 3:41 p.m.)

8 (In the presence of the jury)

9 THE COURT: Will the parties stipulate to the  
10 presence of the jury?

11 MR. SCHWARTZER: The State does.

12 MR. TREJO: I do, Your Honor.

13 THE COURT: Okay. Please be seated.

14 Mr. Trejo, please continue.

15 BY MR. TREJO:

16 Q Okay. And eventually, did the police move you to  
17 the AutoZone next door?

18 A Yes.

19 Q Around what time were you guys moved to the  
20 AutoZone?

21 A Maybe 1:13, 1:15, roughly.

22 Q Did they move you and the other nine people who were  
23 in the shop with you?

24 A Nine? Yes. But I thought there were ten.

25 Q Ten, including yourself, Adriane?

1           A     Yes. They moved us all together in a line.

2           Q     Was the couple that approached the door also placed  
3 there with your group?

4           A     I don't recall.

5           Q     Did you talk about your -- your -- did you talk  
6 about details regarding your experience with the other  
7 witnesses while at AutoZone?

8           A     They took our written statements first and then they  
9 started interviewing us. No one really was in a talking mood.

10          Q     Do you recall how much time passed in between the  
11 written statement and the recorded one?

12          A     Not exactly. No. I just recall that it felt like  
13 it took forever.

14          Q     Do you recall the time your statement was recorded?

15          A     Approximately, 1:30.

16          Q     Would you like to look at a portion of your  
17 statement to refresh your memory, Adriane?

18               MR. SCHWARTZER: The State will stipulate it was at  
19 4:00 o'clock, Your Honor. 4:05.

20               THE COURT: And you said you -- you stipulated it  
21 was at 4:05?

22               MR. SCHWARTZER: That's -- per the statement, that's  
23 what it says.

24               THE COURT: Okay. Thank you. I just couldn't hear  
25 the time.

1 THE WITNESS: And so 4:05.

2 BY MR. TREJO:

3 Q In the video the State played, after the lunch  
4 break, do you recall the video located where the height strip  
5 is at? The one that shows people leaving the store?

6 A I do.

7 Q When the suspect is shown leaving, did his face  
8 appear to be covered under the helmet or the open visor?

9 A I couldn't see that when we were leaving. I don't  
10 -- what are you talking about, in the video?

11 Q Yes.

12 A I can't tell from the video, and I was pushed in  
13 front of you, so I don't know what you did with your helmet  
14 when we were exiting the store.

15 MR. TREJO: That will be it. Thank you very your  
16 time.

17 THE COURT: Redirect, Mr. Schwartzer?

18 MR. SCHWARTZER: Very briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. SCHWARTZER:

21 Q Adriane, just a couple of things, I just want to  
22 clear up real fast.

23 First off, you talked about seeing videos three days  
24 after the -- the event; right?

25 A Yes.

1           Q     Did Las Vegas Metropolitan Police Department release  
2 some of the body cam video, of the officer-involved shooting,  
3 72 hours?

4           A     Yes.

5           Q     Okay. So and it was released to the media; is that  
6 fair?

7           A     Yes.

8           Q     And you were able to watch it through whatever news  
9 agency?

10          A     I believe I saw it on YouTube.

11          Q     Okay.

12          A     It took me a little bit to work up to actually watch  
13 that.

14          Q     Okay. So when you're talking about when I went back  
15 and watched the video, you're talking about reviewing body  
16 camera video that Las Vegas Metropolitan Police Department  
17 released?

18          A     Correct.

19          Q     Okay. And, Mr. Trejo asked you about a firearm; is  
20 that correct? By -- by what looked like an assault rifle?

21          A     Correct.

22          Q     And you said you didn't recognize that rifle?

23          A     No.

24          Q     Showing you what's been marked as Exhibit 31. Do  
25 you recognize that rifle?

1 A Yes.

2 Q Where do you recognize that from, Adriane?

3 A He had it on.

4 Q Okay. Thank you, Adriane.

5 MR. SCHWARTZER: I have no more further questions,

6 Your Honor.

7 THE COURT: Anything based on that, Mr. Trejo?

8 MR. TREJO: No further questions.

9 THE COURT: Questions from the audience? Audience.

10 I keep saying that. I've done too much theater.

11 Any questions from the jury?

12 No questions from the jury.

13 It is 4:00 o'clock, Mr. Schwartzer. Do you have

14 your last witness?

15 MR. SCHWARTZER: I do, Your Honor.

16 THE COURT: Okay. Let's go ahead and start.

17 MR. SCHWARTZER: The State --

18 THE COURT: Ma'am, you're excused. Please don't

19 discuss your testimony with anyone.

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: Thank you.

22 MR. SCHWARTZER: The State calls Detective Jason

23 Leavitt.

24 THE COURT: Thank you.

25 THE CLERK: Please raise your right hand.

1 DETECTIVE JASON LEAVITT, STATE'S WITNESS, SWORN

2 THE CLERK: Can you please state and spell your name  
3 for the record?

4 THE WITNESS: Jason Leavitt, J-a-s-o-n,  
5 L-e-a-v-i-t-t.

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

7 THE COURT: Please proceed.

8 MR. SCHWARTZER: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. SCHWARTZER:

11 Q Detective, can you tell the ladies and gentlemen of  
12 the jury what you do for a living?

13 A I'm a Detective with the Las Vegas Metropolitan  
14 Police Department, specifically, the Force Investigation Team.

15 Q What is the Force Investigation Team?

16 A Force Investigation Team conducts investigations  
17 into deadly force incidents or critical incidents that would  
18 result in substantial bodily harm or death.

19 Q Okay. Is it true that you investigate the police  
20 officers involved for possible criminal acts?

21 A That is true.

22 Q Additionally, you also investigate whether the  
23 suspect or the person was shot may have committed other -- may  
24 have committed crimes would be prosecutable?

25 A Yes. That is also correct.

1           Q     Okay. So you're kind of looking at this whole --  
2 when there's an officer-involved shooting, your team goes out  
3 there and determines where there's criminal liability?

4           A     Yes. We do.

5           Q     And then submit it the District Attorney's Office?

6           A     Yes.

7           Q     Okay. Could you tell the ladies and gentlemen of  
8 the jury what -- how it works? Like how when you -- when one  
9 of these officer-involved shootings occur, what's the next  
10 step? How do you guys get out there?

11          A     So typically, many of these happen after hours, not  
12 your normal working day. So the majority of the time we  
13 receive a notification via cell phone. Our dispatch, of an  
14 officer gives radio broadcast in the field that they've been  
15 in an officer-involved shooting or that shots have been fired  
16 by either themselves or a suspect. A dispatch supervisor will  
17 then make a prerecorded message giving basic details of the  
18 event to include date, time, location, the event number, some  
19 brief synopsis of what they possibly know at that time as it's  
20 still usually very early in the situation.

21                     And then that recorded message is sent out to  
22 Detectives on my team, as well as other people who need to be  
23 informed of the event.

24                     Once that's done, that notifies me that I need to  
25 respond to work. I respond to the -- to the phone call. And



1 then I will drive or go to the -- to the scene of the  
2 incident.

3 Q Have you ever heard the term case agent before?

4 A I have.

5 Q What is a case agent?

6 A A case agent, so on the Force Investigation Team,  
7 there's myself, along with five other detectives, a sergeant,  
8 and a lieutenant. The case agent is the person that's up in  
9 the rotation to basically be assigned as the lead on a case.  
10 So on an incident like this, I was -- I was the  
11 person that was up. So I was next in the rotation to be the  
12 primary assigned detective for that case.

13 Q Okay. And I should have asked this beforehand, but  
14 how long have you been a detective with LVPMD?

15 A I've been a detective with LVPMD for almost 18  
16 years. I've been a detective assigned to the Force  
17 Investigation Team for approximately six.

18 Q Now, I want to bring your attention to -- which is  
19 something you referenced before, September 3rd, 2018. Were  
20 you up in the rotation as the case agent?

21 A I was.

22 Q Did a incident occur at 1150 South Rainbow that led  
23 for you -- led to you being called out with your team?

24 A It did.

25 Q Okay. What were the details of the call before you

1 got there?

2 A The details of the call prior to me getting there  
3 was that there had been a robbery in progress at the  
4 SuperPawn. That when officers arrived, a suspect exited the  
5 -- the business and officers engaged him and -- with gunfire.

6 Q Was there a suspect taken into custody at the scene?

7 A There was.

8 Q And who was that identified as?

9 A Mario Trejo.

10 Q Additionally, was there an event number assigned to  
11 the incident?

12 A There was.

13 Q And was that event number 180903-1848?

14 A Yes.

15 Q And can you explain to the ladies and gentlemen of  
16 the jury what an event number is?

17 A Sure. The event number -- the event number at this  
18 time, as our -- our event numbers have slightly changed due to  
19 some computer upgrades. But the event number, the first of  
20 the numbers would be the last two of the year, so 18, the next  
21 number would be the 09, which would be the month, and then the  
22 date.

23 Then the following event, the longer portion of that  
24 event number is the call for service of that day. So every  
25 call that comes into the police department, or every stop that

1 an officer does, generates a sequential number for the day.  
2 So that would have been that call for service for the day, for  
3 the police department.

4 Q So that would be the 1,848th -- 48th event --

5 A That day.

6 Q -- or incident?

7 A Correct.

8 Q Okay. And specifically, those numbers are unique to  
9 an incident; is that correct?

10 A They are.

11 Q So that's a way when you impound evidence or review  
12 video it would all be under that event number?

13 A That is correct.

14 Q Okay. A way to maintain chain of custody?

15 A Yes.

16 Q Okay. Additionally, were you -- were you informed  
17 about injuries that the suspect, Mario Trejo, suffered?

18 A Yes. I was informed that he had suffered one  
19 gunshot wound to the chest and had been transported to the  
20 hospital.

21 Q Okay. Additionally, did he also receive a dog bite  
22 as well?

23 A He did. Yes.

24 Q Okay. Now, once you get to the scene, is Mr. Trejo  
25 still there or was he already transported?

1           A     He had been transported.

2           Q     Okay. What do you do when you get to the scene?  
3     What's the first thing you do?

4           A     The first thing I do is I will see what kind of  
5     resources have already responded to the scene. I get a  
6     briefing on what the patrol officers and the supervisors on  
7     scene have done up to that point. That briefing will be to  
8     help me identify locations of interest, evidentiary items, as  
9     well as any victims or witnesses that we may have.

10           And from there, the -- I will meet with my team and  
11     then I have my -- my team, since I'm the case agent, I'll have  
12     the other detectives that work with me, give them specific  
13     assignments to help coordinate the -- the scene and the  
14     investigation.

15           Q     All right. So let's go through that. As the case  
16     agent, what was your responsibility?

17           A     My responsibility is to oversee the investigation as  
18     a whole.

19           Q     And -- and do you also do anything regarding the  
20     scene?

21           A     I do. I work with the crime scene analysts as they  
22     process the scene, as we document the scene, to identify  
23     anything that -- that needs to be looked at on the scene.

24           Q     Okay. So you would work with the crime scene  
25     analysts to -- to, I guess, document the scene?

1           A     Yes.

2           Q     Okay. What are some other roles that you gave out  
3 in this investigation?

4           A     In this investigation, I sent detectives to the  
5 hospital to locate Mr. Trejo. I sent detectives to find all  
6 the witnesses that have been identified. I also had  
7 detectives helping coordinate locating any video or other  
8 possible witnesses.

9           Q     Was there a parallel investigation going on with  
10 your investigation?

11          A     There was. So when -- when I arrived, there were  
12 detectives from our Robbery Section currently on scene as  
13 well. They actually met with us during the briefing. I was  
14 able to talk with them. They were there, due to the nature of  
15 the crime being a business robbery or a commercial robbery as  
16 -- as they would refer to it.

17               They had initially responded because of that,  
18 however, as -- as you stated earlier, now that there was an  
19 officer involved shooting, typically, I would also conduct the  
20 investigation into the alleged crime or the robbery.

21               The robbery detectives had another robbery that they  
22 had been looking at with similar identification,  
23 (indiscernible) that had been used. And so the robbery  
24 detectives stayed and assisted us in our investigation to  
25 parallel or work with us.

1           Q     Is that a robbery that occurred, or at least an  
2 attempt robbery that occurred on August 4th of 2018?

3           A     It was.

4           Q     Okay. And was the Robbery Detective Jeffrey Clark  
5 involved?

6           A     He was.

7           Q     Okay. Okay, so you have detectives locating  
8 witnesses, you have detectives looking for video surveillance,  
9 detectives interviewing witnesses, and then you're documenting  
10 the scene?

11          A     Correct.

12          Q     Okay. What are some of the videos that you were  
13 able to recover during -- you or people who worked underneath  
14 you, recover from the scene?

15          A     So initially one of the things that -- that we will  
16 do once we have our briefing, we identify areas that the  
17 detectives need to go. I will then go to the officers that --  
18 the officers that were witnesses, or involved, document who  
19 they were, take photographs of them. But I also collect their  
20 body worn cameras.

21               And the body worn cameras is one of the first things  
22 that I will review on the scene to see what -- what their body  
23 worn camera was able to capture.

24               From that point, I also was able to get with the  
25 pawn shop to begin the process of recovering video from the

1 business there. And those were the two first pieces of video  
2 evidence that I -- I worked to get.

3 Q So you had body worn footage from officers involved  
4 of the shooting --

5 A Correct.

6 Q -- itself? Additionally, you looked at SuperPawn  
7 video, as well?

8 A Yes.

9 Q Did the SuperPawn video show anything that happened  
10 in that area of the officer-involved shooting?

11 A It -- of the actual involved shooting, it does not.  
12 It showed what happened prior to the officer-involved  
13 shooting.

14 Q Are you talking about the incidents that occurred  
15 inside the store?

16 A The instances that occurred inside the SuperPawn,  
17 yes.

18 Q Okay. At that time, on September 3rd of 2018, did  
19 you have access to the Air Unit?

20 A Not initially on scene. The body worn cameras, just  
21 like the camera attached to our Air Unit, have to be uploaded,  
22 docked into a system and uploaded into the -- into the  
23 evidence -- it's a website.

24 The Air Unit does not -- we're not able to do that  
25 until they land and then they have to upload their video. So

1 initially on scene I was not able to view the Air Unit's  
2 video. It was later on during the investigation that we were  
3 able to view that.

4 Q Now, I want to discuss something that I'm going to  
5 kind of jump a little bit. Eventually, is there something  
6 called like a 72-hours hearing?

7 A There is.

8 Q Okay. Is that where Metro, LVMPD, will release some  
9 details of an officer-involved shooting to the public?

10 A Yes.

11 Q Is that done through like media channels?

12 A It is.

13 Q Usually like an Undersheriff will -- will give the  
14 statement?

15 A Correct.

16 Q During that 72-hour hearing, is also body worn  
17 camera footage also released to the public?

18 A It is.

19 Q Okay. And that would be on like every major news  
20 site?

21 A That would -- yes, that would be on every major news  
22 site. That's part of what LVPMD has chosen to do in an effort  
23 to be more transparent is 72-hours after an incident, I will  
24 brief, or the case agent will brief our executive staff,  
25 meaning, the Sheriff, the Assistant Sheriffs, Captains, on the



1 incidents of the officer-involved shooting, that would include  
2 showing body worn camera footage or the Air Unit video.

3 They then take that and they do a press release to  
4 the media in an effort to let the public know what it is that  
5 occurred that day.

6 Q Okay. I want to go back to September 3rd now.

7 A Sure.

8 Q So on September 3rd, while you're documenting the  
9 scene, was there things of evidence value -- evidentiary value  
10 while you were walking and documenting the scene?

11 A Yes, there was.

12 Q Okay. Was there firearm evidence?

13 A There was.

14 Q Specifically, were there two different calibers of  
15 ammunition?

16 A There was.

17 Q Okay. Was one a 9 millimeter?

18 A One was a 9 millimeter.

19 Q And then one was a 40?

20 A Yes, sir.

21 Q All three officers involved, were you aware of -- of  
22 the caliber of ammunition they were using?

23 A All three officers were using 9 millimeters.

24 Q Okay. So the .40 caliber ammunition came from what  
25 firearm?

1           A     It came from the handgun that was used by the  
2 defendant, Mario Trejo.

3           Q     Okay. Where were -- where did -- where were the  
4 witnesses placed?

5           A     So initially, the -- the witnesses were taken out of  
6 the -- out of the business. Officers -- individual patrol  
7 officers would gather them, pull them aside. They would have  
8 them begin written voluntary statements.

9           Q     Do you know where these statements were -- were  
10 done?

11          A     They were kind of spread out throughout the -- the  
12 -- taken outside of the perimeter of the scene. They were  
13 kind of spread out. It was hot. There were a lot of  
14 witnesses. So one of the businesses in the adjacent parking  
15 lot just south of the location offered to let people come in  
16 there to get out of the sun, to get out of the heat.

17                So officers used the business to take all the  
18 witnesses to that business and let them stay in there while  
19 they conducted their written statements. And then officers  
20 were -- uniformed officers stayed with those witnesses to make  
21 sure that nobody -- nobody talked about the incident with one  
22 another so we could keep the people separated, even though  
23 they were in a large room such as this.

24          Q     Okay. Was that business the AutoZone?

25          A     It was.

1           Q     Now, the -- the fact that all the -- these witnesses  
2 who were kept in like one area, is that unusual during your  
3 investigations?

4           A     No, it's not. It's -- when we have a large group of  
5 witnesses, it's all -- it is pretty frequent that we will find  
6 a location that we can house those witnesses to keep them out  
7 of public view, out of media view, out of the -- the elements  
8 and try to keep them as comfortable as we can, because the  
9 process typically can take several hours.

10          Q     And that leads to another point. So in officer-  
11 involved shootings is media often -- get to the scene or start  
12 staging at the scene?

13          A     It's not often, it's every time, yes. We'll have  
14 media posted up right outside of -- wherever the officers put  
15 their tape initially, the media is going to post as close to  
16 that tape as they can to try to -- to document the scene or  
17 get video for their stories.

18          Q     Okay. So just to be clear, it's not unusual to put  
19 witnesses in -- in one area of a business while you're  
20 securing the scene and doing all the other steps of  
21 investigation?

22          A     Correct. Because even those witnesses, once we  
23 assign detectives to speak to those witnesses, the witnesses  
24 will be taken one at a time to a -- another area or another  
25 room to conduct those interviews.

1           Q     Okay. As part of your -- as part of your  
2 investigation do you do what's known as a countdown?

3           A     We do.

4           Q     What's a countdown, to the ladies and gentlemen of  
5 the jury?

6           A     So a countdown is some of the policies that are put  
7 in place for officers is if they are involved in an officer-  
8 involved shooting, the officer will then, after the shooting,  
9 is instructed to holster their weapon and leave it in the same  
10 condition it was as soon as the last round was fired.

11                   When we arrive, and I do things like collect the  
12 body worn camera, one of the other things that I'll do is, I  
13 will go with our crime scene analysts. We'll take those  
14 officers. We then have them remove the firearm from their  
15 holster where we're in a controlled environment. We will take  
16 the magazine out of the weapon. We then take -- if there's a  
17 round in the chamber, we'll take the round out of the chamber  
18 so we can document the weapon exactly as we found it on the  
19 officer.

20                   From that point, then we will count down how many  
21 rounds that officers has to compare it to what they should be  
22 carrying.

23           Q     Okay. And you did that to -- for Officer Carrigy?

24           A     Yes, sir.

25           Q     And do you recall how many shots his firearm fired?

1           A     I believe it was five rounds.

2           Q     Okay.

3           A     If I had the -- I don't have my report in front of  
4 me. If I had it, it is documented in my report.

5           Q     Okay. Will your report -- report help refresh your  
6 memory?

7           A     It would.

8           MR. SCHWARTZER: Your Honor, may I approach?

9           THE COURT: Yes. Do you want to show it to -- or  
10 show Mr. Trejo?

11           MR. SCHWARTZER: Mr. Trejo should have the -- the  
12 whole FIT report as part of the discovery we provided.

13 BY MR. SCHWARTZER:

14           Q     I'm going to specifically go to page 23 of your  
15 report, 23 going to page 24, which is your section, Officer  
16 Weapons Countdown?

17           A     Yes, sir.

18           Q     Okay. I would ask you to review 24, and since I'm  
19 going to get into the other officers, well, 23, 24, and  
20 through 26. And let me know if that refreshes your memory  
21 regarding what each officer fired.

22           A     It does. So Officer Carrigy, the report that I have  
23 shows that I conducted the countdown with Officer Carrigy on  
24 September 3rd, 2018, at approximately 18:37 hours. And during  
25 that countdown, it was determined that Officer Carrigy had

1 discharged his firearm two times during the incident.

2 Q Okay. How about Officer Farrington?

3 A Officer Farrington was conducted on the same date at  
4 18:59 hours. Officer Carrigy was determined --

5 Q Officer Farrington -- or --

6 A Sorry. That was my bad. Officer Farrington was  
7 determined to have discharged his firearm three times.

8 Q And then finally, Officer Graham.

9 A And Officer Graham's was conducted at 19:21 hours.  
10 Officer Graham was determined that he discharged his firearm  
11 five times.

12 Q Thank you.

13 MR. SCHWARTZER: May I approach again, Your Honor?

14 THE COURT: Yes.

15 MR. SCHWARTZER: Thank you.

16 BY MR. SCHWARTZER:

17 Q And did Officer Fulwiler fire at all?

18 A She did not.

19 Q Okay. So you reviewed video?

20 A Yes, sir.

21 Q Body worn camera?

22 A Yes.

23 Q From the store as well?

24 A Yes.

25 Q You documented the scene with a crime scene analyst?

1 A Yes.

2 Q You did a countdown with the officers --

3 A Yes.

4 Q -- involved? You also took statements from -- or  
5 you and your team took statements from witnesses at the scene?

6 A Correct.

7 Q That includes witness officers as well?

8 A Yes.

9 Q So like Officer Fulwiler?

10 A Yes.

11 Q Did you also have search warrants executed as well  
12 in this case?

13 A We did.

14 Q Okay. Specifically, September 3rd of 2018, did a  
15 member of your team get a search warrant on a white Hyundai  
16 Elantra owned by a Matthew Mongeau?

17 A Yes, sir.

18 Q Okay. And was that warrant executed at the crime  
19 scene analyst lab?

20 A It was.

21 Q Were you actually part of that?

22 A I was.

23 Q Okay. You were there with another detective?

24 A Detective Penny.

25 Q And a crime scene analyst as well?

1 A Yes.

2 Q Or, I guess, multiple crime scene analysts?

3 A Multiple crime scene analysts, yes.

4 Q Okay. A phone was recovered from that search; is  
5 that correct?

6 A That is correct.

7 Q And that phone was then provided to a -- another  
8 detective?

9 A It was. It was provided to a robbery detective,  
10 Detective Clark.

11 Q Okay. Additionally, did you also have a request  
12 later in October of 2018, did you request a DNA comparison of  
13 firearms located at the scene?

14 A I did.

15 Q And specifically, non-police firearms?

16 A Correct.

17 Q Okay. And you had that DNA comparison done?

18 A Yes.

19 Q Moreover, as part of your search warrant back in  
20 September of 2018, did you have a buccal swab taken from Mario  
21 Trejo?

22 A Yes, we did.

23 Q And that was done by Detective Penny?

24 A It was.

25 Q Additionally, was there a buccal swab voluntarily



1 done by Adriane Serrano?

2 A There was.

3 Q Okay. And that was part of your DNA comparison --

4 A Correct.

5 Q -- request?

6 A Yes.

7 Q Finally, there was a -- eventually, a search warrant  
8 to get into the contents of the phone that was recovered by  
9 your -- by yourself and Detective Penny, from that Hyundai  
10 Elantra; is that correct?

11 A Yes, there was.

12 Q And that leads to -- that was done by Detective Jeff  
13 Clark?

14 A It was.

15 Q But as a case agent, in the related incident, you  
16 also have access to that as well?

17 A That is correct.

18 Q Okay. And we already had Detective Barry Jones  
19 testify. But is it true that I had you look into the -- the  
20 full report of the phone?

21 A Yes.

22 Q And specifically, I asked you to look for a specific  
23 number; is that correct?

24 A That is correct.

25 Q And to be clear, when you have statements taken, do

1 you get phone numbers from witnesses?

2 A We do.

3 Q Did I ask you to -- did -- and did you specifically  
4 get a phone number for Adriane Serrano?

5 A I did.

6 Q And that's the person who was -- was taken outside  
7 by the defendant --

8 A Yes.

9 Q -- or by the suspect?

10 A Yes.

11 Q Okay. And so you had her phone number?

12 A I did.

13 Q And you looked through the -- the whole phone that  
14 was taken from that Hyundai Elantra?

15 A Yes.

16 Q Did that phone number ending in 2436, was that phone  
17 number anywhere in that phone?

18 A It was not.

19 Q Additionally, have -- asked you to -- what racks  
20 was? Is that correct?

21 A Yes. That is correct.

22 Q And what are racks?

23 A It's a slang term typically used to mean a thousand  
24 dollars.

25 Q Okay. At the end of your investigation did you

1 decide to charge the police officers with anything?

2 A No.

3 Q At the end of your investigation, did you decide to  
4 charge Mario Trejo with anything?

5 A Yes.

6 Q What did you charge Mario Trejo with?

7 A Mario Trejo was charged with the robbery, as well as  
8 -- I'm sorry, I don't -- I don't remember --

9 Q That's fine.

10 A -- all the charges off the top of my head.

11 Q Was there a robbery, kidnapping, and assault on  
12 police officers?

13 A That does sound correct, yes.

14 MR. SCHWARTZER: Court's indulgence.

15 Pass the witness, Your Honor.

16 THE COURT: Mr. Trejo?

17 CROSS-EXAMINATION

18 BY MR. TREJO:

19 Q Good afternoon, Detective. I'll be quick. You  
20 mentioned you had a couple search warrants secure in this  
21 investigation. Did you also serve a warrant, a -- did you  
22 also serve a warrant at G424 (sic) --

23 THE INTERPRETER: Oh.

24 BY MR. TREJO:

25 Q -- 6424 Iron Bark Lane?

1           A     I did not serve that warrant. I believe just as  
2 being the case agent, being aware of some of what the robbery  
3 detectives were doing, that would have been a warrant that  
4 would had been served by -- by them, not by my team.

5           Q     And you wouldn't be aware as a case agent, what was  
6 recovered from the 6424 Iron Bark Lane, warrant?

7           A     I -- well, I would not be aware of what we recovered.

8           Q     That will be all, Detective. Thank you.

9           A     Thank you.

10           THE COURT: Anything based on that, Mr. Schwartzer?

11           MR. SCHWARTZER: Not from the State, Your Honor.

12           THE COURT: Okay. Question for this witness?

13           Yeah. We have some. Okay.

14                               (Bench conference)

15           THE COURT: On September 3rd, during the testimony  
16 of Mr. Barry Jones, there was a paperwork showed the  
17 transaction of the firearm or the rifle. Had that transaction  
18 of the firearm, rifle, been approved by the police department  
19 before the transaction took place?

20                       I don't even understand that question.

21           MR. SCHWARTZER: I don't think he can -- I mean,  
22 they'll have -- they'll have everything from that -- from  
23 Barry Jones's testimony, so I think they can review it. I  
24 don't think he -- I think she's asking about the paperwork,  
25 there's a firearm sale paperwork in there. I don't think this

1 witness would know the answer to that.

2 THE COURT: Okay. I -- I don't even understand the  
3 question, so.

4 And then, two, Mr. Barry Jones also mentioned that  
5 the rifle had been modified and that kind of the -- and that  
6 kind of the modification was supposed to be approved by the  
7 police department. So had the modification been approved by  
8 the police department.

9 I don't -- I don't think --

10 MR. TREJO: That was (Indiscernible).

11 THE COURT: I'm sorry. I couldn't hear you, Mr. --

12 MR. HENRY: What'd you say?

13 MR. TREJO: That was (indiscernible).

14 MR. SCHWARTZER: Mr. Jones --

15 MR. HENRY: That was another detective.

16 MR. SCHWARTZER: -- that was Barry Jones that did  
17 that.

18 THE COURT: Yeah. He said it was Jones. I don't --

19 MR. SCHWARTZER: No, I think it was Barry Jones that  
20 said that.

21 THE COURT: But I don't think he would have any way  
22 of knowing that. And --

23 MR. SCHWARTZER: I doubt he's seen the picture  
24 honestly.

25 THE COURT: Yeah. So --

1 MR. TREJO: That was (indiscernible).

2 THE COURT: Oh, he said it was -- I -- whatever it  
3 was, I don't think this is a relevant question. So I'm not  
4 going to ask either one of them.

5 Thank you.

6 (End of bench conference)

7 THE COURT: Thank you, Detective. You are excused.  
8 Please don't discuss your testimony with anyone.

9 MR. SCHWARTZER: And, Your Honor?

10 THE COURT: Yes.

11 MR. SCHWARTZER: The State will withdraw Exhibit 6,  
12 the State will withdraw Exhibit 147.

13 THE COURT: Wait, I'm trying to get to the right  
14 thing. But hold on. You're withdrawing Number 6, Number --

15 MR. SCHWARTZER: 147.

16 THE COURT: 1-4-7.

17 MR. SCHWARTZER: Besides that, I just want to make  
18 sure that every other Exhibit 1 through 158, has been admitted  
19 by the State.

20 THE CLERK: Excluding the numbers that you didn't  
21 give me, like the 101 to 105, and --

22 MR. SCHWARTZER: Your Honor, may we approach?

23 THE COURT: Yes.

24 MR. SCHWARTZER: Oh.

25 (Mr. Schwartzer/Ms. Heap confer with Clerk re: exhibits)

1 MR. SCHWARTZER: Okay. All right.

2 So outside the fact that we misnumbered a --

3 THE CLERK: Yeah.

4 MR. SCHWARTZER: -- a few, everything else is in  
5 evidence?

6 THE CLERK: Yes.

7 MR. SCHWARTZER: All right.

8 With that, the State will rest.

9 THE COURT: Mr. Trejo, do you have any of your  
10 witnesses available today, or do we need to go tomorrow?

11 MR. TREJO: Tomorrow will be better, Your Honor.

12 THE COURT: Okay. So ladies and gentlemen of the  
13 jury, we are going to recess until tomorrow at 11:00 a.m.

14 During the recess, you are admonished not to talk or  
15 -- that was the right time, correct, everybody? 11:00?

16 MR. SCHWARTZER: Yes. 11:00. Thank you.

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

1 We'll see you tomorrow at 11:00. Thank you.

2 (Outside the presence of the jury.)

3 THE COURT: Anything outside the presence?

4 MR. SCHWARTZER: Two things, Your Honor.

5 THE COURT: Yes.

6 MR. SCHWARTZER: Number one, my understanding, the  
7 only witness that Mr. Trejo may have is him testifying, so I  
8 think we need to do the admonishment.

9 THE COURT: Oh. I thought he had the --

10 MR. SCHWARTZER: If the -- I don't --

11 THE COURT: -- police officer.

12 MR. SCHWARTZER: Oh, the police officer.

13 MS. HEAP: He withdrew that.

14 MR. SCHWARTZER: He told me previously he called it  
15 off, but if he wants to call him --

16 THE COURT: Oh, okay. I didn't -- I didn't hear  
17 that part, so --

18 MR. SCHWARTZER: Okay.

19 MR. HENRY: And Judge, I do believe he wants to  
20 recall one of the State's witnesses, and call another State's  
21 witness that was not called to testify. He's writing it down  
22 now.

23 MR. SCHWARTZER: Are either one of them under  
24 subpoena?

25 (Mr. Henry/Mr. Trejo confer)



1 MR. SCHWARTZER: If you could tell me the witnesses,  
2 I can try to contact them. Just I need to know who they are.  
3 I assume neither one of them are under subpoena?

4 MR. TREJO: It's Giovanni Andino and Dwayne Melvin.

5 MR. SCHWARTZER: Dwayne Melvin can't testify at  
6 11:00 a.m. He's -- he -- we did that motion to try to get him  
7 in recorded-wise.

8 THE COURT: I don't remember that motion. Tell me  
9 more about it.

10 MR. SCHWARTZER: Well, I'm going -- I'm objecting to  
11 both of them, so. And neither one of them are on subpoena.  
12 He didn't notice the witness. He had Giovanni -- was already  
13 on the stand. I don't see a reason to reopen it.

14 Dwayne Melvin, we did a -- a motion to bring him in  
15 by audio/visual because he said he was suffering great  
16 financial loss if he had to be here to testify because he was  
17 a one-person shop at a barbeque restaurant. You --

18 THE COURT: God, I don't -- I don't remember that  
19 one at all.

20 MR. SCHWARTZER: Yeah. It was -- it was like a  
21 motion from last trial setting.

22 THE COURT: Okay. Yeah. I just -- honestly, I  
23 don't remember that one. Okay.

24 MR. SCHWARTZER: I will admit right now, he hasn't  
25 responded to us. So if you guys can find him in the next 24

1 hours, more power to you. I guess I won't -- I won't object  
2 to him not being noticed. But I have not been able to get  
3 ahold of him during this trial.

4 And with Giovanni, I just -- I guess I need a --  
5 he's not under subpoena by you guys -- by Mr. Trejo. I'm  
6 sorry to put you in there, Mr. Henry. I guess, it's -- if the  
7 Court wants to order it, I can try to find -- I can try to  
8 find out if he can testify again.

9 THE COURT: I'll let him try and present something,  
10 Mr. Schwartzer. So I will -- I'm going to -- I'm going to  
11 order that you try and find him and see if he's available to  
12 testify tomorrow.

13 MR. SCHWARTZER: We'll do.

14 THE COURT: And then the other Melvin person, if you  
15 guys are able to find, I just -- I honestly don't even  
16 remember the audio/visual. That's doesn't even sound  
17 familiar.

18 MR. SCHWARTZER: I have -- I have multiple times  
19 called and left voice mails on him regarding this trial. I  
20 have had my investigator talk to him, Marco Rafalovich. And  
21 he has not been able to get ahold of him.

22 He has previously said that he can't testify, except  
23 for in the very, very early morning --

24 THE COURT: Um-hum.

25 MR. SCHWARTZER: -- which is why we did that motion.

1 After that motion was granted, I contacted him -- I tried to  
2 contact him again and say, look, the motion's granted. We'll  
3 get you on at 9:00 a.m.

4 He has for over a month not responded to any of my  
5 calls, has not -- I've left voice mails every time, and he has  
6 not responded to me in any way, or any form. So, in fact, I  
7 mean, the State would love to have him testify, and intended  
8 to do so, but he's been non-responsive to the subpoena.

9 Based on him being a witness, and based on the other  
10 evidence we had in this case, we decided he wasn't material  
11 and that's why we never sought a material witness warrant for  
12 him.

13 THE COURT: Okay. Yeah. But if you can try and  
14 contact Mr. Andino.

15 MR. SCHWARTZER: I will.

16 THE COURT: Thank you. And so do you -- did you  
17 still want me to do the -- the right to testify or not --

18 MR. SCHWARTZER: I do, Your Honor.

19 THE COURT: -- right now?

20 MR. SCHWARTZER: Because I think if --

21 THE COURT: Okay. We can do that now.

22 MR. SCHWARTZER: -- because I think we should be  
23 ready to close tomorrow as well.

24 THE COURT: Okay.

25 Mr. Trejo, under the Constitution of the United

1 States and under the Constitution of the State of Nevada, you  
2 cannot be compelled to testify in this case; do you understand  
3 that?

4 MR. TREJO: Yes.

5 THE COURT: You may at your own request give up this  
6 right and take the witness stand and testify. If you do, you  
7 will be subject to cross-examination by the Deputy District  
8 Attorney and anything that you say, be it on direct or cross-  
9 examination, will be the subject of fair comment when the  
10 Deputy District Attorney speaks to the jury in his final  
11 closing argument. Do you understand that?

12 MR. TREJO: Yes, Your Honor.

13 THE COURT: If you chose not to testify, the Court  
14 will not permit the District Attorney to make any comments to  
15 the jury because you've not testified. Do you understand  
16 that?

17 MR. TREJO: Yes, Your Honor.

18 THE COURT: If you elect not to testify, the Court  
19 will instruct the jury, but only if your attorney -- only if  
20 you specifically request, which you did, as follows: the law  
21 does not compel a defendant in a criminal case to take the  
22 stand and testify and no presumption may be raised and no  
23 inference of any kind may be drawn from the failure of a  
24 defendant to testify.

25 Do you have any questions about these rights?

1 MR. TREJO: No, Your Honor.

2 THE COURT: You are further advised that if you have  
3 a felony conviction and more than ten years has not elapsed  
4 from the date you've been convicted or discharged from prison,  
5 parole or probation, whichever is later, and the defense has  
6 not sought to preclude that coming before the jury, and you  
7 elect to take the stand and testify, the Deputy District  
8 Attorney in the presence of the jury will be permitted to ask  
9 the following questions: have you been convicted of a felony,  
10 what was the felony, and when did it -- that happen. However,  
11 no details may be gone into.

12 Do you understand that?

13 MR. TREJO: Yes, Your Honor.

14 THE COURT: Okay. So we are going to start tomorrow  
15 at 11:00 with witnesses. Then are we going to try and do jury  
16 instructions at lunch? Like are we going to let them go  
17 early? What are we going to do?

18 MR. SCHWARTZER: I would like to do jury -- I would  
19 like to get closed tomorrow if we could. So if -- if we can  
20 do jury instructions over lunch, and then we can possibly -- I  
21 mean, obviously, it counts on what Mr. Trejo decides to do,  
22 but at this point it's probably one witness at most, besides  
23 himself, possibly testifying. I think we can get into closing  
24 by 2:00 or 3:00 o'clock.

25 THE COURT: Okay. So we'll just give the jury a

1 long lunch break after we get through these couple witnesses.

2 And Mr. Trejo, anything you'd like to say outside  
3 the presence?

4 MR. TREJO: If I testified, how would it be done,  
5 Your Honor, without my voice as pro se?

6 THE COURT: Without what?

7 MR. TREJO: Without my voice and as pro se?

8 THE COURT: So you'd still have to testify through  
9 the interpreter because you don't have a voice, obviously.  
10 And then honestly, I've never seen anyone pro se --

11 MR. HENRY: I would assume it would in the form --

12 THE COURT: -- take the stand.

13 MR. HENRY: -- of the narrative or the -- the Court  
14 would have to use a few questions to prompt him.

15 MR. SCHWARTZER: I -- I think it's in the form of a  
16 narrative, from my understanding.

17 THE COURT: That's what I was thinking. I thought  
18 it was in the form of a narrative. So but you'd have to make  
19 sure that you only discussed relevant items. You'd have to  
20 make sure that you were not putting in any hearsay. You would  
21 still have to follow the evidentiary rules.

22 So, I mean, I guess he would --

23 MR. TREJO: Nothing outside the presence.

24 THE COURT: I'm sorry?

25 MR. TREJO: Nothing outside the presence of the

1 jury.

2 THE COURT: Okay. So, I guess, basically you'd --  
3 you'd write it out and give it to the interpreter to read for  
4 you, since it has to -- it -- since it would be in the form of  
5 a narrative.

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

7 Obviously, cross-examination, he'll have to --

8 THE COURT: Also write out the --

9 MR. SCHWARTZER: -- type.

10 THE COURT: -- questions or --

11 MR. SCHWARTZER: But --

12 THE COURT: -- type them up.

13 MR. SCHWARTZER: -- but during direct, I think he  
14 could just write it up right now and give it to the  
15 interpreter.

16 THE COURT: Right. If you have it ready to go, Mr.  
17 Henry would be able to take a look at it before you take the  
18 stand and -- and make sure that it follows all the rules of  
19 evidence, that everything is relevant, that there's no  
20 hearsay, that -- I'm blanking on other rules of evidence.  
21 There's lots of rules of evidence.

22 Right. But if you'd show it to Mr. Henry, he can  
23 make sure that it follows what's allowed.

24 Okay? So see you all tomorrow morning.

25 MR. SCHWARTZER: Thank you, Your Honor.

1 MS. HEAP: Thank you.

2 THE COURT: Thank you.

3 MR. TREJO: Thank you.

4 (Court recessed for the day at 4:43 p.m.)

5 \* \* \* \* \*

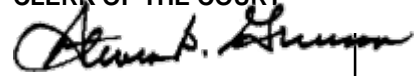
ATTEST: I hereby certify that I have truly and correctly  
transcribed the audio/visual proceedings in the above-entitled  
case.

A handwritten signature in blue ink, reading "Julie Lord", is enclosed in a thin black rectangular box.

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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

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

TUESDAY, MAY 3, 2022

**RECORDER'S TRANSCRIPT OF PROCEEDING:  
JURY TRIAL - DAY 12**

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:

Marie Bacquerie  
*Spanish Interpreter*

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

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LIST OF EXHIBITS

(No exhibits admitted)

1                   LAS VEGAS, NEVADA, TUESDAY, MAY 3, 2022

2                   (Case called at 11:01 a.m.)

3                   (Outside the presence of the jury.)

4                   THE COURT: Are we on the record?

5                   THE COURT RECORDER: Yes.

6                   THE COURT: Okay. State of Nevada versus Mario  
7 Trejo, Case Number C-18-335315-1. Mr. Trejo and Mr. Henry are  
8 present on Mr. Trejo's behalf, along with the interpreter.

9                   Ms. Heap and Mr. Schwartzer are present for the  
10 State. We are outside the presence of the jury.

11                   Anything for either party before we bring the jury  
12 in?

13                   MR. SCHWARTZER: For the record, Your Honor, the  
14 State, based on the Court's order, did contact Giovanni  
15 Andino. He is outside right now at 11:00 a.m. I saw him when  
16 I was walking in. He's -- he's here to testify in defense  
17 case-in-chief.

18                   I -- also, although, there wasn't a court order to  
19 reach out to Dwayne Melvin, I reached out to him as well. As  
20 what's happened every other time I've called him, it went  
21 straight to voice mail. I left a voice mail asking him to  
22 call me back about possibly testifying tomorrow and I have yet  
23 to receive a phone call.

24                   MR. HENRY: And, Judge, we did reach out to Melvin  
25 as well. I believe it's Melvin, right?

1 MR. SCHWARTZER: Yeah. That's his last name.

2 MR. HENRY: We have not heard anything back as well.

3 THE COURT: Okay. Thank you. Anything else?

4 MR. TREJO: No, Your Honor.

5 THE COURT: Okay. Thank you.

6 MR. SCHWARTZER: Oh, does the defendant have any  
7 proposed jury instructions?

8 THE COURT: Oh, yeah.

9 MR. TREJO: Your Honor?

10 THE COURT: Yes.

11 MR. TREJO: No instructions. I just found out that  
12 a lot of the State's instructions kind of repeat themselves.  
13 Other than that, I have nothing to add.

14 MR. SCHWARTZER: Okay.

15 THE COURT: Okay. So when we settle the  
16 instructions you can make your objections to those as being --  
17 as being repetitive. But we just needed to know right now if  
18 you had any proposed, so.

19 MR. HENRY: And Judge, I did review Mr. Trejo's  
20 narrative, if he decides to testify. Although, there may be  
21 some things that are objectionable, I don't believe it's my  
22 duty to tell him to keep it out or not. So if the State  
23 wishes to object they can. But I did review it.

24 MR. SCHWARTZER: I mean, I guess if he's testifying,  
25 it's going to come into evidence anyway. Can the State review

1 it and make our objections before the jury hears it?

2 THE COURT: I don't -- I -- I'm not -- I mean, I  
3 understand, but I don't know that I'm very comfortable with  
4 giving it to you beforehand. I mean, I think you should make  
5 contemporaneous trial objections and we'll see how much of it  
6 comes in.

7 MR. SCHWARTZER: Sounds good.

8 THE COURT: So --

9 (Pause in the proceedings)

10 THE COURT: Okay. So we can bring in the jury.

11 (In the presence of the jury)

12 THE COURT: will the parties stipulate to the  
13 presence of the jury?

14 MR. SCHWARTZER: Yes, Your Honor.

15 MR. TREJO: I do, Your Honor.

16 THE COURT: Okay. Thank you. Please be seated.  
17 Defense, call your next witness.

18 MR. TREJO: Defense calls Giovanni Andino.

19 THE COURT: Thank you.

20 THE CLERK: Please raise your right hand.

21 GIOVANNI ANDINO, DEFENDANT'S WITNESS, SWORN

22 THE CLERK: Can you please state and spell your name  
23 for the record?

24 THE WITNESS: Giovanni Andino, G-i-o-v-a-n-n-i,  
25 Andino, A-n-d-i-n-o.

1 THE CLERK: Thank you. You may have a seat.

2 THE COURT: Please proceed, Mr. Trejo.

3 DIRECT EXAMINATION

4 BY MR. TREJO:

5 Q Good morning, Giovanni. Thank you for allowing us a  
6 little more of your time. I just have a few questions about  
7 your previous testimony last week.

8 Do you think you have a clear recollection of that  
9 testimony?

10 A Yes.

11 MR. TREJO: Your Honor, permission to publish one of  
12 my stipulated exhibits.

13 MR. SCHWARTZER: No objection.

14 THE COURT: Yes. Thank you.

15 MR. TREJO: I need Exhibits A through J, please.  
16 Permission to approach?

17 THE COURT: Yes.

18 MR. TREJO: Showing Exhibit A.

19 THE COURT: Okay.

20 BY MR. TREJO:

21 Q Mr. Andino, do you recall where you marked last  
22 Friday, your position where you alleged laying down in this  
23 area on September 3rd, 2018 -- 2018?

24 THE INTERPRETER: Correction.

25 THE WITNESS: Yes.

1 BY MR. TREJO:

2 Q Can you please mark it again for us?

3 A That was kind of bad, but.

4 THE COURT: For the record, he's marked -- he's made  
5 a circle in the area of the open floor just below the orange  
6 and on wheels like generator thing, and in front of the off-  
7 white glass front cabinet.

8 Is that -- Ms. --

9 MS. HEAP: Yes, Your Honor.

10 THE COURT: Thank you.

11 MR. TREJO: Yes, Your Honor.

12 THE COURT: Okay.

13 BY MR. TREJO:

14 Q And do you recall saying last Friday that you had a  
15 view of the front door and most of the store from this  
16 position?

17 A I had a view of the jewelry and half of the front  
18 door, yes.

19 Q Do you recall stating that you saw a gentleman open  
20 the door that was alleged zip-tied?

21 A I heard him. I didn't see him.

22 Q Did you see any other details from this position  
23 that we didn't just mention?

24 MR. SCHWARTZER: Can we get a time frame, Your  
25 Honor?

1 THE COURT: Yeah. Please be more specific, Mr.  
2 Trejo.

3 BY MR. TREJO:

4 Q Prior to the gentleman attempting to open the door,  
5 did you see anything else of importance while you were on the  
6 floor?

7 A Like the whole time, or just the door? I don't  
8 really understand the question.

9 Q At one point, did you claim you saw the suspect take  
10 your manager?

11 A Yes.

12 Q Did you claim to have seen the suspect put a bag on  
13 the jewelry counter?

14 A Yes.

15 Q And did you see him give her zip ties?

16 A Actually see it? No.

17 THE INTERPRETER: (To the District Attorneys) He  
18 wants the exhibit for the videos.

19 (To the defendant) Which video?

20 MR. TREJO: The surveillance videos.

21 MS. HEAP: I believe it's Exhibit 9.

22 MR. SCHWARTZER: Exhibit 9's the main one.

23 MS. HEAP: Yeah.

24 BY MR. TREJO:

25 Q And did you also claim to have seen the suspect take



1 Adriane by the shirt and point a gun at her?

2 A Yes.

3 MR. TREJO: Permission to play Exhibit 9, camera  
4 angle 3, please.

5 THE COURT: (To District Attorneys) Can you -- do  
6 you guys have a computer you can play that on for him? Thank  
7 you.

8 MR. SCHWARTZER: Is there a specific time you want,  
9 Mr. Trejo? What video are you looking for? I can probably  
10 guess the time.

11 MR. TREJO: In front of the counter.

12 MR. SCHWARTZER: In front of the counter, what time?

13 THE INTERPRETER: (To the defendant) What time?

14 MR. SCHWARTZER: If you want --

15 MR. TREJO: A minute 20.

16 MR. SCHWARTZER: There's --

17 MR. TREJO: Oh, I mean, it ends in (indiscernible).

18 MS. HEAP: Which camera angle?

19 MR. SCHWARTZER: There's a minute in the video  
20 you -- the helmet person isn't even inside the store. He  
21 doesn't come in the store until about 1:08, 13:08.

22 MR. TREJO: (Indiscernible).

23 MR. SCHWARTZER: What'd he say?

24 MS. HEAP: 1:09 or 1:10.

25 MR. SCHWARTZER: 13:10?

1 MR. TREJO: 1:09, 1:10.

2 MR. SCHWARTZER: 1:09, 10.

3 And you said camera angle 3, is that correct?

4 MR. TREJO: Yes, please.

5 MR. SCHWARTZER: Playing at 13:10 -- 13:09:10.

6 THE COURT: Thank you, Mr. Schwartzer.

7 MR. TREJO: Can you go back 30 seconds, please?

8 MR. SCHWARTZER: 30 back. Okay.

9 So, 13:09:00? Okay.

10 Play?

11 THE COURT: And you're playing at 13:09:00, is that  
12 where you're starting?

13 MR. SCHWARTZER: Go back to what time?

14 MR. TREJO: 15 seconds.

15 MR. SCHWARTZER: 15 seconds? 13:08:45? Right  
16 there?

17 At Mr. Trejo's request, I'm playing camera angle 3,  
18 Exhibit 9, 13:08:45. Playing now.

19 THE COURT: Thank you.

20 (Video playing)

21 MR. TREJO: Stop.

22 MR. SCHWARTZER: Stop?

23 MR. TREJO: Yes.

24 MR. SCHWARTZER: Stopping at 13:09:09 at Mr. Trejo's  
25 request.

1 THE COURT: Thank you.

2 BY MR. TREJO:

3 Q Mr. Andino, I apologize. I made an error with a few  
4 details regarding this video.

5 I have no further questions.

6 MR. SCHWARTZER: Nothing by the State.

7 THE COURT: Anything by any of the jurors?

8 Nothing by any of the jurors.

9 Mr. Andino, thank you for your time. And you are  
10 excused. Please do not discuss your testimony with anyone.

11 THE WITNESS: Thank you.

12 THE COURT: Defense, call your next witness.

13 MR. TREJO: I am calling myself, Your Honor.

14 THE COURT: Okay.

15 Please take the stand and stand to be sworn.

16 MR. HENRY: Judge, Mr. Trejo is asking for a short  
17 recess of five minutes before he takes the stand.

18 THE COURT: Do we want to do this after lunch?

19 Because the short recesses haven't been sort and we need to  
20 get the jury instructions together and --

21 MR. TREJO: I just need to clear my --

22 THE COURT: He just needs to clear --

23 MR. HENRY: Correct.

24 THE COURT: Okay. So five minutes.

25 MR. SCHWARTZER: Thank you, Your Honor.

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

10 It is 11:40. We'll be back at 11:45.

11 (Court recessed at 11:39 a.m., until 11:44 a.m.)

12 (Outside the presence of the jury.)

13 THE COURT: How long do you guys think we're going  
14 to need to settle jury instructions?

15 MS. HEAP: I don't think long.

16 THE COURT: Yeah, it didn't seem like it.

17 MR. SCHWARTZER: He didn't submit any and it  
18 shouldn't take that long.

19 (Pause in the proceedings)

20 (Jury enters at 11:45 a.m.)

21 (In the presence of the jury)

22 THE COURT: Will the parties stipulate to the  
23 presence of the jurors?

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

25 MR. TREJO: I do, Your Honor.

1 THE COURT: Thank you. Please be seated.

2 Mr. Trejo, please come to the witness stand.

3 THE CLERK: Please raise your right hand.

4 MARIO BLADIMIR TREJO, DEFENDANT, SWORN

5 THE CLERK: Can you please state and spell your name  
6 for the record?

7 THE WITNESS: Mario Bladimir Trejo, M-a-r-i-o,  
8 B-l-a-d-i-m-i-r, T-r-e-j-o.

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

10 THE COURT: Please proceed, Mr. Trejo.

11 DIRECT EXAMINATION

12 BY MR. TREJO:

13 THE WITNESS: Good morning, everyone, my name is  
14 Mario Bladimir Trejo. I will apologize in advance. I have  
15 zero experience with trials, so I'm not as fluid as the Chief  
16 Deputy District Attorneys. Add that to my loss of speech and  
17 lack of law degrees, and there are bound to be some bumps on  
18 the road. But I swear to do my best.

19 I'll begin by answering the question the State might  
20 ask when they cross-examine to save us some time.

21 First, I've never been convicted of a crime, not  
22 even a misdemeanor. Among my long --

23 MR. SCHWARTZER: Objection, relevance, Your Honor.  
24 And move to strike.

25 THE COURT: That's not -- I mean, you can't

1 anticipatorily say anything like that. So that is going to be  
2 stricken, Mr. Trejo.

3 MR. SCHWARTZER: Thank you, Your Honor.

4 BY MR. TREJO:

5 THE WITNESS: Among my long and fruitful employment  
6 history, you will find I did, in fact, work for Cash America  
7 SuperPawn over ten years ago. I left that employment amicably  
8 due to a better opportunity working for a DOD contractor in  
9 Leetsdale, Pennsylvania.

10 I suppose one of the questions in this matter is  
11 about the firearms that have been depicted throughout this  
12 trial. So I'll address that. All the firearms --

13 MR. SCHWARTZER: Objection, relevance.

14 THE COURT: Mr. Trejo?

15 MR. SCHWARTZER: And move to strike the answer.

16 THE COURT: It depends on what his response is.

17 Thank you, Mr. Henry.

18 THE WITNESS: I just figured that it's a relevant  
19 matter as detectives have commented on the nature of these  
20 firearms. I felt stating them would be appropriate and  
21 relevant, Your Honor.

22 THE COURT: But I'm not exactly sure -- can I -- can  
23 I take a look at the answer that he had about the -- no know,  
24 the --

25 THE INTERPRETER: Yeah. This one?

1 THE COURT: -- no, the thing that he had about the  
2 firearms?

3 THE INTERPRETER: This one.

4 (Court reviewing document)

5 THE COURT: Yeah. That part is not going to be  
6 relevant, Mr. Trejo.

7 MR. SCHWARTZER: Thank you, Your Honor.

8 THE COURT: And he hadn't answered enough for him to  
9 -- for it to be -- need to be stricken, Mr. Schwartzer.

10 MR. SCHWARTZER: Understood, Your Honor. Thank you.  
11 BY MR. TREJO:

12 THE WITNESS: Next, I'll address the big questions  
13 the prosecution wants to ask me, which involve August 4th,  
14 2018, and September 3rd, 2018.

15 The first would be if I attempted a robbery at 1150  
16 South Rainbow Boulevard on August 4th, 2018. The second is if  
17 I robbed and committed all the crimes alleged on September  
18 3rd, 2018, at 1150 South Rainbow Boulevard.

19 The cold truth is that I don't recall. My  
20 recollection of the late 2018 months is, for the most part,  
21 gone. And what I do remember is hazy, at best.

22 I did try to have a doctor testify who treated me --

23 MR. SCHWARTZER: Objection, relevance.

24 THE COURT: You -- you can't say that, Mr. Trejo.  
25 So that part's going to be stricken.

1 MR. SCHWARTZER: Thank you.

2 THE COURT: So continue.

3 BY MR. TREJO:

4 THE WITNESS: I'm not allowed to get into specifics  
5 because it allegedly -- well, it's allegedly irrelevant. So  
6 I'll keep it short. I suffered a severe oxygen deprivation  
7 that left me in a coma for two months after my arrest. That  
8 event caused what I believe the doctor called acute brain  
9 damage.

10 MR. SCHWARTZER: Objection. Hearsay. And not --  
11 none of this evidence has been provided to the State, if there  
12 is any evidence.

13 THE COURT: Mr. Trejo, it is hearsay, because it's  
14 coming from somebody who's not -- I mean, you don't have  
15 knowledge of that yourself. You don't have firsthand  
16 knowledge of it. And so -- and also it has not yet -- or it  
17 has not been provided to the State. So I'm going to sustain  
18 that objection.

19 BY MR. TREJO:

20 THE WITNESS: In essence, the time prior December  
21 10th, 2018, including August and September of 2018, is either  
22 gone or hazy.

23 I will be straightforward and tell you I do have a  
24 clear memory of two things on September 3rd, 2018. I know the  
25 date these events occurred, because they were documented in



1 the police reports and medical records.

2 I recall the dog bite that we saw on video.

3 Specifically, I recall the pain mostly.

4 The second thing I recall is Dr. McNickle (phonetic)  
5 inserting a chest --

6 MR. SCHWARTZER: Objection. Hearsay. Anything Dr.  
7 McNickle said.

8 THE COURT: And again, that is going to be hearsay,  
9 Mr. Trejo.

10 THE WITNESS: It wasn't anything she said. It is  
11 something I recall.

12 THE COURT: But if it's something you recall her  
13 saying, then that's --

14 THE WITNESS: It's something -- it's something I  
15 recall.

16 THE COURT: Okay. Go ahead and let's hear it and  
17 we'll see.

18 BY MR. TREJO:

19 THE WITNESS: The second thing I recall is Dr.  
20 McNickle inserting a chest tube through my rib cage in order  
21 to drain my lungs of blood. Again, the pain is the most  
22 relevant aspect of that memory.

23 Oh, the most prevalent.

24 THE INTERPRETER: Correction.

25 THE WITNESS: The pain is the most prevalent aspect

1 of that memory. All other facts and details pertaining to  
2 this case I've read from reports, statements, and evidence. A  
3 lot of these videos are new to me. I'm literally watching  
4 them for the first time. As we go through them, I am learning  
5 new facts and details --

6 MR. SCHWARTZER: I'm objecting to relevance, again,  
7 Your Honor. However, Mr. Trejo decides to deal with discovery  
8 is not relevant to the matter at hand.

9 THE COURT: Mr. Trejo, again, this has to be  
10 something that -- the statute says that relevance has to be  
11 something that makes a fact in evidence more or less likely to  
12 have happened. So a lot of what you're testifying to is not  
13 relevant at this point.

14 So I'm going to sustain that objection. And please  
15 move along.

16 MR. SCHWARTZER: Move to strike the answer as well,  
17 Your Honor.

18 THE COURT: And that will be stricken.

19 MR. SCHWARTZER: Thank you.

20 BY MR. TREJO:

21 THE WITNESS: Another question I'm sure will be  
22 asked is about the involvement of an inside person. Based on  
23 what I do remember, and the conversation I had with said  
24 person in early 2018, I'm positive about internal involvement.

25 Will I name the person? I can't. I'd have to plead

1 the Fifth for safety reasons. First, chances are, I'm going  
2 to prison. And if I name someone --

3 MR. SCHWARTZER: Well, objection, Your Honor, A, if  
4 he's going to assert the Fifth Amendment, it's not proper to  
5 do it on the stand in front of the jury.

6 B, and just to jump to the chase, I'm going to ask  
7 him that question when I have -- when I have my chance to  
8 cross-examine. And B, obviously, what the punishment is, is  
9 decided by Your Honor and it's not a relevant fact for this  
10 jury.

11 THE COURT: All of that is true, Mr. Trejo. What --  
12 so I'm going to sustain that objection and I'm going to strike  
13 that answer.

14 MR. SCHWARTZER: Thank you, Your Honor.

15 BY MR. TREJO:

16 THE WITNESS: If I'm asked how far back I can  
17 remember, clearly, and without the fog, I'd have to say mid-  
18 2018 when my youngest was a few months old.

19 All in all, 2018 was a bad year. I'd say the worst  
20 of my life. Not just because of my arrest, and these  
21 unfortunate events, but because of the incident I'm sure --

22 MR. SCHWARTZER: Objection to relevance about the  
23 prior incident before this occurred.

24 THE COURT: And again, Mr. Trejo, relevance --  
25 relevant facts are facts that make something in this case more

1 or less likely to have occurred. And so I'm -- there wasn't  
2 enough of it for me to strike, so I'm going to just sustain  
3 the objection and just ask him to move along.

4 MR. SCHWARTZER: Thank you, Your Honor.

5 BY MR. TREJO:

6 THE WITNESS: I can't think of anything else of  
7 relevance. The State can go ahead and cross-examine. Thank  
8 you.

9 THE COURT: Mr. Schwartz?

10 MR. SCHWARTZER: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. SCHWARTZER:

13 Q Did you used to work at 1150 South Rainbow or did  
14 you work somewhere else?

15 A Do you mean when I was employed by Cash America?

16 Q Yes, sir.

17 Did you work there or not? It's just yes or no.

18 A I worked at several locations. I believe I covered  
19 that store a week or so.

20 Q Okay. So you have worked in the past at 1150 South  
21 Rainbow; is that correct?

22 A Yes.

23 Q Okay. So I'm showing you Exhibit 14.

24 MR. SCHWARTZER: Your Honor, move to publish the  
25 admitted exhibits?

1 THE COURT: Yes.

2 BY MR. SCHWARTZER:

3 Q Exhibit 14, this is the store you worked at at least  
4 for a period of time? Is that correct?

5 A Yes.

6 Q Okay.

7 MR. SCHWARTZER: Move to publish Exhibit 11, Your  
8 Honor, already admitted.

9 THE COURT: Yes.

10 MR. SCHWARTZER: It's at 10 seconds, into Exhibit  
11 11.

12 BY MR. SCHWARTZER:

13 Q That's you, right? That's you in that -- in that  
14 helmet with -- holding the gun, right?

15 A Can I recall that? No.

16 Q Is that you? After seeing all the evidence you --  
17 that this jury has seen, is that you, on Exhibit 11, yes or  
18 no?

19 A That question will call for speculation, Mr.  
20 Schwartzer. I do not recall this.

21 Q Is that you? Yes or no? Third time.

22 A According to the facts, it would appear so, Mike.  
23 Do I recall this? No.

24 Q All right. Showing you Exhibit 84. Do you  
25 recognize that firearm? Yes or no?

1           A     Yes.

2           Q     Is that your Glock 35?  Yes or no?

3           A     I have to look at my records to match the serial.  
4     Glocks are pretty generic.

5           Q     Do you own a Glock 35?  Yes or no?  Or did in 2018,  
6     I guess?

7           A     Yes.

8           Q     Okay.  Exhibit 89, do you recognize that firearm?

9           A     Yes.

10          Q     Is that your Kel-Tec?

11          A     It looks like it.

12          Q     All right.  And that Kel-Tec was full of bullets, is  
13     that correct?  Showing you Exhibit 91.

14          A     I don't know if it was full of bullets, based on my  
15     recollection.

16          Q     Because you're claiming you don't recall anything  
17     right now; right?  From September 3rd?  Just yes or no, Mr.  
18     Trejo.

19          A     I said I don't recall most things spanning a period  
20     of months.  I'm sure you're aware why.

21          Q     No, I -- I don't.  Because, Mr. Trejo, didn't you  
22     seem to have a pretty clear recollection of what occurred on  
23     September 3rd, 2018, after you were shot; right?  Yes or no?

24          A     I recall an image and a feeling.  Then it's haze.  
25     Well, hazy.

1 Q Well, Mr. Trejo, you have all the discovery; right?  
2 Yes or no?

3 A No.

4 Q Okay. Well, you have a statement that you gave to  
5 Sergeant Joe Patton on September 3rd, 2018; I know that,  
6 right?

7 A I do have it.

8 Q All right. You've read it? Right?

9 A Of course.

10 Q And in that September 3rd one, you seemed to  
11 understand what was -- what happened on September 3rd; is that  
12 correct? Yes or no?

13 It seems like more than yes or no right now.

14 A According to the statement, it seems there were a  
15 cognitive issues. But that's based on a transcript I read.

16 Q All right. We can debate that all you want, Mr.  
17 Trejo. But you've mentioned -- you talked about the incidents  
18 of September 3rd, 2018, in that interview with Sergeant Patton  
19 on September 3rd, 2018; is that correct?

20 A In the transcript, that would appear so, Mike.

21 Q Okay. And you told Sergeant Patton you changed the  
22 plates to the vehicle you were using; right?

23 A I recall reading something like that earlier today.

24 Q You also said that you put on, quote, "shooting  
25 gear," end quote; correct?

1           A     I don't recall if that was the exact language, but I  
2 trust you can read.

3           MR. SCHWARTZER:   May I approach?

4           THE COURT:   Yes.

5 BY MR. SCHWARTZER:

6           Q     Showing you page 6 of your statement.  I even  
7 highlighted it there for you.

8                   What -- what was the exact -- does that refresh your  
9 memory regarding exactly what the word you used?

10          A     Yes, it does, Mike.

11          Q     Okay.  So you used the words "shooting gear" before  
12 you went the store; is that correct?

13          A     Can you repeat the question?

14          Q     You used the word "shooting gear" before you went to  
15 the -- you put on shooting gear before you went to the store;  
16 is that correct?

17          A     I don't recall.

18          Q     Okay.  You also say you wore a gun belt that was tan  
19 in color?  Is that correct?

20          A     I remember the transcript stating a gun belt.  I  
21 don't remember the color stated on the transcript.

22          MR. SCHWARTZER:   May I approach?

23          THE COURT:   Yes.

24 BY MR. SCHWARTZER:

25          Q     Showing you page 6 again, last line.



1           A     The transcript does state that.

2           Q     All right. Showing you what's been marked as  
3 Exhibit 49. That belt that you were wearing on September 3rd  
4 is, in fact, tan; is that correct?

5           A     Yes.

6           Q     All right. Detective -- or Sergeant Patton also  
7 asked you what kind of gun you had, and you stated you had a  
8 Glock; is that correct?

9           A     According to the transcript, yes.

10          Q     All right. And, in fact, the Glock was recovered at  
11 the scene on September 3rd; is that correct?

12          A     According to evidence, yes.

13          Q     You also said you had a, quote, "A Sub 2000" which  
14 you further describe as it's a Carbine; is that correct?

15          A     If I recall from the transcript, yes.

16          Q     And, in fact, the Kel-Tec fits that description, is  
17 that -- the Kel-Tec recovered from the scene fits that -- fits  
18 that description; is that correct?

19          A     If I recall from the transcript, yes.

20          Q     No, I'm asking you the -- the weapons recovered from  
21 the scene, they match what you said in the transcript; is that  
22 correct?

23          A     From my observations, it does.

24          Q     Okay. You also say that you went into the store  
25 armed with weapons in order to get money; is that correct?

1           A     I don't recall reading that specific statement.

2           Q     Okay.

3                 MR. SCHWARTZER: May I approach?

4                 THE COURT: Sorry. Yes.

5                 MR. SCHWARTZER: Thank you.

6                 That was page 10, for the record, for the September  
7 3rd, 2018 statement by Mr. Trejo.

8                 THE WITNESS: The statement shows me answering,  
9 "Yes, sir," to the question asked by Joe Patton.

10           BY MR. SCHWARTZER:

11           Q     "Yes, sir," regarding -- and then, "were you armed  
12 with weapons?"

13                 You answered, "Yes, sir."

14                 Is that correct?

15           A     From what I just read, yes.

16           Q     Okay. Also, "Okay. What did you do when you  
17 parked?"

18                 "I walked into the store."

19                 That's correct; right?

20           A     I kind of remember reading that earlier today. I  
21 trust what you're reading.

22           Q     Okay. Now, you keep saying earlier today. You've  
23 had this statement for a long time; isn't that correct?

24           A     Yes. But I was reviewing the statement this  
25 morning.

1 Q Okay.

2 A That is why I'm saying that.

3 Q Okay. You also said that you were trying to get  
4 money and you were able to get money; is that correct?

5 A I don't recall specifically. I don't specifically  
6 recall. Would it be easier if I grab my copy of the statement  
7 that is at the defense desk?

8 Q No. I'll come -- refresh your memory. You said you  
9 read the statement this morning; is that correct?

10 Okay. And I have it highlighted for you. So that's  
11 the money part. Page 11, now. The first page was page 10.  
12 And that's the jewelry part; is that correct?

13 Let me rephrase the question.

14 Did you say, you in fact, got money and jewelry from  
15 the SuperPawn?

16 A According to the statement, yes.

17 Q Okay. And in fact, showing you Exhibit 78, and  
18 showing you Exhibit 79, both money and jewelry were taken from  
19 the SuperPawn; is that correct?

20 A According to these exhibits, yes.

21 Q All right. Testimony as well, right? I mean, you  
22 were here during all the testimony. You heard about money and  
23 jewelry being taken; right?

24 A According to the testimony, as well, but I've found  
25 that memory is easily tainted.

1           Q     Okay. So you also said you were wearing a  
2 motorcycle helmet to Sergeant Patton, when you walked into the  
3 store?

4           A     I believe the statement says so.

5           Q     Okay. And, in fact, I mean, we just showed that  
6 Exhibit 11 video, the person who entered the store had a  
7 motorcycle helmet on, right? Just yes or no?

8           A     That's correct.

9           Q     Okay. So you also said you don't think the manager  
10 recognized you; is that correct? Again, just yes or no?

11                  Sir, I'm just asking you for a yes or no.

12          A     According to the page you showed me, yes.

13          Q     Okay.

14          A     I cannot answer yes or no, based on how you phrased  
15 the questions.

16          Q     Okay. Oh, you say the reason why you don't think  
17 you -- she recognized you is because you were wearing  
18 something over your face; is that correct?

19          A     According to the statement, yes.

20          Q     Okay. So would you agree with me, on September 3rd,  
21 2018, you seem to have a pretty decent memory about what  
22 occurred? For example, you knew the firearms. You knew what  
23 you were wearing. And you knew what you took, and where you  
24 placed the items you took. Is that all correct?

25          A     According to the statement, I was aware at the time.

1 The event that affected my memory and my current state  
2 happened two months earlier --

3 THE INTERPRETER: I'm sorry.

4 THE WITNESS: Two months later.

5 THE INTERPRETER: Strike that. Two months later.

6 BY MR. SCHWARTZER:

7 Q Oh, so two months after you committed this crime?  
8 Yes or no?

9 A Two months after September 3rd, 2018, yes. I have  
10 complications from a year-old injury to my throat.

11 Q Okay. So whatever happened to you, obviously,  
12 doesn't affect the -- didn't affect the fact that he committed  
13 these crimes on September 3rd of 2018; right?

14 Again, it's a yes or no.

15 Sir, again, I'm just asking yes or no questions.  
16 You have a chance to do a redirect after this where you can  
17 explain your answers. But I'm just looking for yes or no  
18 questions.

19 THE COURT: Answers.

20 BY MR. SCHWARTZER:

21 Q Answers.

22 MR. SCHWARTZER: Thank you, Your Honor.

23 THE WITNESS: I can't attest to committing the  
24 crime, Mike. I don't recall, based on the evidence. I can  
25 only speculate --

1 THE INTERPRETER: Oh. The interpreter's going to  
2 reread the answer.

3 MR. SCHWARTZER: Thank you, Madam Interpreter.

4 THE INTERPRETER: Um-hum.

5 THE WITNESS: I can't recall --

6 THE INTERPRETER: Oh, sorry.

7 THE WITNESS: I can't attest to committing the  
8 crime, Mike. I don't recall. But based on the evidence, I  
9 can only speculate.

10 BY MR. SCHWARTZER:

11 Q Okay. You said the reason why you got Adriane to go  
12 with you, was because you recognized there were cops outside,  
13 in your September 3rd statement; is that correct?

14 A I believe that's what I said on my statement.

15 Q Okay. Moreover, you said the reason why you took  
16 Adriane out with you is because you, quote, "because I didn't  
17 want to get shot."

18 THE INTERPRETER: Excuse me, sir?

19 BY MR. SCHWARTZER:

20 Q There was no other question.

21 THE INTERPRETER: I'm going to read --

22 MR. SCHWARTZER: Thank you, Madam Interpreter.

23 THE INTERPRETER: -- read the -- the answer.

24 THE WITNESS: I believe that what it said on the --  
25 on my statement.

1 BY MR. SCHWARTZER:

2 Q Can I go to my second question?

3 All right. In fact, you say, it's because -- you  
4 took Adriane out with you, because, quote, "'cause I didn't  
5 want to get shot," end quote.

6 A I did read that on the statement.

7 Q All that matches with the video and other evidence  
8 presented at this trial for the last two weeks; is that  
9 correct, Mr. Trejo?

10 A Based on my observations, yes.

11 Q Okay. But when Detective -- Sergeant specifically  
12 asked you, where were you pointing the gun, with Adriane, then  
13 you didn't remember, on September 3rd?

14 A I can't recall that specific section of the  
15 statement.

16 Q Okay.

17 MR. SCHWARTZER: Approach, with page 14, Your Honor?

18 THE COURT: Yes.

19 BY MR. SCHWARTZER:

20 Q Again, I've highlighted it there for you.

21 A That's on the statement, Mike.

22 Q Okay. You would agree with me that you were pretty  
23 detailed about what you were doing in the store until they got  
24 to the point where they asked you where you pointing the gun  
25 on Adriane? Right?

1           A     According to the statement, it would appear so.

2           Q     Okay.

3           THE COURT: Mr. Schwartzer, how much longer?

4           MR. SCHWARTZER: The way these answers are --  
5 probably about 30 minutes.

6           THE COURT: Okay. I'm going to give the jury a  
7 lunch break and I'm probably going to do --

8           MR. SCHWARTZER: I'm at the last part of the  
9 statement.

10          THE COURT: Okay.

11          MR. SCHWARTZER: Can I just finish this --

12          THE COURT: Yeah. Absolutely.

13          MR. SCHWARTZER: -- five minutes? And then --

14          THE COURT: Yep.

15          MR. SCHWARTZER: -- and then I'll move on. I'll  
16 stop and we can move on.

17          THE COURT: Sure.

18          MR. SCHWARTZER: Thank you, Your Honor. I really  
19 appreciate the consideration.

20          THE COURT: Oh, no problem.

21 BY MR. SCHWARTZER:

22          Q     So the last part of your September 3rd statement  
23 with Detective Patton, I want to get into -- Sergeant  
24 Detective Patton, is you were asked, have you ever committed  
25 any other robberies or burglaries before that occurred on



1 September 3rd, 2018; is that right?

2 A I do recall reading that on my statement.

3 Q Do you recall that your answer to that was, "This is  
4 my first time, sir."

5 A I do recall reading that.

6 Q And that wasn't truthful, based on what you've seen  
7 in this trial; is that correct?

8 A I can only speculate. I wouldn't even know how to  
9 answer that.

10 Q Okay. You committed another attempt robbery on  
11 August 4th of 2018, based on that evidence that you observed,  
12 as well as your statement you gave to Sergeant Clark, isn't  
13 that correct? Or Detective Clark? Just yes or no?

14 A Based on the recording I've heard a couple weeks  
15 ago, I would assume that's what it sounded like. But again, I  
16 don't recall.

17 Q Okay. Well, we'll get into that after the lunch  
18 break.

19 But finally, the last thing I want to get into in  
20 your statement is you gave a reason why you chose that  
21 SuperPawn; right?

22 A I honestly don't recall reading that.

23 MR. SCHWARTZER: May I approach, Your Honor?

24 THE COURT: Yes.

25 //

1 BY MR. SCHWARTZER:

2 Q Page 18. Again, I have it highlighted for you.

3 So you do -- now that you reviewed your statement,  
4 on page 18, you do give the reason why you chose that specific  
5 location; is that right?

6 A The statement states so, Mike.

7 Q Yeah. It was because it was close to your house?

8 A According to that statement, yes.

9 MR. SCHWARTZER: Your Honor, that's the end for that  
10 statement, Your Honor.

11 THE COURT: Okay. So ladies and gentlemen, oh,  
12 before I do that, you guys said you only think it will take  
13 about 15 minutes for jury instructions?

14 MR. SCHWARTZER: I think so.

15 THE COURT: So, okay, if we do the normal, regular  
16 hour and 15 minutes for lunch then.

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

25 It is 12:50. So me and math are not great. So

1 2:05? 2:05.

2 So be back at 2:05, ladies and gentlemen. Thank  
3 you.

4 (Outside the presence of the jury.)

5 THE COURT: And if you guys can be back at 1:45.

6 MR. SCHWARTZER: Thank you, Your Honor.

7 THE COURT: Thank you.

8 MR. SCHWARTZER: I do have something on the record.

9 THE COURT: Oh, sure.

10 MR. SCHWARTZER: During defendant's testimony,  
11 during the direct, he mentioned that -- and I know it was  
12 stricken from the record. But for the appellate record, if we  
13 get so far, he says that -- essentially, a doctor would have  
14 said that he suffers some type of memory loss, is what I was  
15 at least hearing from him.

16 Again, we don't have the medical records. The  
17 medical records he's provided in his -- in his motions, by him  
18 I mean, Mr. Trejo, don't indicate anything about memory loss.  
19 It indicates a legal 2000, which was talked, an anti-  
20 personality disorder, a gunshot wound, canine, all that stuff.  
21 But there is absolutely nothing in the medical records  
22 regarding memory loss.

23 So, again, I would -- the State would request the  
24 medical records, if that is something that becomes an issue in  
25 the appellate record, because again, this doctor was never

1 noticed as an expert. So we didn't know what she was going to  
2 testify to. She was never noticed as a witness. So we didn't  
3 talk to her. I only -- I only thought she was the treating  
4 physician. I didn't know there was going to be anything  
5 regarding memory loss.

6 So if there's even like an indication at all that  
7 this witness was going to be used that way, I think it's --  
8 it's best that the State gets provided that evidence so it  
9 could be part of the appellate record.

10 THE COURT: I agree. Although, I don't think he  
11 actually -- I mean, he was indicating that, but he didn't  
12 actually say it on the record. So I don't think it's anything  
13 that we need to deal with in front of the jury.

14 MR. SCHWARTZER: I agree.

15 THE COURT: But I -- but I do think that for any  
16 appeal that he's going to make, he needs to provide those  
17 medical records to the State.

18 Mr. Henry, can you help facilitate that, if he  
19 brings them tomorrow, can you make copies of them or  
20 something?

21 MR. HENRY: Well, I have about 10,000 pages of  
22 medical records so --

23 MR. SCHWARTZER: Just send them my way.

24 MR. HENRY: Well, 8,000 are physical. And then  
25 there's about another three or four on a disk. So we'll work

1 on that.

2 MR. SCHWARTZER: Okay. I just -- we -- we've gotten  
3 literally nothing except for what Mr. -- and I'm not blaming  
4 Mr. Henry. Mr. Henry's not the attorney. He's standby  
5 counsel.

6 THE COURT: Right.

7 MR. SCHWARTZER: It should be very clear that this  
8 is not Mr. Henry's responsibility. But we have not gotten  
9 anything but very select pages from Mr. Trejo.

10 THE COURT: Okay. Yeah. I mean, I don't -- I --  
11 I'll do what I can to facilitate it. Mr. Henry will do what  
12 he can to facilitate it. We just -- I don't have -- yeah.

13 MR. SCHWARTZER: I'll work with Mr. Henry.

14 THE COURT: Thank you.

15 MR. SCHWARTZER: Thank you, Your Honor.

16 That's the -- that's all I have for the record.

17 (To the Clerk) You're looking at me. Just -- you  
18 need everything?

19 THE CLERK: I'll keep them.

20 MR. SCHWARTZER: Okay.

21 THE CLERK: To where you know what (indiscernible)  
22 need. But --

23 MR. SCHWARTZER: Can we keep the ones that -- that  
24 -- these separate? So I just don't have to go back through  
25 them or?

1 THE CLERK: Yeah.

2 MR. SCHWARTZER: Okay.

3 THE COURT: What time did I say? 1:45? Yeah.

4 Okay.

5 THE MARSHAL: Judge?

6 THE INTERPRETER: I think he --

7 THE COURT: Oh. He has something? Okay. Go ahead.

8 MR. TREJO: Those select --

9 THE INTERPRETER: (To Mr. Trejo) Select or  
10 (indiscernible)?

11 MR. TREJO: -- those select medical records were  
12 provided and for -- for September until September 11th. The  
13 event that caused any brain damage was on December of 2018.  
14 If I decided to send you the full records, I have to get at  
15 least 600 pages. Lastly, I didn't state it for appeal  
16 purposes.

17 THE COURT: Okay. Right. But I still -- I still  
18 believe that the State should have access to those. So I'm  
19 going to --

20 MR. HENRY: So I just want to clarify. If he's only  
21 talking about medical records from December 2018, I -- I can  
22 provide those records only. There -- there are -- the records  
23 are voluminous. So --

24 THE COURT: Okay.

25 MR. HENRY: -- if I can narrow it down to --

1 THE COURT: Do --

2 MR. HENRY: -- December; is that fine?

3 MR. SCHWARTZER: That's --

4 THE COURT: December?

5 MR. SCHWARTZER: -- that's fine.

6 MR. HENRY: It's 2018.

7 THE COURT: December, 2018?

8 MR. SCHWARTZER: That's fine.

9 MR. HENRY: December to January 2018, to 2019?

10 Okay.

11 MR. SCHWARTZER: And that has to do with his like  
12 medical practitioner as well then?

13 MR. HENRY: Yes.

14 MR. SCHWARTZER: Okay.

15 THE COURT: So December of 2018 and January of 2019,  
16 okay?

17 MR. SCHWARTZER: That will work for the State. If  
18 we need to do follow-up, I'll just do subpoenas.

19 THE COURT: Thank you.

20 (Court recessed at 12:53 p.m., until 1:53 p.m.)

21 (Outside the presence of the jury.)

22 THE COURT: Sorry, ya'll. The search warrant phone  
23 was blowing up.

24 Can we grab him?

25 (Pause in the proceedings)

1 THE MARSHAL: And the finals on the instructions,  
2 Judge, are you going to want copies to give them out to --

3 THE COURT: Yeah. For everybody. So let me --  
4 where was I? We got that yesterday. It was the 2nd. Where  
5 does it say that? Oh, I saved it under today.

6 Okay. So we are back on the record in the case of  
7 Mario Trejo, Case Number C-18-335315-1. We are outside the  
8 presence of the jury. Mr. Schwartz and Ms. Heap are present  
9 on behalf of Mr. Trejo.

10 We don't have the interpreter, I just realized.

11 Mr. Trejo and Mr. Henry present.

12 Mr. Henry, would you be able to be -- act as the  
13 interpreter for now?

14 MR. HENRY: Yes.

15 THE COURT: Okay. Thank you. Sorry about that.

16 Okay. So we're here to go over jury instructions.

17 The first instruction is the standard, "Members of  
18 the jury, it is now my duty as Judge to instruct you."

19 Any Opposition to that one?

20 MR. HENRY: Not from the defense.

21 THE COURT: Okay. And these -- these are the  
22 State's proposed, so I'm assuming that there's not going to be  
23 any opposition from the State.

24 MR. SCHWARTZER: There's one minor change we want to  
25 make on the burglary one.



1 THE COURT: Okay. We'll -- we'll do it when we get  
2 to it. So hold on.

3 MR. SCHWARTZER: Yeah. But everything else you can  
4 -- there will be no objection from the State.

5 THE COURT: Okay. So number -- the second one, and  
6 we're going to change the order of these and everything when  
7 we get an opportunity. But so I'm just going to -- right now,  
8 I'm just going to mark this one as Number 2.

9 MR. SCHWARTZER: Okay.

10 THE COURT: "If in these instructions, any rule,  
11 direction or idea is repeated or stated in different ways," is  
12 that -- any opposition from the defense on that one?

13 MR. HENRY: Sorry, Judge. I was talking to Mr.  
14 Trejo.

15 THE COURT: Number two --

16 MR. HENRY: Is this --

17 THE COURT: -- "If in these instructions any rule,  
18 direction," is there any opposition on that one?

19 MR. HENRY: No.

20 THE COURT: That will be Number 2.

21 Number three is, "An Indictment is but a formal  
22 method of accusing a person of a crime," that will be Number  
23 3, unless there's an opposition. It's a standard one, Mr.  
24 Trejo.

25 MR. HENRY: No opposition.

1 THE COURT: Okay. And it lists all the charges.

2 Then the next one would be, "To constitute the crime  
3 charged there must exist a union or joint operation of an  
4 act," that would be Number 4.

5 Mr. Trejo?

6 MR. HENRY: No opposition.

7 THE COURT: Okay. So that will be Number 4.

8 The next one is, "The defendant is presumed innocent  
9 until the contrary is proved."

10 Any opposition?

11 MR. HENRY: No, Judge.

12 THE COURT: And that will be Number 5.

13 The next is, "You are here to determine the guilt or  
14 innocence of the defendant from the evidence in the case."

15 MR. HENRY: No objection.

16 THE COURT: Okay. I'm going to number that Number  
17 6.

18 Why did I -- just not underline it.

19 The next is, "The evidence which you are to consider  
20 in this case consists of the testimony of the witnesses, the  
21 exhibits, and any facts admitted or agreed to by counsel."

22 That --

23 MR. TREJO: No opposition.

24 THE COURT: That's Number 7, then.

25 And Mr. Schwartzer or Ms. Heap, or anybody, just

1 tell me when you want to start reordering them as well.

2 MR. SCHWARTZER: This -- the next one, the  
3 credibility or believability, that's the one I would start  
4 putting them behind the -- all the crimes.

5 THE COURT: Okay.

6 MR. SCHWARTZER: The --

7 THE COURT: So I'm --

8 MR. SCHWARTZER: -- so the next two I would ask to  
9 put behind the elements of the crimes.

10 THE COURT: Okay. So I'm going to take those out of  
11 order right now.

12 MR. SCHWARTZER: And then while we're at that --

13 THE COURT: Hold on. Let me get --

14 MR. SCHWARTZER: -- I would like --

15 THE COURT: -- then to where --

16 MR. SCHWARTZER: Oh, I'm sorry.

17 THE COURT: -- you need for them to be.

18 Let me see, conspiracy. Conspiracy, still.

19 Conspiracy, still. Two or more persons. Robbery. Personal  
20 property. Violence and intimidation. Day or night, burglary.  
21 Robbery. Intention to -- (indiscernible) commission of a  
22 burglary. That's the weapon, (indiscernible) first degree  
23 kidnapping. Assault with a deadly.

24 So you want it in front of, the elements of an  
25 attempt, or do you want it after attempt as well?

1 MR. SCHWARTZER: After attempt, please.

2 THE COURT: Okay. Then do you want it also after  
3 the -- whether or not a -- a -- a deadly weapon was used? So  
4 you still want it after that one?

5 MR. SCHWARTZER: Yes, please.

6 THE COURT: Deadly weapon is an -- okay -- required  
7 to -- they're not required to recover the deadly weapon,  
8 burglary.

9 That says, general intent. Do you want it before or  
10 after the general intent?

11 MR. SCHWARTZER: Before, please.

12 THE COURT: Okay. So I'm going to put those here  
13 and I won't get -- I won't read them until then, so. Okay.

14 MR. SCHWARTZER: Then --

15 THE COURT: Hold on. Let me go back to where we  
16 were.

17 MR. SCHWARTZER: Sorry. Because with the conspiracy  
18 instructions, I'm going to want to move them back as well, as  
19 well as withdraw a couple.

20 THE COURT: Okay.

21 MR. SCHWARTZER: So --

22 THE COURT: So then we were at Number 7, which was,  
23 "The evidence which you are to consider."

24 So then the first conspiracy, and where do you want  
25 the conspiracies all moved to?

1 MR. SCHWARTZER: Right before, where you put the  
2 credibility and believability.

3 THE COURT: Okay. So I'm going to move all of those  
4 to that right now.

5 MR. SCHWARTZER: Okay.

6 THE COURT: And then we'll go -- get to them when we  
7 get to them.

8 MR. SCHWARTZER: Okay.

9 THE COURT: Okay. So then the -- the first thing  
10 that we're going to have is, "Robbery is." So let me just get  
11 -- move to those conspiracy where they need to go. Okay.

12 MR. SCHWARTZER: Okay.

13 THE COURT: So Instruction Number 7 was, "The  
14 evidence which you are to consider."

15 Then Number 8, would then be, "Robbery is the  
16 unlawful taking of personal property from the person of  
17 another."

18 Any objection to that one, Mr. Trejo?

19 MR. TREJO: No objection.

20 THE COURT: Okay. So that is Number 8.

21 Then next is, "Personal property is in the presence  
22 of a person."

23 Any objection to that one?

24 MR. TREJO: I'm sorry. Can you repeat that?

25 THE COURT: "Personal property is in the presence of

1 a person, in respect to robbery, when it is within the  
2 person's reach, inspection, observation, or control and the  
3 person could, if not prevented by intimidation, threat, or use  
4 of force -- use of violence, retain possession of the  
5 property." That's the full extent of that one.

6 MR. TREJO: No objection.

7 THE COURT: So that is going to be Number 9.

8 The next in order, and I'm going to take off the --  
9 that one is the first one that has a -- that has a citation on  
10 it. I'm taking that off.

11 MR. SCHWARTZER: Oh, we just had citations on 8 and  
12 9 on our copy. So I don't know if --

13 THE COURT: You're right. I missed it on 8.

14 So I'm taking off the citation on 8, as well.

15 MR. SCHWARTZER: And 9, as well?

16 THE COURT: And 9, yeah.

17 MR. SCHWARTZER: Thank you.

18 THE COURT: So then 9 was, "Personal property."

19 The next in order is, "It is unnecessary to prove  
20 both violence and intimidation."

21 Any objection to that one, Mr. Trejo?

22 MR. TREJO: No objection.

23 THE COURT: So that's going to be Number 10.

24 I am taking off citations on Number 10.

25 The next is, "Every person who, by day or night,

1 enters any building and/or store with the intent to commit  
2 robbery therein is guilty of burglary."

3 Any objection to that one?

4 MR. TREJO: No objection.

5 THE COURT: That's going to be Number 11. And I'm  
6 taking off the citation on that one.

7 The next is, "It is not necessary that the State  
8 prove the defendant actually committed a robbery inside" --  
9 it should say "inside a building" -- it just says "inside  
10 building" and I didn't notice that.

11 MR. SCHWARTZER: Yeah.

12 THE COURT: "Inside a building." I'm changing that.  
13 "Inside a building and/or store after he entered in order for  
14 you to find him guilty of burglary, the gist of the crime of  
15 burglary is the unlawful entry with criminal intent.  
16 Therefore, a burglary was committed if the defendant entered  
17 the building and/or store with the intent to commit a robbery,  
18 regardless of whether or not that crime occurred."

19 Any objection to that one, Mr. Trejo?

20 Bill, this is actually going to take longer than the  
21 next five minutes. So how about you tell the jury they've got  
22 longer. Give them -- tell them 2:30.

23 THE MARSHAL: Okay.

24 MR. SCHWARTZER: Sorry, Your Honor.

25 THE COURT: No problem.

1 MR. SCHWARTZER: That was my estimation.

2 THE COURT: It was also me, because I came out late,  
3 because the search warrant phone was --

4 MR. TREJO: I have no objection. Except that  
5 noticed a lot of the State's instructions are redundant. Some  
6 of them are slightly different. But if they want to use them,  
7 if they want to use them all, I won't object.

8 THE COURT: Okay. So I'm just going to make a  
9 record, so you can just say no to every single one of them.  
10 So then that would be Number 12, then.

11 And on that one, I'm going to take off the citation.

12 The next is, "The intention with which entry is  
13 made" -- "was made is a question of fact which may be inferred  
14 from the defendant's conduct and all other circumstances  
15 disclosed by the evidence."

16 Objection, Mr. Trejo?

17 MR. TREJO: No objection.

18 THE COURT: Okay. That is going to be Number 13.  
19 And I am also removing the citation.

20 Number -- the next one would be, "Every person who,  
21 in the commission of a burglary, commits any other crime may  
22 be prosecuted for each crime separately."

23 That would be Number 14. Any objection?

24 MR. TREJO: No objection.

25 THE COURT: Okay. Number 14. And I'm also taking



1 off the citation on that.

2           Next is, "Every person who commits the crime of  
3 burglary who has in his possession or gains possession of any  
4 deadly weapon at any time during the commission of the crime  
5 at any time before leaving the structure, or upon leaving the  
6 structure, is guilty of burglary while in possession of a  
7 deadly weapon."

8           That would be --

9           MR. SCHWARTZER: I agree to --

10          THE COURT: -- Number 15.

11          Mr. Trejo?

12          MR. SCHWARTZER: We can -- I think we can remove  
13 that one.

14          THE COURT: Oh, okay.

15          MR. SCHWARTZER: Because we already have the deadly  
16 weapon. Although, it's pled as -- is it pled as a firearm?

17          MS. HEAP: I think it's pled as a firearm.

18          MR. SCHWARTZER: All right. So with that one, Your  
19 Honor, I would ask just to change line 3, "deadly weapon,"  
20 into "firearm."

21          THE COURT: Okay. Any "firearm."

22          MR. SCHWARTZER: And then line 5, into "firearm."

23          THE COURT: So now it's going to read -- well,  
24 Number 5, it has to be deadly weapon, because it's charged as  
25 burglary with a deadly weapon; right?

1 MR. SCHWARTZER: No, it's charged as a firearm or --

2 THE COURT: Oh, okay.

3 MR. SCHWARTZER: -- if it wasn't charged that way, I  
4 would ask you to eliminate the instruction as a whole.

5 THE COURT: Okay. So now, this instruction which is  
6 going to be numbered 15, reads, "Every person who commits the  
7 crime of burglary who has in his possession or gains  
8 possession of any firearm at anytime during the commission of  
9 the crime at anytime before leaving the structure or upon  
10 leaving the structure is guilty of burglary while in  
11 possession of a firearm." And I am going to remove the  
12 citations from that one.

13 The next is, "Every person who wilfully seizes,  
14 confines, inveigles, entices, decoys, abducts, conceals,  
15 kidnaps or carries away any person by any means whatsoever  
16 with the intent to hold or detain, or who holds or detains the  
17 person for the purpose of committing robbery upon, or," and I  
18 forgot to fix that one, because the "or" then ended the line,  
19 and it's -- I'm going to change it so it's all on the same  
20 line -- "robbery upon or from the person is guilty of first  
21 degree kidnapping."

22 That's going to be Number 16, unless you have an  
23 objection, Mr. Trejo.

24 MR. TREJO: No objection.

25 THE COURT: Okay. That's Number 16.

1           Next is, "The crime of first degree kidnapping is  
2 charged in this case as a specific intent crime. A specific  
3 intent, as the term implies, means more than the general  
4 intent to commit the act."

5           So that one has two paragraphs, and it just goes on  
6 to talk about knowingly.

7           Any objection?

8           MR. TREJO: No objection.

9           THE COURT: That will be Number 17.

10          Next is, "Where a person is charged with the crime  
11 of first degree kidnapping for the purpose of committing  
12 robbery, it is not necessary to establish the robbery was  
13 actually committed. The crime of kidnapping is accomplished  
14 when the kidnapping was done for the purpose of committing a  
15 robbery."

16          MR. SCHWARTZER: We can -- we can delete that one.  
17 That one's not really applicable to our case.

18          THE COURT: Okay. I'm going to delete that one.

19          Any objection to deleting that one, Mr. Trejo?

20          MR. TREJO: No objection.

21          THE COURT: I'm sorry?

22          MR. TREJO: No objection.

23          THE COURT: Okay. So I'm going to delete that one.

24          "When a defendant is accused of first degree  
25 kidnapping with a specific intent to commit an unlawful act

1 and is also accused of the unlawful act itself, the defendant  
2 may not be convicted of the kidnapping if the movement and/or  
3 confinement of the victim was merely incidental to the  
4 unlawful act." Then it goes on to give further definitions.

5 Any objection to that one?

6 MR. TREJO: No objection.

7 THE COURT: That would be Number 18, then.

8 Next, "A person unlawfully attempts to use physical  
9 force against a person of another" -- "against the person of  
10 another" I'm going to change that to --

11 MR. SCHWARTZER: Against the --

12 THE COURT: "The person of another" instead of  
13 "against a person of another".

14 MR. SCHWARTZER: Okay.

15 THE COURT: "A person unlawfully attempts to use  
16 physical force against the person of another or intentionally  
17 places another person in reasonable apprehension of immediate  
18 bodily harm by -- by or through the use of a deadly weapon is  
19 guilty of assault with a deadly weapon."

20 That would be Number 18, unless you have an  
21 objection, Mr. --

22 MR. SCHWARTZER: I have it as 19, Your Honor.

23 THE COURT: I'm sorry. You're right, 19. Number  
24 19. Unless you have an objection, Mr. Trejo.

25 MR. TREJO: No objection.

1           THE COURT: So that's going to be Number 19. And I  
2 will take out the citation on that one.

3           "The elements of an attempt to commit a crime are,  
4 number one," and then it goes through all of those. That  
5 would be Number 20, unless you have an objection, Mr. Trejo.

6           MR. TREJO: No objection.

7           THE COURT: Number 20.

8           The next is, "You are instructed that if you find  
9 the defendant guilty of burglary, robbery, attempt robbery,  
10 kidnapping, or assault on a protected person you must also  
11 determine whether or not a deadly weapon was used in the  
12 commission of this crime."

13          MR. SCHWARTZER: Your Honor, I --

14          THE COURT: Any objection?

15          MR. SCHWARTZER: -- I think we can remove burglary,  
16 because we already have the primary instruction regarding --  
17 specific for burglary with possession of a firearm.

18          THE COURT: Okay. So now it will read, "You are  
19 instructed that if you find the defendant guilty of robbery,  
20 attempt robbery, kidnapping," and I'm going to put a comma  
21 after kidnapping. I hate when people don't use Oxford comma.  
22 "Or assault on a protected person, you must also determine  
23 whether or not a deadly weapon was used in the commission of  
24 this crime. If you find beyond a reasonable doubt that a  
25 deadly weapon was used in the commission of such an offense

1 then you shall return the appropriate guilty verdict  
2 reflecting with use of a deadly weapon."

3 There is another paragraph. That one would be  
4 Number 21, unless you have an objection, Mr. Trejo.

5 MR. TREJO: No objection.

6 THE COURT: So that is now Number 21.

7 Next is, "A deadly weapon is an instrument which if  
8 used in the ordinary manner contemplated by its design and  
9 construction will, or is likely to cause substantial bodily  
10 harm or death, or any weapon or device, instrument, material,  
11 or substance which under the circumstances in which it is  
12 used, attempted to be used, or threatened to be used, is  
13 readily capable of causing substantial bodily harm or death."

14 Objection?

15 MR. TREJO: No objection.

16 THE COURT: That's Number 22, then.

17 Next -- and I'm sorry, I'm removing the citation  
18 from that one.

19 MR. SCHWARTZER: Thank you.

20 THE COURT: The next one is, "The State is not  
21 required to have recovered the deadly weapon used in an  
22 alleged crime --

23 MR. SCHWARTZER: We can --

24 THE COURT: -- or to produce the deadly weapon in  
25 court at trial to establish that a deadly weapon was used in

1 the commission of the crime."

2 Do you want to delete that one, Mr. Schwartzer?

3 MR. SCHWARTZER: We can delete it.

4 THE COURT: Any objection to deleting that one, Mr.  
5 Trejo?

6 MR. TREJO: No objection.

7 THE COURT: Okay. I'm going to delete that one.

8 Next is, "A conspiracy is an agreement between two  
9 or more persons for an unlawful purpose. To be guilty of  
10 conspiracy a defendant must intend to commit or to aid in the  
11 commission of the specific crime agreed to. The crime is the  
12 agreement to do something unlawful. It does not matter  
13 whether it was successful or not." And then there's another  
14 couple paragraphs.

15 Any objection to that, Mr. Trejo?

16 MR. TREJO: No objection.

17 THE COURT: That's going to be Number 23. And I  
18 will also remove the citation from it.

19 Next is, "A person who conspires to commit the crime  
20 of robbery with another is guilty of credibility to commit  
21 robbery."

22 Objection, or no?

23 MR. TREJO: No objection.

24 THE COURT: That's going to be Number 24.

25 Next is, "It is not necessary in proving a

1 conspiracy to show a meeting of the alleged conspirators or  
2 the making of an express or formal agreement."

3 Any objection?

4 MR. TREJO: No objection.

5 THE COURT: That's Number 25. And I will remove the  
6 citation.

7 MR. SCHWARTZER: We can -- thank you, Your Honor.  
8 We're going to ask to remove the next one, which would be,  
9 "each member".

10 THE COURT: "Each member of a criminal conspiracy is  
11 liable."

12 MR. SCHWARTZER: Yeah.

13 THE COURT: Mr. Trejo, any objection to removing  
14 that one?

15 MR. TREJO: (Indiscernible).

16 THE COURT: "Each member of a criminal conspiracy is  
17 liable for each act and bound by each declaration of every  
18 other member of the conspiracy if the act or the declaration  
19 is in furtherance of the object of the conspiracy. The act of  
20 one conspirator pursuant to or in furtherance of the common  
21 design of the conspiracy is the act of all conspirators.  
22 Every conspirator is legally responsible for a specific intent  
23 crime of a co-conspirator so long as the specific intent crime  
24 was intended by the defendant. A conspirator is also legally  
25 responsible for a general intent crime that follows as one of



1 the probably and natural consequences of the object of the  
2 conspiracy even if it was not intended as part of the original  
3 plan and even if he was not present at the time of the  
4 commission of such act."

5 The State is asking to remove that one. Do you have  
6 any objection to that being removed?

7 MR. TREJO: Are you asking to remove the whole  
8 quote?

9 MR. SCHWARTZER: Yes.

10 THE COURT: Yes.

11 MR. SCHWARTZER: Or we can keep it. It really  
12 doesn't matter I was just trying to do it for brevity.

13 MR. TREJO: I would object that it stays as is.

14 MR. SCHWARTZER: Fine.

15 THE COURT: Okay. So we'll leave it in. That will  
16 be Number 26. And I'm going to remove the citation from it.

17 The next is, "Evidence that a person was in the  
18 company or associated" --

19 MR. SCHWARTZER: We can remove that one, too, Your  
20 Honor.

21 THE COURT: Okay. I'm going read it so -- because  
22 he looks like he is wanting to say something.

23 MR. SCHWARTZER: Okay.

24 THE COURT: "Evidence that a person was in the  
25 company of -- in the company or associated with one or more

1 other persons alleged or proven to have been members of a  
2 conspiracy is not in itself sufficient to prove that such a  
3 person was a member of the alleged conspiracy. However, you  
4 are instructed that presence, companionship, and conduct  
5 before, during, and after" -- and I am adding a common to --  
6 after during -- "and after the offense are circumstances from  
7 which one's participation in the criminal intent may be  
8 inferred."

9 Do you want to leave that one, or -- or the State's  
10 asking to remove it?

11 MR. TREJO: I ask that it stands.

12 MR. SCHWARTZER: Sounds good.

13 THE COURT: Okay. So then that will be Number 27.  
14 And I will also remove the citation from it.

15 Next is, "Where two or more persons are accused of  
16 committing a crime together their guilt may be established  
17 without proof that each personally did every act and -- act  
18 constituting the offense charged." And then three more  
19 paragraphs.

20 Any objection to that one, Mr. Trejo?

21 MR. TREJO: No objection.

22 THE COURT: That will be 28. And I will remove the  
23 citation.

24 The next is, "The credibility or believability of a  
25 witness should be determined by his manner upon the stand, his

1 relationship to the parties, his fears, motives, interests or  
2 feelings, his opportunity to have observed the matter to which  
3 he testified, the reasonableness of his statements, and the  
4 strength or weakness of his recollections. If you believe  
5 that a witness has lied about any material fact in the case,  
6 you may disregard the entire testimony of that witness or any  
7 portion of his testimony which was not proved by other  
8 evidence."

9 Any objection, Mr. Trejo?

10 MR. TREJO: No objection.

11 THE COURT: That's going to be Number 29.

12 Next is, "A witness who has special knowledge,  
13 skill, experience, training, or education in any particular  
14 science, profession or occupation," and I'm adding a comma,  
15 because I hate non-use of the Oxford comma, "or occupation as  
16 an expert witness, an expert witness may give his opinion as  
17 to any matter in which he is skilled." And then there is  
18 another paragraph.

19 Any objection?

20 MR. TREJO: No objection.

21 THE COURT: That's going to be Number 30.

22 Next is, "Burglary, first degree kidnapping with use  
23 of a deadly weapon, robbery with use of a deadly weapon, and  
24 attempt robbery with use of a deadly weapon, are all specific  
25 intent crimes. Defendant cannot be liable under conspiracy

1 and/or aiding and abetting theory for those crimes for acts  
2 committed by a co-conspirator unless defendant also has a  
3 requisite specific intent. Robbery is a general intent crime.  
4 As such, defendant may be liable under conspiracy theory for  
5 robbery for acts committed by a co-conspirator which are one  
6 of the probably and natural consequences of the object of the  
7 conspiracy."

8 Any objection, Mr. Trejo?

9 MR. TREJO: No objection.

10 THE COURT: That's going to be Number 31.

11 "Specific intent is the intent to accomplish the  
12 precise act which the law prohibits. General intent is the  
13 intent to do that which the law prohibits. It is not  
14 necessary for the prosecution to prove that the defendant  
15 intended the precise harm or the precise results which  
16 eventuated if a crime is a general intent crime."

17 Any objection?

18 MR. TREJO: No objection.

19 THE COURT: That's going to be Number 32. And I'm  
20 going to remove the citation.

21 Next is, "Although you are to consider only the  
22 evidence in the case in reaching a verdict you must bring to  
23 the consideration of the evidence your everyday common sense  
24 and judgment as reasonable men and women." And then it goes  
25 on.

1 Any objection?

2 MR. TREJO: No objection.

3 THE COURT: That's Number 33.

4 "In your deliberation you may not discuss or  
5 consider the subject of punishment as that is a matter which  
6 lies solely with the Court. Your duty is confined to the  
7 determination of the guilt or innocence of the defendant."

8 Any objection?

9 MR. TREJO: No objection.

10 THE COURT: Number 34.

11 Next is, "During the course of this trial in your  
12 deliberations you are not to, one, communicate with any --  
13 communicate in any way," and then it gives four -- four  
14 things.

15 So, any objection?

16 MR. TREJO: No objection.

17 THE COURT: That's Number 35.

18 Next is, "When you retire to consider your verdict  
19 you must select one of your member to act" -- is it usually  
20 member or is it usually number?

21 MR. SCHWARTZER: When you must select one of your  
22 member? I mean, we got this from --

23 THE COURT: I think it's --

24 MR. SCHWARTZER: -- I think -- where did we get?

25 MS. HEAP: Just our stock.

1 MR. SCHWARTZER: It's just our stock?

2 MS. HEAP: Yeah.

3 MR. SCHWARTZER: I guess we got it from our stock.  
4 But however you want --

5 THE COURT: I think it usually said number, one of  
6 your number.

7 MR. SCHWARTZER: I mean, I don't think it affects  
8 either way. So if you want to put number, that's fine, Your  
9 Honor.

10 THE COURT: Does anyone care? I mean, it just seems  
11 -- it just seems awkward to say one of your member.

12 MS. HEAP: One of your members?

13 MR. SCHWARTZER: It should be maybe members.

14 THE COURT: Yeah. But I thought it was just one of  
15 your number. I thought that that was the way the stock  
16 usually read.

17 MR. SCHWARTZER: Whatever you --

18 THE COURT: I'm going to change it to number.

19 MR. SCHWARTZER: Okay.

20 THE COURT: Just because I'm a weirdo.

21 Okay. So any objection to that, Mr. Trejo?

22 MR. TREJO: No objection.

23 THE COURT: That's going to be Number 36.

24 Next, "If during your deliberation you should desire  
25 to be further informed on any point of law or hear again

1 portions of the testimony you must reduce your request to  
2 writing, signed by the foreperson, and the officer will then  
3 return you to court where the information sought will be given  
4 to you in the presence of, and after notice to the District  
5 Attorney and the Defendant."

6 Can I just -- and just put in -- can I take out "and  
7 his or her counsel," and I just leave it at "and the  
8 defendant?"

9 MR. SCHWARTZER: Yes. Thank you for that catch.

10 THE COURT: Okay. "Playbacks of testimony are time  
11 consuming and are not encouraged unless you deem it a  
12 necessity."

13 And I took out the one about readbacks because we  
14 have a playback courtroom.

15 Any objection to that one, Mr. Trejo?

16 MR. TREJO: No objection.

17 THE COURT: So that's going to be Number 37.

18 Number 38, would be, "Now you will listen to the  
19 arguments of counsel who will endeavor to aid you to reach a  
20 proper verdict by refreshing in your minds the evidence and by  
21 showing the application thereof to the law. But whatever  
22 counsel may say, you will bear in mind that it is your duty to  
23 be governed in your deliberation by the evidence as you  
24 understand it, and remember it to be, and by the law as given  
25 to you in these instructions with the sole fixed, and

1 steadfast purpose of doing equal and exact justice between the  
2 defendant and the State of Nevada."

3 MR. SCHWARTZER: Your Honor, should we do -- change  
4 it based on this situation to "arguments of the parties who  
5 will endeavor" and then on line 4, "whatever parties may say"  
6 since there --

7 THE COURT: Okay.

8 MR. SCHWARTZER: -- is no counsel?

9 THE COURT: Yeah. "Arguments of the parties." Yep.

10 MR. TREJO: No objection.

11 Okay. So now this one reads, "Now you will listen  
12 to the arguments of the parties who will endeavor to aid you  
13 to reach a proper verdict by refreshing in your minds the  
14 evidence and by showing the application thereof to the law.  
15 But whatever the parties may say you will bear in mind that it  
16 is your duty to be governed in your deliberation by the  
17 evidence as you understand it and remember it to be and by the  
18 law as given to you in these instructions, with the sole fixed  
19 and steadfast purpose of doing equal and exact justice between  
20 the defendant and the State of Nevada."

21 And you said no objection already, Mr. Trejo? Is  
22 that correct?

23 MR. TREJO: Yes.

24 THE COURT: That is going to be Number 38.

25 And Mr. Trejo, have you had an opportunity to review



1 the verdict form that the State prepared?

2 MR. TREJO: Yes.

3 THE COURT: Do you have any objection to that?

4 MR. TREJO: No.

5 THE COURT: Okay. So the verdict form will stand.

6 I meant to take out -- so on page number 2 of the verdict form  
7 it has Count 6, where you don't have -- where Count 6 is on  
8 the bottom of page 2, and the actual part of the verdict is on  
9 page 3, I'm going to move all of that, "We the jury" to be on  
10 page 3, and add those three slashes.

11 MR. SCHWARTZER: Okay.

12 THE COURT: And then does that change the --  
13 anyplace else? Then that also makes it -- I need to do that  
14 on Count 9, as well as Count 12. I'm just trying to make  
15 everything be on the same page with the forms that we have.

16 So, okay. So that is the jury instructions. I am  
17 going to e-mail these to Chapri and ask her to print copies  
18 for me, you, me -- I was pointing to Mr. Trejo -- me, the  
19 defense, and the State, and then print copies for the jury,  
20 so.

21 THE MARSHAL: That will 18, Judge, just to be sure.

22 THE COURT: And --

23 THE MARSHAL: 18?

24 THE COURT: Yeah.

25 THE CLERK: 18 at least.

1 THE COURT: Yeah. Why can't I e-mail? I'm losing  
2 my mind.

3 Okay. It is almost 2:30, and I told them 2:30. So  
4 I'm going to run to the restroom before we start back.

5 MR. SCHWARTZER: Thank you, Your Honor.

6 MS. HEAP: Thank you.

7 THE COURT: Thank you.

8 (Court recessed at 2:26 p.m., until 2:30 p.m.)

9 (Outside the presence of the jury.)

10 THE COURT: Okay. Everybody ready to go?

11 MR. SCHWARTZER: Yes, Your Honor.

12 THE COURT: Mr. Trejo?

13 MR. TREJO: Yes, Your Honor.

14 THE COURT: Okay. We can grab the jury.

15 Mr. Trejo, do you want to take the stand again  
16 before the jury comes in?

17 (Pause in the proceedings)

18 (In the presence of the jury)

19 THE COURT: Will the parties stipulate to the  
20 presence of the jury?

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

22 MR. TREJO: I do, Your Honor.

23 THE COURT: Thank you. Please be seated.

24 Mr. Schwartzer, please continue.

25 MR. SCHWARTZER: Thank you, Your Honor.

1 CROSS-EXAMINATION (RESUMED)

2 BY MR. SCHWARTZER:

3 Q Mr. Trejo, so we ended before lunch talking about  
4 the statement you gave to Sergeant Detective Joe Patton  
5 September 3rd of 2018. Is that correct?

6 A Yes.

7 Q At that time, you were not suffering from any memory  
8 loss; is that correct?

9 A I was being treated for a gunshot wound according to  
10 the statements and records.

11 Q Okay. You -- that doesn't answer my question. My  
12 question was, you were not suffering from any memory loss at  
13 that time; is that correct?

14 The jury can see that you were suffering from a  
15 gunshot wound.

16 A The actual term would have been brain damage. The  
17 memory loss would have been secondary to that.

18 MR. SCHWARTZER: I'm going to ask for that to be  
19 stricken as non-responsive to my question.

20 THE COURT: That is --

21 BY MR. SCHWARTZER:

22 Q Again, the question --

23 MR. SCHWARTZER: I'm sorry, Your Honor. What is the  
24 ruling?

25 THE COURT: Mr. Trejo, that is non-responsive. He

1 asked a specific question and that was not an answer to that  
2 question. So I'm going to sustain that objection and strike  
3 that.

4 MR. SCHWARTZER: Thank you, Your Honor.

5 BY MR. SCHWARTZER:

6 Q Again, the question, in case you forgot it, Mr.  
7 Trejo, was you were not suffering from any memory loss on  
8 September 3rd of 2018; isn't that correct?

9 A Not according to the statements or records, Mike.

10 Q So there was no reason for you to tell Sergeant  
11 Detective Patton about any crimes that you --

12 MR. SCHWARTZER: Well, let me scratch that. That's  
13 a bad question.

14 BY MR. SCHWARTZER:

15 Q There's no reason to believe you were lying to  
16 Sergeant Detective Patton; isn't that correct?

17 Again, Mr. Trejo, I'm just asking for yes or no  
18 answers. Again, you will have a chance to do a redirect where  
19 you can talk about whatever you want to talk about as long as  
20 it's within the bounds of evidence.

21 A I can only guess to that, Mike. People generally  
22 lie for lots of reasons.

23 Q Okay. So you were lying to the Detective --  
24 Sergeant Detective Patton? Is that -- is that what you're  
25 stating right now?

1           A     I'm saying I'd be guessing. People would lie for  
2 lots of reasons. I can only answer your question based off  
3 what this statement says.

4           Q     Okay. So including you, you would lie for reasons,  
5 then? Because I'm asking about you.

6           A     Be specific. What -- what would I lie about, and in  
7 what context are you asking?

8           Q     Sure. In the context of talking to a detective  
9 after you committed a robbery, could you be lying to the  
10 detective?

11                     That's a lot of typing for a yes or no answer.

12           A     So you're asking to speculate? I'll humor you. If  
13 I could have been lying to the detective, then I could have  
14 lied about more than the crime committed. I could have lied  
15 about a lot of other issues.

16                     I'd be glad to answer yes or no if you could phrase  
17 your question as such, Mike.

18           Q     Okay. So you admit you would lie to a detective in  
19 the circumstance I just stated?

20                     That's a yes or no answer.

21           A     I don't know if I would lie to a detective. It  
22 depends on the factors. Also factored in would be the fact  
23 that I was medicated according to records, in pain, and highly  
24 stressed, if I'm allowed to speculate on that specific  
25 situation.

1 Q Let's move on. Showing you Exhibit 36. Do you  
2 recognize that car? Just yes or no?

3 A I've seen many like -- like it but according to  
4 reports this is my friend's Matt's car.

5 Q Okay. You don't want to give me any straight  
6 answers, do you, Mr. Trejo?

7 A It's been 45 months since the incident. Of course,  
8 logic says I know who it belongs to and which car it is. Do I  
9 remember the car? No.

10 Q Showing you 133. Is that your phone? Yes or no?

11 A That's my daughter on the screen saver. Yes. It's  
12 one of the phones I had a few years back.

13 Q So the phone that you heard testimony was impounded  
14 and downloaded is, in fact, your phone. Isn't that correct?

15 A I'd be inclined to agree.

16 Q Okay. Showing you Exhibit 95. Is that a knife you  
17 owned?

18 A I believe so.

19 Q Showing Exhibit 134. Is that a firearm you owned?

20 A December 3rd, is not the only time you talked to  
21 detectives. You also talked to Detective Jeff Clark on  
22 September 6th, is that -- of 2018; isn't that correct?

23 A I believe so.

24 Q All right. I mean, you heard your statement two  
25 weeks ago. Was that your voice when we played the statement

1 on -- at trial?

2 A I haven't heard my original voice in 43 months.

3 Q Okay. So are you denying that's your voice on the  
4 recording, here under oath?

5 A I'm not denying. I just can't remember what I  
6 sounded like. It was honestly shocking to hear myself  
7 actually speak.

8 Q Okay. So I'm going to go off the assumption that  
9 you believe that is yourself on the statement.

10 During that statement you talked about attempting a  
11 robbery on August 4th of 2018; isn't that correct?

12 A Yes, I heard it on the recording. Yes, Mike.

13 Q Okay. So you told the detective specifically what  
14 gun you were using during that attempt robbery; isn't that  
15 correct?

16 A I can't say for sure. Do you have a transcript?

17 Q I sure do.

18 MR. SCHWARTZER: Your Honor, may I approach?

19 THE COURT: Yes.

20 BY MR. SCHWARTZER:

21 Q Showing you page 6, page 7. Question, your answer,  
22 page 7.

23 From what I'm reading it says, quote, "I think it  
24 was the AK," end quote.

25 Q Okay. So just so the jury has an idea of what

1 you're talking about, the question was, "There was one that  
2 you had -- there was one that you had, so it was the rifle,  
3 the Kel-Tec?"

4 And you corrected the detective, and your answer  
5 was, "No, I think it was the AK."

6 Isn't that what's in the transcripts?

7 A That's what it says in the transcripts.

8 Q Okay.

9 A But that it was a correction is open to  
10 interpretation, hence the word, quote, I think.

11 Q All right. You said -- you admitted the other  
12 person with you also had a firearm; isn't that correct?

13 A I remember reading that.

14 Q Okay. You also describe the vehicle that was used  
15 in that attempt robbery; isn't that correct? Again, looking  
16 for a yes or no.

17 Q I remember that it was a black or blue --

18 THE INTERPRETER: Give me one sec. I'm going to  
19 reread it.

20 A I remember reading that it was a black or blue  
21 Acura, if I'm not misquoting the statement.

22 Q Okay. And you even talked about where you and your  
23 co-conspirator fled to after this attempt; isn't that correct?

24 A I remember reading something to that effect.

25 Q Okay. Specifically, that you made a -- that he made



1 a turn into Walmart and then you proceeded to go home. Isn't  
2 that correct?

3 A I don't recall the specific language, but it sounds  
4 correct.

5 Q Okay. You also said that your co-conspirator was --  
6 you gave Your co-conspirator the Kel-Tec to use in this  
7 robbery; isn't that correct?

8 A If I recall the statement accurately, then yes.

9 Q All right. Additionally, you also admit to wearing  
10 a motorcycle helmet that -- on August 4th as well?

11 A If I recall the statement accurately, then yes.

12 Q Okay. So fair to say you were able to provide a lot  
13 of details about the August 4th, 2018 robbery on September 6th  
14 of 2018?

15 A According to what I've read, yes.

16 Q And you weren't suffering from memory loss on  
17 September 6th of 2018; isn't that correct?

18 A Like I said before, that happened two months later  
19 as you were informed.

20 Q Okay. So you had your full memory when you  
21 committed these -- the attempt robbery on August 4th of 2018,  
22 and the robbery with use as the kidnapping on September 3rd of  
23 2018?

24 MR. SCHWARTZER: And, Your Honor, for the -- while  
25 he's typing his response, I will publish Exhibit 143.

1 THE COURT: That one's previously admitted.

2 MR. SCHWARTZER: Yes, Your Honor.

3 THE COURT: Yes. Okay.

4 THE CLERK: Yes.

5 THE WITNESS: My issues with memory loss didn't come  
6 into play until December of 2018. So, I'd say, no.

7 BY MR. SCHWARTZER:

8 Q Okay. So I'm showing you what's been marked as  
9 Exhibit 143. Do you recognize this video from the time we  
10 previously played it, I assume?

11 A Yes.

12 Q Okay. I'm now playing it at 1:09.

13 (Video/audio playing - State's Exhibit 143)

14 BY MR. SCHWARTZER:

15 Q You would agree with me that the person on Exhibit  
16 143 is wearing the same outfit as the person in Exhibit 11.  
17 Isn't that correct?

18 THE COURT: And just for the record, you stopped it  
19 at 1:38.

20 MR. SCHWARTZER: Thank you, Your Honor.

21 BY MR. SCHWARTZER:

22 Q Exhibit 11 would be the exhibit I first showed you,  
23 of the person entering the pawn shop.

24 A Yes. I agree.

25 Q Okay. So the same person who did all the things we

1 saw in the pawn shop video is the person that we're seeing  
2 here at 1:38 in Exhibit 143; isn't that correct?

3 A Yes.

4 Q Fast forwarding to 8:38. Oh, that's 7:29. I can do  
5 it right here, too.

6 Do you recognize the person on the screen?

7 A I've seen this video last week and based off that,  
8 yes.

9 Q Who is that?

10 A That person is myself.

11 Q Okay. So the person who was in the pawn shop on  
12 September 3rd, 2018, that we showed you video in the very  
13 beginning of my cross-examination is, in fact, yourself?

14 A I couldn't deny that.

15 Q So all the actions that man in the motorcycle  
16 helmet, that this jury has seen for the last two weeks, plus,  
17 that was you doing those actions?

18 A Unfortunately, that's what the evidence points to.

19 Q All the testimony we heard from all these employees  
20 that we dragged in here to testify, when they were talking  
21 about a motorcycle helmet person, that was you; isn't that  
22 correct?

23 A The testimony can be tainted like I've said. And  
24 according to the evidence, and like I've already answered,  
25 yes.

1           Q     Okay. So you're the one guilty of all the crimes  
2 that we can see in that video? The video from the pawn shop,  
3 and the video from the Air Unit?

4           MR. SCHWARTZER: And, Your Honor, I'll withdraw the  
5 question.

6           I'm -- I have no more questions for Mr. Trejo.

7           THE COURT: Okay.

8           Mr. Trejo, you can go ahead and redirect.

9           MR. SCHWARTZER: Your Honor, we need a restroom.

10          THE COURT: Oh, sure. Absolutely.

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

20          We will take five minutes.

21          MR. SCHWARTZER: Thank you, Your Honor.

22          THE COURT: It's 3:10, so 3:15.

23          THE COURT: Thank you, Mr. Schwartzer. I was not  
24 looking up.

25          MR. SCHWARTZER: Oh, I've got a --

1 (Outside the presence of the jury.)

2 THE COURT: And as we all know, any break I'm going  
3 to go to the bathroom. So if there's anything, I will be  
4 back.

5 (Court recessed at 3:11 p.m., until 3:17 p.m.)

6 (Outside the presence of the jury.)

7 THE COURT: Anything outside the presence?

8 MR. SCHWARTZER: Not from the State, Your Honor.

9 THE COURT: Okay. Mr. Trejo?

10 MR. TREJO: No, Your Honor.

11 THE COURT: Okay. Did you have any redirect? Or  
12 did you want to get back on the stand before they come up?

13 (In the presence of the jury)

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

16 MS. HEAP: The State does.

17 MR. TREJO: I do, Your Honor.

18 THE COURT: Thank you. Please be seated.

19 Mr. Trejo, redirect?

20 REDIRECT EXAMINATION

21 BY MR. TREJO:

22 THE WITNESS: So Mr. Schwartzer talks about  
23 Detective Joe Patton's interview with myself. He asked if I  
24 could lie to the detective. That question is difficult to  
25 answer and relative. Would someone lie to a detective to

1 protect an offspring or perhaps a lover? One would simply  
2 have to apply the different factors in a situation and every  
3 situation is different.

4 Additionally, if he wants to challenge the  
5 truthfulness of a single statement, then he must also be --  
6 also ready to challenge the truthfulness, the whole -- of the  
7 whole.

8 He also talked about being guilty of a crime. Yet  
9 crimes and the charges associated with them are different  
10 things. A single action can usually heighten the degree of a  
11 crime. People can be charged multiple times for the same  
12 crime just by using a different name on the charge.  
13 One doesn't have to agree to being guilty to every charge on a  
14 booking sheet.

15 MR. TREJO: The defense passes, Your Honor.

16 THE COURT: Anything based on that, Mr. Schwartzer?

17 MR. SCHWARTZER: I don't have anything.

18 THE COURT: Okay.

19 MR. SCHWARTZER: I don't have anything left for Mr.  
20 Trejo.

21 THE COURT: Questions from the jury?

22 So there's a couple. So, go ahead.

23 MR. SCHWARTZER: (To Mr. Trejo) You've got to stay  
24 there.

25 THE COURT: I'm sorry?

1 MR. SCHWARTZER: Doesn't he have to stay on the  
2 stand? Until the jury's --

3 THE COURT: No. He's going to need to come to bench  
4 so.

5 MR. SCHWARTZER: Oh, that's right, Your Honor.

6 (Bench conference)

7 THE COURT: Oh, we've got multiple pages.

8 Bill, on the second page, can you ask him to put his  
9 name and badge number on that one, as well?

10 The first one is, "Were you coerced into this  
11 situation?"

12 MR. SCHWARTZER: Whatever.

13 THE COURT: You said whatever?

14 MR. SCHWARTZER: I mean, he says he doesn't  
15 remember. But, sure.

16 THE COURT: Okay. Number 2, "How is your safety in  
17 jeopardy if you name an accomplice you cannot remember?"

18 MR. HENRY: (Indiscernible).

19 MR. SCHWARTZER: All right.

20 MS. HEAP: I mean, was -- was that --

21 THE COURT: Number 2.

22 MS. HEAP: -- answer stricken?

23 THE COURT: "Do you believe evidence was altered or  
24 falsified?"

25 Mr. Schwartz?

1           Number 4 is, "Do you believe people should suffer  
2 the consequences of their actions?"

3           Number 5, "Who helped you on August 4th, 2018?"

4           And then the next one, "Who helped you as your  
5 inside man on September 3rd, 2018?"

6           MR. SCHWARTZER: Okay. So first one, I don't have  
7 an issue.

8           THE COURT: Okay.

9           MR. SCHWARTZER: Second one, I don't have an issue.  
10          Third one, I -- I mean, that calls for speculation.

11          THE COURT: Yeah.

12          MR. SCHWARTZER: So I'm going to object to 3.

13          THE COURT: Number 3 does call for speculation, "Do  
14 you believe evidence was altered or falsified?" And that's --  
15 that's a speculation that I don't think you can --

16          MR. SCHWARTZER: 4, Do you believe people should  
17 suffer the -- I mean, I'm not sure it's relevant.

18          THE COURT: I don't think it's relevant.

19          MR. SCHWARTZER: Right.

20          THE COURT: Number 4 is, do you believe people  
21 should suffer the consequences of their actions.

22          That's not relevant.

23          Number 5, who helped you?

24          MR. TREJO: (Indiscernible).

25          THE COURT: I'm sorry. I couldn't hear him.



1 Alex, what'd he say?

2 MR. HENRY: He said he would have answered it.

3 THE COURT: I don't think it's relevant. Yeah.

4 They don't get to -- they don't get to decide sentencing or  
5 anything like that.

6 Number 5, "Who helped you on August 4th?"

7 MR. SCHWARTZER: That's fine with me.

8 MR. TREJO: (Indiscernible).

9 THE COURT: Can you answer him?

10 MR. HENRY: (Indiscernible).

11 MR. SCHWARTZER: I mean, it's a relevant question.

12 THE COURT: And Number -- the -- Number 6 is, "Who  
13 helped you as your inside man on September 3rd."

14 MR. SCHWARTZER: Fine with me.

15 MS. HEAP: (Indiscernible).

16 THE COURT: I'll ask you. You can -- you can say you  
17 don't want to answer. That's up to you.

18 MR. TREJO: (Indiscernible).

19 THE COURT: I'm -- I'm not going to ask, Do you  
20 believe evidence was altered or falsified, or do you believe  
21 people should suffer the consequences.

22 I am going to ask the other four.

23 MR. SCHWARTZER: Sounds good, Your Honor. Thank  
24 you.

25 MS. HEAP: Thank you.

1 (End of bench conference)

2 THE COURT: Mr. Trejo, do you want to take the stand  
3 again?

4 JURY QUESTIONS

5 THE COURT: Mr. Trejo, were you coerced into this  
6 situation?

7 THE WITNESS: Based on my circumstances in 2018, or  
8 what I recall from the year, yes. Was it by threat or fear or  
9 harm? No.

10 THE COURT: How is your safety in jeopardy if you  
11 name an accomplice and cannot remember?

12 THE WITNESS: I'm sorry. Could you repeat the  
13 question?

14 THE COURT: How is your safety in jeopardy if you  
15 name an accomplice you cannot remember?

16 THE WITNESS: It's not about not remembering the  
17 person. I have a decade long bond with the person and this  
18 person was around when things went bad in 2017. The person is  
19 not the danger, it's what could happen if I go to prison based  
20 on being labeled a snitch.

21 THE COURT: Who helped you on August 4th, 2018?

22 THE WITNESS: I cannot answer that.

23 THE COURT: Who helped you as your inside man on  
24 September 3rd, 2018?

25 THE WITNESS: I cannot answer that.

1 THE COURT: Mr. Schwartzer, anything based on those  
2 questions?

3 MR. SCHWARTZER: No, Your Honor.

4 THE COURT: Mr. Trejo?

5 MR. TREJO: No, Your Honor.

6 THE COURT: Okay. Thank you. You're excused.

7 Do you have any other witnesses, Mr. Trejo?

8 MR. TREJO: No, Your Honor.

9 THE COURT: Does the defense rest?

10 MR. TREJO: Yes.

11 THE COURT: Any rebuttal?

12 MR. SCHWARTZER: The State does not need a rebuttal.

13 THE COURT: Okay. And so, we've got the jury  
14 instructions ready.

15 I don't -- it's 3:38. Do you -- I mean, it will  
16 probably take me about a half an hour to read the jury  
17 instructions, you think?

18 MR. SCHWARTZER: Yeah. I would guess, about --

19 THE COURT: And so then that would be about 4:00  
20 o'clock. Do you want to start your close? How long -- how  
21 long is your close?

22 MR. SCHWARTZER: Could we approach?

23 THE COURT: Sure.

24 (Bench conference)

25 MR. SCHWARTZER: I think her close would be a little

1 long. His is all written. So I would bet it probably won't  
2 be that long. Obviously, you're -- this is your court. Is  
3 there any way we can ask if they would stay like three minutes  
4 late or something, or you can't get into all that?

5 THE COURT: That's the problem with us -- the County  
6 paying the overtime for the staff. It's not them.

7 MR. SCHWARTZER: Oh.

8 THE COURT: That's -- we were told we're not to do  
9 that.

10 MR. SCHWARTZER: You can't do any over -- OT.

11 MR. HENRY: No comp time, or flex?

12 THE COURT: Yeah. That's -- that's the issue.

13 MR. SCHWARTZER: Do you want to go, or no?

14 MS. HEAP: It doesn't matter.

15 MR. SCHWARTZER: Yeah. I'd rather do all closings

16 all --

17 MS. HEAP: Yeah.

18 MR. SCHWARTZER: -- together.

19 MS. HEAP: That's fine.

20 THE COURT: That's what I was thinking. That's why  
21 I wanted to try and get the timing, just because it will  
22 probably take about --

23 MR. SCHWARTZER: Yeah.

24 THE COURT: Yeah.

25 MR. SCHWARTZER: No, I think we'd be tight.

1 THE COURT: We'd be real tight.

2 MR. HENRY: What about if we pay for dinner?

3 THE COURT: I can't hear you?

4 MR. HENRY: I said, what about if we pay for dinner?

5 (Indiscernible).

6 MS. HEAP: Is your closing long?

7 MR. TREJO: It shouldn't be.

8 MR. HENRY: His is not long. His is like ten

9 minutes.

10 MR. SCHWARTZER: Ten minutes? And yours is what?

11 MS. HEAP: I could do it in a half an hour.

12 MR. SCHWARTZER: So ten minutes, like 4:00, 4:30,

13 4:40 --

14 THE COURT: Okay. We'll try.

15 MR. HENRY: Let's try.

16 MR. SCHWARTZER: We can try.

17 THE COURT: Okay.

18 (End of bench conference)

19 THE COURT: So ladies and gentlemen, I'm going to

20 now read you the instructions on the law that apply to this

21 case. And where did I have them saved.

22 Instructions to the jury. Oh, we need to -- oh, we

23 need to hand them out.

24 So you're all going to have a copy of these. You

25 can follow along.

1           Okay. Instructions to the jury.

2           (COURT READS JURY INSTRUCTIONS TO THE JURY)

3           THE COURT: Ladies and gentlemen, we've reached the  
4 part of the trial where the closing arguments are given and  
5 the State has the burden of proof so they're allowed to both  
6 open and close the closing arguments.

7           So, Ms. Heap?

8           MS. HEAP: Thank you, Your Honor.

9                         STATE'S CLOSING ARGUMENT

10          MS. HEAP: Ladies and gentlemen, every person has  
11 the right to feel safe at work, right? Whether we're talking  
12 about retail workers at a place like SuperPawn, or uniformed  
13 patrol officers. Everyone deserves to feel safe at work.

14          But on September 3rd, and August 4th of 2018, you've  
15 heard from all the victims in this case, that they didn't feel  
16 safe at work on those two days. And they didn't feel safe  
17 there because of the defendant's actions, right? His choices,  
18 the crimes that he committed on those two days.

19          Not only did they not feel safe at work on those two  
20 days, but you saw them on the stand. You saw victim after  
21 victim come up here and tell you how it still affects them.

22          You heard from Adriane. She had to leave that line  
23 of work. She now works in another field because she feels so  
24 lucky that she survived the defendant's actions that now she  
25 wants to help people in the medical field.

1           You heard that people have moved away. You heard  
2 and you saw Juliana on the stand. Remember when Jennifer  
3 testified? She told you that her main goal that day on August  
4 4th was to get Juliana and Ivan out of there, right? She  
5 needed to get -- get them to safety because they were  
6 teenagers.

7           In 2018, Juliana was a teenager. She told you that  
8 after that event, she couldn't walk to her car without her dad  
9 or her sister watching her out the window to make sure she got  
10 there safely. She told you she didn't feel safe in her own  
11 home in her shower.

12           She didn't feel safe in her bed in her own home,  
13 because she didn't know when the defendant was going to come  
14 back. She was afraid of him. She told you four years later,  
15 now, she suffers from PTSD, as does Adriane.

16           This is a continuation here. His actions, not only  
17 affected them for years ago, making them feel unsafe at work,  
18 but it continues to affect them today.

19           Now, at the beginning of this trial Mr. Schwartzer  
20 told you that the State has to do two things, right? We have  
21 to prove beyond a reasonable doubt that crimes were committed  
22 back in 2018, and that the defendant, Mr. Trejo, is the one  
23 who committed those crimes.

24           Well, at this point, there's no doubt crimes were  
25 committed, right? On August 4th of 2018, the defendant

1 committed conspiracy to commit robbery, and attempt robbery  
2 with a deadly weapon.

3 The evidence also shows that on September 3rd, the  
4 defendant committed burglary while in possession of a firearm,  
5 and robbery with a deadly weapon, first degree kidnapping with  
6 a deadly weapon, and assault on a protected person.

7 Additionally, we have no doubt at this point that  
8 the defendant was involved. We have cell phone records where  
9 he planned the robbery on September 2nd, for the robbery on  
10 September 3rd.

11 We have -- we had testimony from his friend who lent  
12 him his car. He said, yeah, that's my car and I lent it to  
13 the defendant, to Mr. Trejo, that day.

14 We had multiple witnesses and victims come up here  
15 and ID the defendant. Yes. That person right there at the  
16 table was the one who pointed the firearm at me. That was the  
17 person who held the gun to my head.

18 We have video from the SuperPawn, right? Twelve  
19 different angles of video that we can watch him commit these  
20 crimes. We have video from the four officers. We have four  
21 different body cam videos that show the defendant committing  
22 some of these crimes.

23 We have the Air Unit video. We have the defendant  
24 actually being caught at the scene on September 3rd. We have  
25 his DNA on all of the firearms and magazines.



1           He confessed, not once, but twice. You actually  
2 heard his September 6th confession to Detective Clark, and  
3 today you heard testimony regarding his September 3rd  
4 confession to Sergeant, previously, Detective Patton.

5           We have evidence that he wrote an apology note and  
6 you'll have that with you when you go back there. And let's  
7 not forget the admissions he made today while on the stand.  
8 He couldn't deny that that was him who took off the motorcycle  
9 helmet, and that the same person was the one in the SuperPawn.

10           So we have all of those evidence. And all of that  
11 evidence shows defendant committed all of the crimes he is  
12 charged with.

13           Now, before we get into each charge, all of the  
14 crimes have specific legal meanings, right? Sometimes when we  
15 talk about different crimes, when we talk about them in our  
16 daily life, it's a little bit different than the actual legal  
17 meaning.

18           But before we get there, I want to point out a few  
19 jury instructions. Jury Instruction 33 says, you should use  
20 your common sense. Right? It doesn't say you can use your  
21 common sense, it says you must use your common sense. And you  
22 can make reasonable inferences from the evidence.

23           Now, let's look at September 3rd. He's charged with  
24 the first 11 counts. Those all -- the first 11 counts apply  
25 strictly to September 3rd, 2018.

1           One thing that you'll notice about all of those  
2 charges is there is a deadly weapon component or a firearm  
3 component. And the Court tells you in those instructions,  
4 Jury Instruction 22, that a firearm is a deadly weapon.

5           And as you see here, we have the three firearms  
6 recovered in this case.

7           Now, burglary while in possession of a firearm.  
8 Oftentimes, when someone talks about someone breaking into  
9 their home, right, they say, I was robbed. And that's  
10 followed up with, yeah, I was robbed. Somebody broke into my  
11 home and took my belongings. People think of that as a  
12 robbery.

13           Well, technically, in the eyes of the law, that's a  
14 burglary, not a robbery. So burglary is when someone enters a  
15 building with the intent to commit some type of crime inside.  
16 And in this case, that crime that we're talking about is a  
17 robbery. And in order to be guilty of this charge they have  
18 to have a firearm with them, or gain possession.

19           So in this case, we know the defendant entered the  
20 SuperPawn, right? We've seen him on video several times over  
21 the last two weeks. But how do we know he intended to commit  
22 the robbery?

23           Well, let's look at his cell phone records. You're  
24 going to have all of his cell phone records back with you. So  
25 I'm going to just point out a couple of conversations. If you

1 look at the conversation with the phone number that ends in  
2 5067, which occurred on September 2nd, so the day before the  
3 robbery, that conversation -- in that conversation the  
4 defendant talks about knowing the time of shift changes.

5 He asks that person to drive him there, because his  
6 truck is too recognizable. He tells the person, I'll protect  
7 you no matter what. And then he also says, Please help me  
8 out, brosky, one last time.

9 Well, the person appears to stop responding to him  
10 and he says, ah, I guess I'm going solo, and wish me luck.

11 Now, this conversation is important because it is  
12 confession to the August crimes, his confession to Detective  
13 Clark, he tells Detective -- Detective Clark that, yeah, I had  
14 a friend with me, and I actually guilted that friend into  
15 going along with this. I guilted that friend into committing  
16 that robbery with me. And this shows an example of what  
17 appears to be him guilted a friend.

18 Another text string I'd like to point out is one  
19 that ends in -- with phone number that ends in 0733, which  
20 also occurred the day before the September robbery.

21 In that text string, it appears he's talking to a  
22 female. He tries to get her to go do the robbery with him.  
23 He says, yeah, we'll get 20 racks each.

24 You heard testimony from the Detectives that a rack  
25 is a -- a form of money, right? He -- I believe he testified

1 that it was a thousand dollars. That's a common street term  
2 for what a rack is.

3 He tells this person, don't worry, I've got all the  
4 gear. He actually says that he's hitting a lick. And we know  
5 from testimony that a lick is a robbery.

6 He also talks about his chances of going to prison.  
7 They talk about covering tattoos. And then interestingly, at  
8 the end of the conversation, he even appears to ask this  
9 person out on a date. He's going to hit him back for -- hit  
10 her back for a date after he commits this robbery.

11 What else shows this as intent to commit robbery?  
12 Well, his actions right before the robbery, right? He walks  
13 in there with a gun and he demands property right away.

14 And how do we know this? Jonathan, if you recall,  
15 testified that he hit his panic button prior to the defendant  
16 even entering the store. And you can see Jonathan down here  
17 on the bottom right-hand corner of this still shot and this is  
18 from the surveillance video, at 13:08:03.

19 Jonathan is down there pressing his panic button and  
20 you can see what he sees. You can see the defendant. You can  
21 see him dressed in the helmet and you can see the gun in his  
22 hand before he walks in to that store.

23 And then what does he do when he walks into the  
24 store? But he instantly starts demanding that people move  
25 around, that they give him property with, again, that gun

1 pointed at them.

2           So we know he entered the store and he had a firearm  
3 and he intended to commit robbery. And not only did he have  
4 one firearm, right? He had two firearms. He had both of  
5 those firearms when he entered that store.

6           The evidence proves beyond a reasonable doubt that  
7 he's guilty of count one, burglary while in possession of a  
8 firearm.

9           Now, let's look at Count 2. Robbery. Oftentimes,  
10 when we think of robbery, we think of maybe getting mugged,  
11 right? A holdup. Somebody comes up to you and says, hey,  
12 give me your purse that's on your shoulder. Give me the  
13 wallet in your pocket, or the watch on your wrist. That's a  
14 type of robbery.

15           But robbery, again, has a specific legal definition.  
16 It's the unlawful taking of personal property from the person  
17 of another, so that purse on my shoulder, or the wallet in my  
18 pocket. But it could also be in your presence. It doesn't  
19 have to be attached to your person. It just has to be against  
20 the will, and by force, violence or fear of injury. And that  
21 fear of injury can be to the person, whose property is being  
22 taken, or it can be to someone that they're with.

23           So what we're dealing with is personal property,  
24 right? And not real property. We're not talk about stealing  
25 a house here, we're talking about personal property that's

1 moveable. And we already know what "on a person" is, right?  
2 That purse that's on my shoulder.

3 But also within a person's -- within the presence of  
4 a person. And what's that? What that means is, if the person  
5 can reach it, if they can observe it, if they can control it,  
6 and if not for the force used by that person, they could  
7 retain possession of the property.

8 So what does that mean? We're standing in here. I  
9 have my computer on that desk. If someone comes in here and  
10 uses force to take that computer from me, it's not on my  
11 person, right? I'm not holding it. But I have control of  
12 that. That's my computer, right?

13 I can control that, and but for the force of someone  
14 maybe pointing a gun or whatever force that they use, but for  
15 that force, I could retain possession of that property.

16 Now, robbery -- force has to be used in a specific  
17 way. It has to be used to obtain or retain property. It has  
18 to be used to prevent or overcome the resistance of the taking  
19 of the property or to facilitate escape with the property.

20 And in this case, Mr. Trejo used that force in all  
21 of those ways, right? He obtained property from Adriane. He  
22 pointed that gun at her. He demanded the property. He  
23 demanded the jewelry and the money.

24 He also used that force to prevent or overcome the  
25 resistance, the taking of the property. You see him on the

1 video, and you've heard testimony that he forced all of those  
2 victims onto the floor, and then he pounded on the counter,  
3 and said, I'm still watching you, as he's pointing the firearm  
4 at them. That was to prevent them from resisting, to prevent  
5 them from overtaking them.

6 And then he also used force to facilitate his  
7 escape, right? He pointed that gun at Adriane and dragged her  
8 out of there in order to escape with that property.

9 Now, in the eyes of the law, the amount of force is  
10 irrelevant. It just has to be some force. And the amount of  
11 property taken or the value of the property taken doesn't  
12 matter, as well.

13 Another element with robbery in a situation like  
14 this is all of these victims, they were at work, right? There  
15 was no testimony that it was their personal money stolen. It  
16 was all company property, right? The jewelry off the walls,  
17 the cash out of the tills.

18 Well, employees at work can be robbery victims as  
19 well. As long as they have a right to control and retain that  
20 property, they can be robbery victims. And that's all because  
21 they have a possessory interest in that company property.

22 So counts 2 through 8 are for the seven employees of  
23 the SuperPawn that the defendant robbed at gunpoint. Each  
24 count is for a specific victim. And you heard from all of  
25 those victims. They all told you what happened to them that

1 day. They all told you the defendant came in there pointing a  
2 gun at them, taking the company property.

3 The only person you didn't hear from was Carla Reck.  
4 And you heard testimony that she's actually moved away. But  
5 you did hear from the other six employees and they told you  
6 how they feared for their -- their lives. They feared that  
7 they were going to get shot and they feared that their co-  
8 workers were going to get shot.

9 Now, with Carla Reck, she had a common experience.  
10 She was one of those victims that was told to get down on the  
11 floor and had a firearm pointed at them to keep them there.  
12 She had that common experience with those others.

13 You heard that her demeanor was the same as other  
14 people. She was part of that sob, she was crying. She was  
15 upset. She was shocked.

16 Now, you have a Jury Instruction, Jury Instruction  
17 10, that tells you the State doesn't have to prove actual  
18 fear. It is presumed in a situation like this. If there is  
19 an event, such as a gun being pointed at you, that would cause  
20 a person to fear danger in order to give up property, that's a  
21 robbery and that fear is presumed.

22 So looking at the seven employees of the SuperPawn,  
23 the defendant took their -- the jewelry and cash. They all  
24 had control of that property and could have retained it, but  
25 for the force the defendant used.



1           And you actually heard Adriane testify that when the  
2 defendant was demanding the jewelry, she had to go back into  
3 the office and get the key to the jewelry case, because that's  
4 not something she usually did.

5           Her associates, the people the defendant had down on  
6 the ground at gunpoint, they had that job; right? It was  
7 their job to show jewelry to potential customers. They had  
8 that key.

9           So that shows all of those employees had control of  
10 that property and could have retained it, but for the  
11 defendant coming in there at gunpoint.

12           And it was against their will, right? They all  
13 testified how they feared for their life. That their life was  
14 more important than any items that might be stolen. And  
15 that's why they didn't get up and fight back, because he's  
16 pointing a gun at them, and they felt as though they may be  
17 harmed.

18           And it was done by force. We talked about the three  
19 different types of forces. In this case, all three of those  
20 forces are used. He used force to obtain the property from  
21 Adriane. He used force to prevent anyone from resisting to  
22 him taking the property. And he used force to escape with  
23 that property.

24           The defendant -- or the evidence shows that the  
25 defendant is guilty of counts 2 through 8, for each employee,

1 each of the seven employees at SuperPawn.

2 Now, first degree kidnapping with use of a deadly  
3 weapon, this is count 9. And this only applies to Adriane.

4 You have several instructions that talk about  
5 kidnapping, right? It gives you the legal definition of  
6 kidnapping, when someone is seized or carried away, with the  
7 intent to commit a robbery, that is first degree kidnapping.  
8 And I believe these are instructions 16 through 18 in your  
9 packet.

10 So some of the key elements, right? Movement is a  
11 key element to kidnapping. If that force was used to escape,  
12 we already know that when force is used to escape the property  
13 that's a robbery. And when kidnapping is done with intent to  
14 commit robbery, that is first degree kidnapping.

15 So kidnapping is a little bit different than  
16 burglary, right? You heard from the Judge that if someone, in  
17 this case the defendant, if he's guilty of burglary, like he  
18 went in there, he went into the store with the intent to  
19 commit robbery, well, you can find him guilty of burglary as  
20 well as the underlying robbery conviction.

21 Kidnapping is a little different. In order to find  
22 the defendant guilty of the kidnapping, as well as the  
23 robbery, you have to find beyond a reasonable doubt one  
24 additional element. And what we're looking at is the movement  
25 here. Could the robbery have been completed without the

1 kidnapping? Does that movement of the victim increase the  
2 harm to her?

3           You have a jury instruction -- and I -- I believe  
4 it's 17 or 18, that tells you, in order to find the defendant  
5 guilty of a first degree kidnapping, and the robbery, you have  
6 to find one of these factors beyond a reasonable doubt.

7           You don't all have to agree. You just each have to  
8 believe that one of these factors has been proven by the  
9 evidence beyond a reasonable doubt.

10           And what I would submit to you, when we go through  
11 these, is all of these -- all of these elements have been  
12 proven beyond a reasonable doubt. So we could go through, and  
13 we will go through and check each and every one.

14           So we'll look first at element one, right?

15           Did the movement or the restraint of the victim, was  
16 it incidental to the robbery? So what does that mean? Was it  
17 just enough to complete the robbery or was it extra? We can  
18 take a look at the two different types of movement with  
19 Adriane.

20           Adriane was moved around that store, right? We all  
21 saw the video. She was moved from the office, to the jewelry  
22 counters, to the tills. How is that different than the  
23 movement when she exited the store, or when he forced her out  
24 of the -- out of the store?

25           Well, the movement to the jewelry counter, right,

1 that's necessary to get that jewelry. That's necessary for  
2 the robbery. Once he gets that property, the robbery can be  
3 done there, right? The event can be done. But the movement,  
4 to exit the store, when he drags her out at gunpoint, that's  
5 extra. So that was not incidental to the robbery. It wasn't  
6 required for the robbery, it was extra.

7 So that shows the evidence has proven beyond a  
8 reasonable doubt factor one exists.

9 What about factor 2? Did that movement or restraint  
10 substantially increase the risk of harm over and above what  
11 was necessary for the robbery?

12 Well, she's in the store, right? No matter where  
13 she is, between the jewelry counter or the tills, she's in the  
14 same amount of danger there, right? The defendant still has a  
15 gun to her head. But once she leaves that area, or once he  
16 forces her out into the parking lot, now she's in the line of  
17 fire by several police officers as well.

18 So that increases the risk of harm to her. And we  
19 can actually take a look at this, right? We can see when they  
20 exit. Right when they exit, they already have officers  
21 pointing firearms in their direction.

22 Shortly thereafter, just seconds later, we have more  
23 officers. Her danger is increased when she has to fight for  
24 her life to get that gun away from the defendant. And she  
25 tells you that, hey, he's pointing -- he's pointing that gun

1 at me and then he points it at officers.

2 And she's trying to save the officers from the  
3 defendant. She's trying to get that gun out of his hand. She  
4 does successfully get that gun out of her (sic) hand. And the  
5 officers start shooting. Those shots are going right by her.

6 And, in fact, if you look at Officer Farrington's  
7 body camera, you can see how close she comes to getting shot.  
8 In this photograph, you can see a puff of smoke in the back of  
9 that photograph, or in that still frame, which is presumably a  
10 bullet hitting that back wall.

11 This is three minutes and 51 seconds into that body  
12 cam. At 3:52, he has to lift his firearm to avoid shooting  
13 her. And less -- not even a second later, still in the same  
14 frame, 3:52, he returns his gun to point it back at the  
15 defendant.

16 Now, factor 3, was any incidental movement or  
17 restraint, did it exceed what was required to complete the  
18 robbery, right? Could he have left without taking Adriane?  
19 Of course, the answer is yes. He could have put himself in  
20 harm's way. But instead, he chose to use Adriane as a human  
21 shield.

22 Factor 4, was she physically restrained, and was  
23 that -- did that restraint increase her risk of harm?

24 Well, Mr. Trejo here, he put a gun to Adriane's head  
25 and he physically grabbed her. That is physically restraining

1 her, as he pulls her out and across that parking lot. That  
2 increased, as we've seen in these still photographs, that  
3 increased her risk of harm.

4           There he is. There he is, holding onto her with one  
5 hand, pointing that firearm at her head with the other. And  
6 not only is he pointing that firearm at her, he's pointing it  
7 in the direction of armed officers, as well, putting her in  
8 harm.

9           And finally, factor 5, did that movement or  
10 restraint have an independent purpose or significance?

11           Yes. Right? He took her out there, because he  
12 needed a human shield. He didn't want the officers to shoot  
13 him. It's okay with them shooting her, you know? He put her  
14 in front of him to prevent himself getting injured. He used  
15 her as a human shield.

16           So all of these factors, the evidence shows that all  
17 of these factors have been proven beyond a reasonable doubt.  
18 And you can go back there, and you can pick any one of those  
19 factors. You only need one, and you don't all have to agree.  
20 As long as each and every one of you finds one of those  
21 factors, you can find the defendant guilty of both the robbery  
22 with a deadly weapon for Adriane, as well as the first degree  
23 kidnapping with use of a deadly weapon, which is count 9.

24           Now, the final two counts for the September 3rd  
25 robbery, both of those counts are assault on a protected

1 person with a deadly weapon. I think sometimes when we hear  
2 the term assault and battery, we think of that as one crime,  
3 right? But there are actually two separate crimes.

4           The assault is the fear of injury, and the battery,  
5 or the actual connection of physical force, is the battery.  
6 So assault is legally defined as an unlawful attempt to use  
7 physical force upon the person of another, or intentionally  
8 placing another person in reasonable apprehension of immediate  
9 bodily harm.

10           So if I walk over to Mr. Schwartzer, and he's  
11 looking at me, and I have drawn my fist back and I go to punch  
12 him but I missed, that's a failed battery, right? I attempted  
13 to use physical force upon his person.

14           Or if I point a firearm at someone, and fire and  
15 miss, that's an attempt to use physical force. Now, we can  
16 also have an assault by intentionally placing a person in  
17 reasonable apprehension of harm.

18           When I draw my fist back, or I point that firearm at  
19 someone, that would put a person in reasonable apprehension of  
20 being harmed.

21           And in this case, the defendant commits the assault  
22 both ways, right? He points that firearm at officers. And  
23 Adriane told you, as she's struggling, as he's trying to get  
24 it -- to get that firearm up before she takes it, he's  
25 continually pulling that trigger, because he's trying to fire

1 at those officers.

2 He's trying to commit a battery. He's trying to use  
3 that force against them. But he can't. And then when he  
4 can't do that, he tries with his other firearm, right?

5 And for this crime, we have to show that the person  
6 is a protected person.

7 You have in your instructions the full definition of  
8 a protected person. But we know that a police officer, who's  
9 on duty, and doing their job, is a protected person. And the  
10 offender knew or should have known that the victim was an  
11 officer.

12 So the question is, did Mr. Trejo know that they  
13 were officers? Yes. The defendant knew that these two were  
14 officers. They both told you how they had a badge on their  
15 chest. They had badges, patches on their arms. They were  
16 wearing their full Metro uniform. They were giving commands.  
17 He knew or should have known they were officers.

18 And the evidence actually shows he did, in fact,  
19 know they were officers, right? There's testimony from all of  
20 the victims that he went up to that window. He knew the  
21 officers were there. He went up there and he looked out.

22 Officer Carrigy told you, yeah, he knew I was there.  
23 He saw me. Or he believed that the defendant saw him. And  
24 the evidence actually shows he did see him. Because what did  
25 he do? He drug Adriane out at gunpoint because he knew



1 officers were out there.

2           And then did he place them in reasonable  
3 apprehension of harm, or did he fail a battery? Well, yeah,  
4 Adriane told you he tried to pull that trigger, right? He  
5 tried to pull that trigger over and over to shoot at them. We  
6 can't hear that on the video, but she told you that.

7           But what we can see on the video is after she  
8 successfully got that Glock firearm away from him he --  
9 immediately he reached for that Kel-Tec that was strapped on  
10 his back and he brought it up.

11           The officers told you how when they saw that motion,  
12 that firearm coming up. And we can actually see him do that  
13 in this video. He pointed that firearm directly at those  
14 officers placing them in fear.

15           So the defendant -- the evidence shows the defendant  
16 is guilty of Count 10, and Count 11, one for each officer,  
17 Officer Carrigy and Officer Graham.

18           Now, we'll move on to August 4th. Counts 12 and 13  
19 apply to the August 4th attempted robbery, because of his  
20 actions on those two days. He started with conspiracy to  
21 commit robbery, and Count 13, attempt robbery with a deadly  
22 weapon.

23           Conspiracy to commit robbery. You have several  
24 instructions in there that talk about a conspiracy. But the  
25 gist of a conspiracy is the agreement to commit a crime. In

1 this case, of course, we're talking about robbery. Once that  
2 agreement happens, this crime is over.

3 So what do we know about 8/4? We know the defendant  
4 and his friend went to the SuperPawn to try and rob it, right?  
5 They both have guns. And Juliana told you, she saw two people  
6 there. One of those people was charging at them with a  
7 firearm.

8 And then, of course, he admits it all, right? He  
9 tells Detective Clark, in that August 6th interview, why he  
10 went there. He says, yeah, I went there to rob the place. He  
11 admitted that he guilted his friend into committing -- or  
12 trying to commit that robbery. Of course, we know, it's an  
13 attempted robbery, because he wasn't successful. But he tells  
14 you he did that.

15 He also admits what type of firearms they had. You  
16 have this confession. You can play it if you want. But in  
17 that confession, Detective Clark says, oh, you know, which  
18 firearm were you carrying, and he mentioned the firearm. And  
19 the defendant said, no, I was carrying the AK. I was carrying  
20 the other firearm that was recovered, that I had with me at  
21 the September robbery.

22 And then he says, my friend, my friend had that Kel-  
23 Tec, that Kel-Tec that was strapped on his back during the  
24 September robbery, that's the gun that he gave to his friend,  
25 that he guilted into doing this.

1           And he also admits that they were there in his  
2 friend's car, and that this friend's car is a black Acura.  
3 Just like all the witnesses said, there was that suspicious  
4 black Acura parked there, before the defendant charged at  
5 them. And it was that black Acura that followed them after  
6 the attempted robbery.

7           So the defendant is guilty, the evidence proved that  
8 he's guilty of Count 12, conspiracy to commit robbery.

9           And finally, we have attempt robbery. And we  
10 already talked about what a robbery with a deadly weapon is.  
11 And an attempt robbery is just that, right? He tried to rob  
12 them at gunpoint, but he failed.

13           Besides his confession, there's other evidence that  
14 shows he's guilty of this crime, right? The testimony was  
15 that he laid in wait, until Jennifer opened that store. She  
16 told you that she got to that -- she got to the SuperPawn that  
17 morning and she saw that car, that suspicious black Acura.

18           She actually drove around the parking lot trying to  
19 look into that vehicle because it was suspicious to her. She  
20 was already heightened. She was paying attention to that  
21 black Acura as she opened the store.

22           The testimony was that he charged at Jennifer,  
23 Juliana, and Ivan, with a motorcycle helmet, and gun in hand.

24           Now, he fails at this, because Jennifer screams,  
25 right? As soon as she sees him, she stands up and screams

1 multiple times to get the other two -- the other two teenagers  
2 to register what was happening. She screams, we're being  
3 robbed, we're being robbed, run. And they all run to  
4 Juliana's Jeep to make their escape.

5 That's what prevented the defendant from committing  
6 that full robbery on August 4th, 2018.

7 You also hear evidence and testimony regarding what  
8 happened after they fled in Juliana's Jeep, right? All three  
9 of those victims testified that they believed they were being  
10 followed. When Juliana changed lanes, the black Acura changed  
11 lanes. When Juliana made the U-turn, the black Acura made the  
12 U-turn.

13 Defendant asked a few questions. Well, isn't it  
14 possible that it was just some big giant coincidence and some  
15 other random black Acura that was behind them at that time  
16 making the exact same movements as them? Well, that defies  
17 common sense, right?

18 Those witnesses testified that when they left the  
19 store that black Acura was right there following what they  
20 were doing.

21 However, quite frankly, it doesn't matter, whether  
22 or not defendant was following them that day, because his  
23 crimes had already been completed. The conspiracy to commit  
24 the robbery was already completed. The attempt robbery with a  
25 deadly weapon was already completed.

1           Now, all of those victims felt chased that day.  
2 That was part of the fear that they lived through. That was  
3 part of their experience. But it doesn't go to any elements  
4 of the crimes that the defendant committed. He had already  
5 committed his crimes at the time they were chased by that  
6 black Acura.

7           The evidence proves -- all of that evidence proves  
8 that defendant is guilty of Counts 11 -- or sorry -- Counts 12  
9 and Count 13.

10           And at this time, probably by the end of today,  
11 we're going to ask you to find the defendant guilty as  
12 charged. Thank you.

13           THE COURT: Mr. Trejo?

14           Do you need a restroom break?

15           Okay. Thank you. Because, I did, too.

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

25           It is 4:41. We'll be back in five minutes.

1 (Court recessed at 4:41 p.m., until 4:46 p.m.)

2 (Outside the presence of the jury.)

3 THE COURT: We talked about it and we can go --  
4 we're going to go a little past 5:00.

5 MR. HENRY: Yes.

6 THE COURT: We don't care -- we don't care if  
7 they're mad.

8 THE INTERPRETER: Yes. Thank you.

9 MR. SCHWARTZER: You all rock.

10 MR. HENRY: The sacrifices will be worth it.

11 MR. SCHWARTZER: I will buy the first round of  
12 whiskey shots.

13 THE COURT: Do you want to grab Mr. Trejo?

14 (Pause in the proceedings)

15 THE COURT: Mr. Trejo, I don't know if you heard,  
16 but we've decided we're just going to keep going tonight  
17 because it's so close to 5:00, we'll just be like -- we -- we  
18 didn't want to break, so. We're going to go to tonight. So  
19 you're going to be ready?

20 MR. TREJO: Yes.

21 THE COURT: Okay. Are you ready?

22 Mr. Trejo, are you ready?

23 MR. TREJO: Just one moment.

24 THE COURT: Are you ready?

25 MR. SCHWARTZER: Yes, Your Honor.

1 THE COURT: I was asking Mr. Trejo.

2 MR. SCHWARTZER: Oh.

3 THE COURT: He sure looked like he was writing but  
4 he also looked like he looked up at me so.

5 MR. SCHWARTZER: Sorry, Your Honor.

6 (Pause in the proceedings - defendant writing)

7 THE COURT: Okay. It's getting close to 5:00. I  
8 think we're probably just going to need to call it because I  
9 thought we were going to be ready to go.

10 MS. HEAP: He'd indicated he was ready --

11 THE COURT: Yeah.

12 MS. HEAP: -- when we started this.

13 THE COURT: But the jurors might. I mean, I told  
14 them we were going to be done at 5:00 every day. And, I mean,  
15 literally, it's 5 minutes to 5:00.

16 MR. TREJO: I apologize. I had to do some -- some  
17 adjustments last minute.

18 THE COURT: Right. So we're going to let you do  
19 them in -- in the jail tonight because it is 5 minutes to 5:00  
20 and I told the jurors that they were going to be done at 5:00  
21 every day.

22 So you can bring them in and we'll let them go.

23 MR. SCHWARTZER: Thank you, Your Honor.

24 What time tomorrow, Your Honor?

25 THE COURT: Tomorrow is criminal, so 11:00.

1 MR. SCHWARTZER: Okay.

2 (In the presence of the jury)

3 THE COURT: Will the parties stipulate to the  
4 presence of the jury?

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

6 MR. TREJO: The defense does.

7 THE COURT: Thank you.

8 You guys might as well not have a seat. I just  
9 wanted to bring you back in. We had some issues that happened  
10 on the break and because it's so close to 5:00, we're just  
11 going to have to finish this tomorrow.

12 So if you guys can come back tomorrow at 11:00. I  
13 have my criminal calendar, so it will be 11:00 o'clock.

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

23 So we will see you tomorrow morning at 11:00. Thank  
24 you so much.

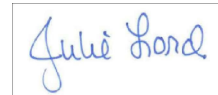
25 (Outside the presence of the jury.)



1 THE COURT: Anything outside the presence?  
2 MR. SCHWARTZER: Not from the State, Your Honor.  
3 THE COURT: Okay.  
4 MR. TREJO: Nothing from the defense, Your Honor.  
5 THE COURT: Okay. Thank you.  
6 I'll see you guys all tomorrow. Sorry about that.  
7 (Court recessed for the day at 4:56 p.m.)

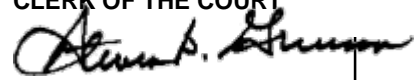
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ATTEST: I hereby certify that I have truly and correctly  
transcribed the audio/visual proceedings in the above-entitled  
case.



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

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

WEDNESDAY, MAY 4, 2022

**RECORDER'S TRANSCRIPT OF PROCEEDING:  
JURY TRIAL - DAY 13**

APPEARANCES:

FOR THE STATE:	HILARY L. HEAP, ESQ. MICHAEL J. SCHWARTZER, ESQ. Chief Deputy District Attorneys
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FOR THE DEFENDANT:	MARIO BLADIMIR TREJO, Pro Se
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ALEXANDER C. HENRY, 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, WEDNESDAY, MAY 4, 2022

2                   (Case called at 11:12 a.m.)

3                   (Outside the presence of the jury.)

4                   THE COURT: C-18-335315-1. Mr. Trejo, Mr. Henry,  
5 and the Spanish Interpreter are present on behalf of Mr.  
6 Trejo. Ms. Heap and Mr. Schwartzer are present on behalf of  
7 the State.

8                   Anything outside the presence?

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

10                  THE COURT: Okay.

11                  Mr. Trejo?

12                  MR. TREJO: Not from the defense.

13                  THE COURT: Okay. So we're going to go ahead and  
14 bring in the jury. I lost Bill. I don't know where Bill is.

15                  (Pause in the proceedings)

16                  THE COURT: And we're ready as soon as you get the  
17 jury.

18                  THE MARSHAL: Okay.

19                  (In the presence of the jury)

20                  THE COURT: Do the parties stipulate to the presence  
21 of the jury?

22                  MS. HEAP: The State does.

23                  MR. SCHWARTZER: Yes.

24                  MR. TREJO: The defense does.

25                  THE COURT: Okay. Thank you.

1 Please proceed, Mr. Trejo.

2 THE INTERPRETER: Your Honor, the interpreter needs  
3 a minute to read this.

4 THE COURT: Okay.

5 (Pause in the proceedings - Interpreter reviewing  
6 defendant's notes.)

7 THE COURT: Okay. Madam Interpreter, should we give  
8 the jury a break?

9 THE INTERPRETER: Yes, Ma'am.

10 THE COURT: Okay. So ladies and gentlemen of the  
11 jury, during the recess, you're admonished not to talk or  
12 converse among yourselves or with anyone else on any subject  
13 connected to this trial, or read, watch, or listen to any  
14 report of, or commentary on the trial, of any person connected  
15 with this trial, by any medium of information, including  
16 without limitation, newspapers, television, the Internet and  
17 radio, or form or express any opinion on any subject connected  
18 with the trial until the case is finally submitted to you.

19 It is 11:25. Let's come back in 15 minutes, so that  
20 will be 11:40, right? Yeah. 11:40.

21 (Court recessed at 11:25 a.m., to 11:39 a.m.)

22 (Outside the presence of the jury.)

23 THE COURT: Are we ready to go? Madam Interpreter?

24 MR. SCHWARTZER: The State is.

25 THE INTERPRETER: Yes. Yes, Ma'am.

1 THE COURT: Okay.

2 (In the presence of the jury)

3 THE COURT: Will the parties stipulate to the  
4 presence of the jury?

5 MR. TREJO: I do, Your Honor.

6 MR. SCHWARTZER: The State does.

7 THE COURT: Thank you.

8 Okay. Please proceed, Mr. Trejo.

9 DEFENDANT'S CLOSING ARGUMENT

10 MR. TREJO: Ladies and gentlemen of the jury. Thank  
11 you for being here.

12 So we have finally made it to the final stage of  
13 this long and arduous trial. Unfortunately, I don't have a  
14 nice PowerPoint to present, nor an impressive law degree. I  
15 don't have a voice to address you with. I can't even wear a  
16 nice tie. So I'll keep it as simple as humanly possible.

17 First, I have to say that I am humbled by your  
18 patience and undivided attention. These last three weeks have  
19 been difficult stating my case with all my deficiencies. And  
20 I imagine it has taken a lot to hear -- to bear with me.  
21 Thank you all.

22 Yesterday, Chief Deputy District Attorney Heap, gave  
23 her closing, and asked that you all find me guilty of these 13  
24 charges held against me, today. She was very eloquent when  
25 stating her narrative, but I noticed she did avoid a few

1 factor -- I'd like -- a few factors I'd like to bring up as to  
2 my closing.

3 I do not know exactly what evidence you will be able  
4 to review. But I ask that you take some details down to  
5 compare both narratives to the evidence presented. The  
6 factors in questions are as follows.

7 Let's begin with Detective Barry Jones. Let's begin  
8 with Detective Barry Jones's testimony and findings involving  
9 texts. Let me point out that these forensic analysis weren't  
10 done until September of 2021, three years after the incident.

11 This delay prevented some crucial information from  
12 coming to light in a timely manner and hence tainting the  
13 State's current narrative. In the conversation with a female,  
14 there is a mention of, quote, "plan being set," end quote, and  
15 about a, quote, "inside person." I believe Ms. Heap forgot to  
16 mention this. She did mention something about a, quote,  
17 "date," after reviewing the text. I was dumbfounded. And the  
18 only thing that made sense was a typo. Perhaps the texts were  
19 meant to say, update, quote. I can't be sure.

20 The mention of the internal accomplice is relevant  
21 for two reasons. First, if the detectives had done this  
22 digital analysis in time, there could have been a thorough  
23 investigation into this accomplice.

24 Second, is that there being an accomplice on the  
25 scene on September 3rd, 2018. The accomplice was isolated

1 with the other witnesses and given ample opportunity to taint  
2 or pollute the other witnesses' memory in order to better  
3 protect themselves.

4           Next, let's bring up Officer Keenan Graham's  
5 testimony. He explains that the officer is generally  
6 separated and isolated with a monitor to avoid polluting their  
7 memory after high stress situations, and preserve their  
8 testimony.

9           This is a human factor. Humans tend to behave in a  
10 similar manner. Therefore, witnesses, even those not in  
11 uniform, should be held to the same standard being that they  
12 are too -- they too are human. Even if a witness is not under  
13 investigation, their testimony can be tainted.

14           Let's take a moment and assume the witnesses were  
15 completely honest and unbiased in their testimony. Then allow  
16 me to present you all with facts you can verify through  
17 playbacks during your deliberation.

18           Both Adriane Serrano-Bojorquez and Juliana Saldana  
19 admitted to claiming in their statements that the suspect  
20 sounded like a, quote, "gypsy". That stands out because it's  
21 not a common description and gypsies don't come from a single  
22 place. In fact, they're nomadic tribes from around the --

23           MR. SCHWARTZER: Objection. Facts not in evidence.

24           THE COURT: I mean, it's just argument. I'm going  
25 to allow it.



1 MR. SCHWARTZER: Thank you, Your Honor.

2 MR. TREJO: They're nomadic tribes from around the  
3 world, different languages spoken by them all.

4 Most of the witnesses from the shop claim to have  
5 seen, quote, "padding" during their cross-examinations. The  
6 word padding is prevalent throughout their statements. Many  
7 of these people believe the suspect wore Kevlar or body armor  
8 but they all describe it as, quote, "padding".

9 Take unto consideration the fact that Jennifer and  
10 Sarah (phonetic) was at AutoZone on September 3rd, 2018. Even  
11 though she didn't witness the robbery. She also admits to  
12 seeing, quote, "padding". This is another factor that points  
13 to the witnesses discussing details prior to the recorded  
14 statements.

15 Mr. Ivan Jaquez, Giovanni Andino, Adriane Serrano,  
16 all admit during cross-examinations to not witness specific  
17 people hit panic buttons or pendants. Nor did the -- nor did  
18 they witness Mrs. Melani Howard duck behind the counter and  
19 call 911. But they also admit to stating these facts during  
20 their September 3rd statements, meaning, they had to have  
21 shared information.

22 Adriane and Melani both admitted to stating --  
23 stating back in September 2018 that the suspect had a, quote,  
24 "Glock, even though Melani claims to have dropped behind the  
25 counter instantly, when the suspect first entered. Then she

1 stated that they did not share any details while awaiting  
2 their recorded interviews.

3 Melani also claimed she couldn't hear much of the  
4 context spoken by the suspects, yet she claims that when  
5 Adriane and the suspects were farthest from her at the cash  
6 registers, she heard, quote, "I don't want the trace packs" --  
7 "the track packs", end quote. Highly unlikely that she  
8 herself heard this.

9 Jennifer and Sarah, Juliana Saldana, and Ivan  
10 Jaquez, claim to have -- to have been chased on August 4th,  
11 2018, by a black vehicle of generic description. All admitted  
12 the vehicle was plain and non-descript. Yet Ivan claims the  
13 vehicle chased them to Rainbow. Jennifer claims being chased  
14 to Jones Boulevard and Julie claimed to be -- to be chased all  
15 the way to Torrey Pines Avenue.

16 Additionally, in the confession tapes, the suspect  
17 denies chasing the victim. Jennifer and Sarah admits that she  
18 testified at a grand jury hearing that, quote, "That's when I  
19 had a gunshot" --

20 THE INTERPRETER: Oh, I'm going to reread it.

21 MR. TREJO: Quote, "That's when he had a gun --  
22 shotgun and he pumped it," end quote. Yet Juliana denied  
23 remembering the shotgun during her testimony.

24 Jennifer claims that she said -- Jennifer claims  
25 that she said that because Julie saw it. I'd like to remind

1 you all that this testimony was used to charge the defendant  
2 with additional charges.

3           Adriane Serrano claims she saw the suspect's face  
4 from brow to bottom of nose, and that she told her manager who  
5 I -- who I was. She even pointed me out on Monday. Yet the  
6 surveillance video and the helicopter video shows the  
7 suspect's face fully covered. The mask recovered on scene  
8 fully covers the face except for the eyes and eyelids.

9           Additionally, in her testimony to the Grand Jury,  
10 she claims she didn't know until detectives pulled her aside.  
11 This she admits on cross-examination.

12           Adriane also describes to a T the AK was found in  
13 the -- the AK that was -- Adriane also describes to a T the AK  
14 that was found in the car during her 2018 statement. This is  
15 admitted during her cross-examination.

16           She also testified that she caused a malfunction.  
17 She describes something known as stovepipe malfunction in  
18 which a cartridge is fired and the casing is left stuck in the  
19 chamber. Yet she admitted that during her 2018 statement she  
20 thought there was still a live round in the gun. After  
21 stripping the gun of its magazine, the stovepipe issue was not  
22 disclosed publically, and could only be -- could only have  
23 come from an insider in law enforcement or prosecutors.

24           Additionally, the alleged, quote, "shotgun"  
25 mentioned in the defendant's confession by Detective Clark and

1 Jennifer and Sarah was never found. Neither were the  
2 defendant's second phone.

3 A lot of details --

4 MR. SCHWARTZER: Objection. Facts not in evidence.

5 THE COURT: Correct. There is nothing related to  
6 the second phone so I'm going to have that stricken.

7 MR. SCHWARTZER: Thank you, Your Honor.

8 MR. TREJO: A lot of details in the investigation  
9 were neglected through examination. A lot of details were --  
10 a lot of details in the investigation were neglected  
11 throughout examination -- oh, thorough -- were neglected  
12 thorough examination.

13 Lastly, let's speak about law enforcement testimony.  
14 Both Thomas Carrigy and Maria Fulwiler claimed suspects --  
15 suspect dragged the victim out by the neck. The videos don't  
16 support that claim.

17 Detective Fulwiler claimed she saw the suspect drag  
18 the alleged hostage out, yet she -- she didn't clear the --  
19 the wall until the suspect was -- was shot. She also claimed  
20 she could see over the wall due to her three-inch boots.  
21 Three-inch is a lot even for male boots.

22 Also, Detective Leavitt claimed he had officers  
23 monitor the witnesses from discussing details or experiences,  
24 yet the facts show otherwise. This brings doubt as to the  
25 Detective's credibility and should show the bias law

1 enforcement is susceptible to.

2 As a final factor, I'd like to state that one of the  
3 witnesses never testified. That would be Carla Reck. The  
4 State claims she had to move away. The reason was not  
5 explicitly stated. Yet one of the robbery charges in -- is in  
6 regards to this witness.

7 Yesterday, I was asked about coercion. While I'm  
8 not sure about the time around September 3rd, 2018, I do know  
9 from the time in 2018, that is clear to me, pressure was  
10 applied by internal -- by the internal accomplice who set it  
11 all in motion.

12 MR. SCHWARTZER: Objection. Facts not in evidence.

13 THE COURT: Yeah. That -- that is absolutely facts  
14 not in evidence. And so, I'm going to have that stricken as  
15 well.

16 MR. SCHWARTZER: Thank you, Your Honor.

17 THE COURT: Members of the jury, I am a man of  
18 conviction and principles. I believe in paying our dues when  
19 they're owed. I understand there are consequences for every  
20 choice. But there are times when the proposed consequence  
21 don't fit the -- the choice. There are also situations in  
22 which the dues are paid, yet more is wanted.

23 I wouldn't have brought this to trial if I didn't  
24 feel the plea offer was appropriate.

25 MS. HEAP: Objection, Your Honor.

1 MR. SCHWARTZER: Objection.

2 THE COURT: That's going to be sustained and  
3 stricken.

4 MR. SCHWARTZER: Thank you, Your Honor.

5 MR. TREJO: As I stand here, please take a good look  
6 at me. I truly believe my debt to our community has been  
7 paid, not just with time, but with a much heavier coin. Yet  
8 the State will ask for more than that.

9 The State requests guilty on all charges without  
10 holding all the facts. The State requests you deprive me, not  
11 just my freedom, but the rest of my life.

12 I come before you requesting an innocent verdict at  
13 least on what you all believe is an unwarranted charge. I do,  
14 if you choose to do so, request you find me innocent, not  
15 because I don't want to face the consequences, but because  
16 I've given all I have to give for my trespasses.

17 Because seven robbery charges is undue and excessive  
18 because the prosecution and detectives failed to get the whole  
19 picture, and instead, presented a one-sided narrative. I just  
20 ask for a fair consequence.

21 I humbly ask that you send me -- I do ask that you  
22 send me home. I've paid the price. I'm not even the same man  
23 I was in 2018, not mentally, nor in my heart. Thank you all.  
24 Thank you for all your time, patience and duty.

25 THE COURT: Mr. Schwartz?

1 MR. SCHWARTZER: Thank you, Your Honor.

2 STATE'S REBUTTAL CLOSING ARGUMENT

3 MR. SCHWARTZER: Ladies and gentlemen, you're  
4 probably sick of me speaking. It's been three weeks. I'm  
5 going to keep this short, right?

6 I'm sitting here listening to Mr. Trejo misconstrue  
7 the facts. And you can go back in your own notes and look at  
8 your facts. And he says, you know, a witness said this, a  
9 witness said that. They said this in the Grand Jury, they  
10 said this on the stand, they said this in the statement, they  
11 said this on the stand.

12 First off, when you talk to detectives you're not  
13 under oath. It's not testimony. Things like hearsay is not  
14 applicable. So yes, you might talk about what other people  
15 did, or saw, or heard, or whatever. That might happen when  
16 you give a statement to detectives.

17 But when you're up here on the stand, and you swear  
18 an oath, then you talk about what actually happened to you.  
19 And the one thing that -- listening to this narrative from Mr.  
20 Trejo, the one thing I noticed he didn't mention at all, at  
21 all, is him getting up here and telling you that was him.

22 He told you he was the person in the video, after I  
23 asked him. He told you all the actions of that person from  
24 the video, from the SuperPawn, from the helicopter, that was  
25 all him.

1           And ladies and gentlemen, I would submit to you, on  
2     September 3rd, 2018, every crime we've accused him of, you can  
3     prove beyond a reasonable doubt from the video alone.

4           I understand Carla didn't testify. She's moved out  
5     of state. But there's nothing that says, you know, you can  
6     read those instructions as much as you want. There's nothing  
7     that says we have to bring in every victim.

8           We brought in six people from that day, and they  
9     told you what happened. They told you about the fear. They  
10    told you about the gun. They told you about the begging.  
11    Juliana couldn't even look at him, except for to call him a  
12    name at one point.

13          Adriane couldn't even look at him. Think about that  
14    raw emotion that these people suffer from. Think about Melani  
15    Howard, hiding in that cabinet, whispering on the phone, "I'm  
16    scared". Think about Jonathan, thinking about his mother, in  
17    fear, and how he reacted when that was talked about.

18          Mr. Trejo says, he's paid his debt to society? He  
19    hasn't been found accountable yet. I'm asking you, you ladies  
20    and gentlemen, to take that oath, that took that oath to find  
21    this man accountable for these crimes, that he admitted to  
22    you, he committed.

23          I can show you all the video I want. I think I have  
24    through three weeks of trial. You can go back and watch it  
25    all you want. Every crime from September 3rd, 2018 is there.



1 He admits it's him. But on top of that, we brought in all  
2 that testimony, we brought in DNA. We don't even need DNA.  
3 We brought in the DNA, right?

4 All those firearms, his DNA. Oh, I -- I don't know  
5 what was going on, you know, I was pressured by this unnamed  
6 accomplice that we have no information about. Oh, go through  
7 those text message again with that girl. Does that seem like  
8 someone who was pressured?

9 Hey, you want to do a lick? We can get 20 racks a  
10 piece. Oh, I guess, I'm going to go solo. We can go for a  
11 date afterwards. Does that sound like that someone's been  
12 coerced? Or is that someone who thinks that they're going to  
13 go make a lot of money robbing a pawn store and putting all  
14 these people in danger.

15 There's no internal -- I would submit to you,  
16 there's no evidence of an internal accomplice. What we have  
17 is someone with a lot of vibrato try and get a date from this  
18 girl. There's no evidence at all of an accomplice. I know  
19 for awhile he -- it seemed from his questioning, from Mario's  
20 questioning, that Adriane was his accomplice.

21 You saw Adriane on the stand. She changed the field  
22 of the -- of her work. She was a manager there and now she's  
23 doing something totally different. You saw the raw emotion.

24 You saw that experience from that gun. And I know  
25 he says that she described that AK. I showed her that --

1 she's -- she told him that wasn't the gun. But when she saw  
2 that Kel-Tec, which by the way, fits that description to a T,  
3 she cried. She cried, because of the emotional impact of  
4 seeing that gun four years later.

5 I mean, I can go through all of the stuff he said  
6 from September 3rd, like oh, the officers said that he put his  
7 arm around the neck that the -- that the defendant their arm  
8 around Adriane's neck. I don't need to do that. Just watch  
9 the video. He tracks her. He puts a -- he has a gun to her  
10 head. I mean, it's clear as day in that video, that he  
11 admits, I mean, he admitted to detectives on September 3rd,  
12 and he admitted to it on the stand yesterday. It's there.

13 And one of the things you don't get argument from  
14 him about is the elements of the crime. And you know why you  
15 don't get any argument? Is because the State has met its  
16 burden on every crime on September 3rd of 2018.

17 Burglary, entering into a building with the purposes  
18 and intent to commit -- to commit a robbery. There's no  
19 breaking in burglary. You don't have to break the door. You  
20 can open the door, which he did. Done.

21 Robbery with use. You were told in the instructions  
22 about -- and I won't go too much into it, because Ms. Heap did  
23 a fantastic job, but you already were told what's in presence.  
24 And then you were -- you're instructed, an employee, while at  
25 work has possessory interest in the property of his or her

1 employed company such that a taking of a company's property  
2 under the above conditions, which describes what a robbery is,  
3 from that person of an employee at the time of the robbery  
4 constitutes a robbery.

5           So employees have that possessory interest. We  
6 didn't overcharge this. That is the law in the State of  
7 Nevada. The law in the State of Nevada says every employee  
8 there, that in their presence, this man with multiple firearms  
9 and weapons, comes in to you, and invokes that fear, each one  
10 of them is a victim.

11           And that makes sense, because the harm he did isn't  
12 just to one person, it's to all those people. And like I  
13 said, you already got a slice of that emotional harm.

14           August 4, 2018, I would submit, we obviously proved  
15 that one beyond a reasonable doubt too. Is there a question  
16 that there was a firearm there? Because Mr. Trejo, on  
17 September 6th, didn't seem to have a question about that. In  
18 fact, he corrected the Detective and said it was an AK he was  
19 using, not some shotgun.

20           Julie got it wrong when she said shotgun. That's  
21 fine. I mean, she was running from a person with a motorcycle  
22 helmet that had an AK on him. But he admits, the defendant  
23 admits to committing that crime and having a firearm. And  
24 that is backed up from the testimony of Ivan, from Julie, and  
25 from Jennifer.

1           And there's something else I kind of want to talk  
2 about with that. So, Mr. Trejo doesn't remember anything from  
3 August and September of 2018, because of whatever. Except  
4 for, you remember, he said there was an accomplice that he  
5 won't name and doesn't -- I will submit to you doesn't exist.

6           But someone -- a juror asked a question to him that  
7 I thought was interesting. He doesn't remember anything about  
8 this -- about this -- except for this accomplice from  
9 September 3rd. The juror asked a question that I thought was  
10 interesting, and his response.

11           Who was your accomplice in August 4th of 2018? He  
12 didn't say -- remember, he didn't say, I didn't remember.  
13 Right? He didn't say that. He said, I don't want to say,  
14 because the person I've known for ten years and has been with  
15 me in my hard part of my life.

16           He knew who that -- for someone who said he doesn't  
17 remember anything, he remembered who that accomplice was,  
18 because he gave you a description of who it was. This is the  
19 same person who also on the stand said, he would lie to  
20 detectives in the right situation, with the factors.

21           Ladies and gentlemen, I would submit to you, this  
22 selected memory loss may not be as full as he say it is,  
23 because of that question from that juror, and that response.  
24 So if you don't believe him, you have to disregard his  
25 testimony. Or you don't have to. You can disregard his

1 testimony, if there's a critical issue.

2 But it really doesn't matter, because at the end, we  
3 proved all the elements of every crime. And even Mr. Trejo  
4 can't contradict that. He might blame the cops. He might  
5 blame the witnesses. And look, that might be a great argument  
6 if we didn't have all this video, and he didn't admit to  
7 everything. But the point of the matter, that's not the facts  
8 in this case.

9 We have an overwhelming amount of -- amount of  
10 evidence. An overwhelming amount of evidence to find him,  
11 beyond a reasonable doubt.

12 Mr. Trejo should be found accountable. Mr. Trejo  
13 should be found accountable for all the damage he did to all  
14 those victims, even the one that happened to move away before  
15 our trial. Mr. Trejo should be accountable, and that's what  
16 justice calls for.

17 And ladies and gentlemen, I ask you to convict him  
18 of all his crimes. And I thank you for your time.

19 THE COURT: Thank you.

20 Okay. And so the Clerk is going to swear the  
21 officers to take charge of the jurors and alternate jurors.

22 I just texted Chapri to come in, so she should be  
23 coming in.

24 THE CLERK: Will you both raise your right hand?

25 (JEA AND MARSHAL SWORN TO TAKE CHARGE OF THE JURORS)

1 THE CLERK: Thank you.

2 THE COURT: Okay. So ladies and gentlemen, you know  
3 that a criminal jury consists of 12 people, and there are 14  
4 of you here. So we've got two who are going to be the  
5 alternates. And the alternates are not discharged from jury  
6 service. You're going to remain on the jury until they reach  
7 a verdict in case something happens with one of the other  
8 jurors, and you need to continue the deliberations.

9 So the alternate jurors are Number 13, Shane  
10 Haycock, and Number 14, Matthew Ang. So you're going to go  
11 with my Judicial Executive Assistant, and she's going to get  
12 your information right now. Thank you.

13 (Alternate jurors exit the courtroom)

14 THE COURT: And the other 12 of you are going to  
15 follow Bill out into the jury room.

16 (Jury retires to deliberate at 12:08 p.m.)

17 (Outside the presence of the jury.)

18 THE COURT: It is 12:09. Officer, how -- how  
19 quickly would you be able to get him there and back?

20 CORRECTIONS OFFICER: As quick as you need, Your  
21 Honor. I'm going to be -- in fact, what we'll do, I'll take  
22 him downstairs then in court holding. I'll keep him there.  
23 Bill has my number, so if someone call (indiscernible).

24 THE COURT: I just thought he might need to eat  
25 before.

1           CORRECTIONS OFFICER: Yeah. We'll -- we'll get him  
2 fed down there.

3           THE COURT: Okay. Yeah. If you can take -- and  
4 Bill's got your number, you said?

5           CORRECTIONS OFFICER: Yep.

6           THE COURT: Okay. Great. Thank you.

7           THE CLERK: Can I get your guys' numbers?

8           THE COURT: And then, interpreter, how do we get you  
9 back here?

10          THE INTERPRETER: You can call the office.

11          THE COURT: Okay.

12                   (Pause in the proceedings)

13          MS. HEAP: I gave them your number, too.

14          MR. SCHWARTZER: Thank you.

15          THE COURT: You all, this is not -- I didn't even  
16 ask for your numbers because this is not going to take very  
17 long I don't think.

18                   (Court recessed at 12:10 p.m., until 2:05 p.m.)

19                   (In the presence of the jury)

20          THE MARSHAL: And, Your Honor I have the jurors.

21          THE COURT: Thank you.

22                   Will the parties stipulate to the presence of the  
23 jury?

24          MR. SCHWARTZER: Yes, Your Honor.

25          MR. TREJO: I do, Your Honor.

1 THE COURT: Okay. Please be seated.

2 Has the jury selected a foreperson?

3 MEMBERS OF THE JURY: Yes.

4 THE COURT: And who is the foreperson? Can you  
5 please state your name on the record?

6 JUROR NO. 9: Shadam Broderick.

7 THE COURT: Thank you.

8 And has the jury reached a verdict?

9 JUROR NO. 9: Yes.

10 THE COURT: And will the defendant and his attorney  
11 -- will the defendant please stand?

12 And if you can hand that to the Marshal.

13 THE COURT: And the Clerk will now -- and the Clerk  
14 will now read the verdict aloud.

15 VERDICT

16 THE CLERK: State of Nevada versus Mario Trejo, Case  
17 Number C-18-335315-1, Department 24.

18 Verdict. We the jury in the above-titled case find  
19 the Defendant Mario Trejo as follows:

20 Count 1, Burglary while in the possession of a  
21 firearm; guilty of burglary while in the possession of a  
22 firearm.

23 We the jury in the above-titled case find the  
24 Defendant Mario Trejo as follows:

25 Count 2, Robbery with the use of a deadly weapon;



1 guilty of robbery with the use of a deadly weapon.

2 We the jury in the above-titled case find the  
3 Defendant Mario Trejo as follows:

4 Count 3, Robbery with the use of a deadly weapon;  
5 guilty of robbery with the use of a deadly weapon.

6 We the jury in the above-titled case find the  
7 Defendant Mario Trejo as follows:

8 Count 4, Robbery with the use of a deadly weapon;  
9 guilty of robbery with the use of a deadly weapon.

10 We the jury in the above-titled case find the  
11 Defendant Mario Trejo as follows:

12 Count 5, Robbery with the use of a deadly weapon;  
13 guilty of robbery with the use of a deadly weapon.

14 We the jury in the above-titled case find the  
15 Defendant Mario Trejo as follows:

16 Count 6, Robbery with the use of a deadly weapon;  
17 guilty of robbery with the use of a deadly weapon.

18 We the jury in the above-titled case find the  
19 Defendant Mario Trejo as follows:

20 Count 7, Robbery with the use of a deadly weapon;  
21 guilty of robbery with the use of a deadly weapon.

22 We the jury in the above-titled case find the  
23 Defendant Mario Trejo as follows:

24 Count 8, Robbery with the use of a deadly weapon;  
25 guilty of robbery with the use of a deadly weapon.

1           We the jury in the above-titled case find the  
2 Defendant Mario Trejo as follows:

3           Count 9, First degree kidnapping with the use of a  
4 deadly weapon; guilty of first degree kidnapping with the use  
5 of a deadly weapon.

6           We the jury in the above-titled case find the  
7 Defendant Mario Trejo as follows:

8           Count 10, Assault on a protected person while --  
9 with the use of a deadly weapon; guilty of assault on a  
10 protected person with the use of a deadly weapon.

11           We the jury in the above-titled case find the  
12 Defendant Mario Trejo as follows:

13           Count 11, Assault on a protected person with the use  
14 of a deadly weapon; guilty of assault on a protected person  
15 with the use of a deadly weapon.

16           We the jury in the above-titled case find the  
17 Defendant Mario Trejo as follows:

18           Count 12, Conspiracy to commit robbery; guilty of  
19 conspiracy to commit robbery.

20           We the jury in the above-titled case find the  
21 Defendant Mario Trejo as follows:

22           Count 13, Attempt robbery with the use of a deadly  
23 weapon; guilty of attempt robbery with the use of a deadly  
24 weapon.

25           Dated this 4th day of May 2022, signed by

1 Foreperson, Shadam Broderick.

2 Are these your verdicts as read, so you say one, so  
3 you say all?

4 MEMBERS OF THE JURY: We do.

5 THE COURT: Do either party wish to have the jury  
6 polled?

7 MS. HEAP: The State does not.

8 MR. TREJO: No, Your Honor.

9 THE COURT: Okay. Thank you.

10 The Clerk will now record the verdict into the  
11 minutes of the court.

12 Ladies and gentlemen, thank you so much for your  
13 time and attention to this case. These are important rights.  
14 I know the parties would like to thank you very much for your  
15 service. This process could not go on without you. I know  
16 you spent a lot of time in your life these past three weeks  
17 doing this. So I really, really want to express to you how  
18 much this -- how important this has been for all of the  
19 parties involved.

20 So the question is going to come up if you can now  
21 talk to people. You may, if you wish, talk to any other  
22 person and discuss your deliberation, which you gave to this  
23 case. You are not required to do so. However, I would ask  
24 you all to please follow Bill back into the jury deliberation  
25 room for just a few minutes.

1 Thank you.

2 THE MARSHAL: All rise for the jury.

3 (Jury excused at 2:11 p.m.)

4 (Outside the presence of the jury.)

5 THE COURT: And so we need to set his matter over  
6 for sentencing and for it to be gone to the Department --  
7 remanded to the Division of Parole and Probation for a  
8 Sentencing date, and set for Sentencing.

9 THE CLERK: June 15th, 9:30 a.m.

10 THE COURT: And I --

11 MR. SCHWARTZER: Thank you.

12 THE COURT: -- usually go and talk to them in the  
13 back for just a little bit. In probably about ten minutes you  
14 guys can come back too.

15 MS. HEAP: All right. Thank you, Your Honor.

16 MR. SCHWARTZER: Thank you, Your Honor.

17 THE COURT: In the jury deliberation room.

18 Alex, if you wanted to, you're welcome to. But I'm  
19 going to talk to them first, and I'll send Bill out here to  
20 come get you guys in about ten or 15 minutes.

21 MR. SCHWARTZER: Thank you, Your Honor.

22 MR. HENRY: Okay.

23 MS. HEAP: Thank you.

24 THE COURT: Okay. Thank you.

25 (Court adjourned at 2:12 p.m.)

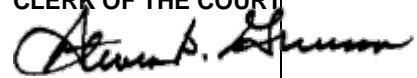
\* \* \* \* \*

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



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VERBATIM DIGITAL REPORTING, LLC



RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

MARIO TREJO,

Defendant.

CASE NO: C-18-335315-1

DEPT. XXIV

BEFORE THE HONORABLE ERIKA BALLOU, DISTRICT COURT JUDGE  
TUESDAY, MAY 10, 2022

**RECORDER'S TRANSCRIPT OF HEARING RE:  
ORDER TO SHOW CAUSE**

APPEARANCES:

Juror

Chasity McKay

RECORDED BY: SUSAN SCHOFIELD, COURT RECORDER

1 Las Vegas, Nevada; Tuesday, May 10, 2022

2 \*\*\*\*\*

3 [Proceeding commenced at 9:09 A.M.]

4 THE COURT: Page Number 6, Case Number C-18-335315-1,  
5 State of Nevada versus Mario Trejo. This is on for the Juror, Chasity  
6 McKay. Is that you, ma'am? You need to come up to the –

7 So, ma'am, you never came back after lunch.

8 MS. MCKAY: Yeah, I know. During lunch, I actually – I was  
9 not technically passed out but I blacked out in the morning before then.  
10 I already had a headache, and so while sitting outside waiting for recess,  
11 I like threw up and everything, and I was starting to black out, so I went  
12 home.

13 THE COURT: Okay. But you should have told –

14 MS. MCKAY: I don't know. I don't believe my family at home  
15 had diabetes or anything.

16 THE COURT: Right. But, I mean, you should have said  
17 something to somebody, the Marshal, because you could've gotten  
18 excused and not had to be here today because some Judges wouldn't  
19 even bring you in to have an explanation. You'd just have to pay \$500  
20 for not coming back. And I'm trying to not be a jerk and give you an  
21 opportunity, but you can't just – you don't just get to walk away.

22 MS. MCKAY: Okay. I apologize for that. I didn't know.

23 THE COURT: Okay. So obviously you were excused  
24 because you didn't come back, but, yeah, just if that ever happens  
25 again, if you ever get jury duty, you need to talk to somebody who can

1 talk to the Judge because otherwise people will just, I mean, some  
2 Judges will just send you a, you know, a fine, and it can be up to \$500,  
3 and it can go further if you don't pay it, and, I mean, that's how people  
4 end up in trouble and, like, these are not steps that get to go away, like,  
5 you just really need to explain stuff to people. You need to talk to  
6 people. You can't just walk away from things.

7 MS. MCKAY: Yeah. I apologize for that. That's why I came  
8 here, you know. I should've said something.

9 THE COURT: You don't need to apologize. You just need to  
10 figure out how to do it the right way so that, I mean, you're probably  
11 missing work today, you're probably – there's all kinds of stuff that could  
12 be happening, but because you had to be here it's not happening, right?

13 MS. MCKAY: Right.

14 THE COURT: So just don't do – I mean, you have to figure  
15 out the right way to do things, and that's – I'm just here to try and explain  
16 it to you. Okay?


17 MS. MCKAY: Okay.

18 THE COURT: Okay, cool. Thank you for coming, ma'am.

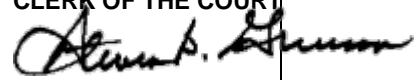
19 MS. MCKAY: Okay, thank you. And I apologize again.

20 [Proceeding concluded at 9:12 A.M.]

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

24   
25 SUSAN SCHOFIELD  
Court Recorder/Transcriber





RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

MARIO TREJO,

Defendant.

CASE NO: C-18-335315-1

DEPT. XXIV

BEFORE THE HONORABLE ERIKA BALLOU, DISTRICT COURT JUDGE  
WEDNESDAY, JUNE 15, 2022

**RECORDER'S TRANSCRIPT OF HEARING RE:  
SENTENCING**

APPEARANCES:

For the Plaintiff: MICHAEL SCHWARTZER, ESQ.  
HILLARY HEAP, ESQ.  
Chief Deputy District Attorneys

For the Defendant: PRO SE  
Interpreter: Marie Bacquerie

RECORDED BY: SUSAN SCHOFIELD, COURT RECORDER

1 Las Vegas, Nevada; Wednesday, June 15, 2022

2 \*\*\*\*\*

3 [Proceeding commenced at 10:29 A.M.]

4 THE COURT: State of Nevada versus Mario Bladimir Trejo,  
5 Case No. C-18-335315-1. Mr. Trejo represents himself on this. He  
6 does have the help of the Interpreter because he cannot speak, so can  
7 the Interpreter please state your appearance for the record?

8 THE INTERPRETER: Marie Bacquerie, Spanish Interpreter,  
9 MVBM 840.

10 THE COURT: Thank you. And Mr. Schwartz present on  
11 behalf of the State.

12 This is on for the entry of judgment, imposition of sentence.  
13 Mr. Trejo, is there any legal cause or reason we cannot proceed today?

14 MR. TREJO: No, Your Honor.

15 THE COURT: Okay. Thank you.

16 Mr. Trejo, by virtue of the jury's verdict you are hereby  
17 adjudged guilty of the offenses of Count 1, burglary with use of a deadly  
18 weapon, a Category B as in boy felony, Counts 2 through 8, robbery  
19 with use of a deadly weapon, Category B felony, Count 9, first degree  
20 kidnapping with use of a deadly weapon, a Category A felony, Counts  
21 10, 11, assault on a protected person with use of a deadly weapon, both  
22 C felonies, Count 12, conspiracy to commit robbery, a Category B as in  
23 boy felony, and Count 13, attempt robbery with use of a deadly weapon,  
24 a Category B felony.

25 So, Mr. Trejo, go ahead and say what you'd like to say.

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MARIO TREJO, ) No. 84724  
)  
Appellant, )  
)  
v. )  
)  
THE STATE OF NEVADA, )  
)  
Respondent. )  
)

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WILLIAM M. WATERS

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Employee, Clark County Public Defender's Office