

IN THE SUPREME COURT OF THE STATE OF NEVADA

CASEY ALAN JOHNS

Appellant,

v.

STATE OF NEVADA

Respondent.

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CASE NO. 83064

Appeal from a Judgment of Conviction After Jury Verdict
in Case CR20-10DC-0552
Tenth Judicial District Court of the State of Nevada, Churchill County
Honorable Thomas L. Stockard, District Judge

APPELLANT'S APPENDIX VOLUME 3

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IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CHURCHILL

BEFORE THE HONORABLE DISTRICT COURT JUDGE THOMAS STOCKARD

---oOo---

THE STATE OF NEVADA,

Plaintiff,

vs.

CASEY ALAN JOHNS,

Defendant.

_____ /

TRANSCRIPT OF PROCEEDINGS

VOLUME 2

JURY TRIAL

TUESDAY, MAY 11, 2021

FALLON, NEVADA

REPORTED BY:

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1 TUESDAY, MAY 11, 2021, 1:30 P.M.

2 ---oOo---

3 THE COURT: We're back on the record on Case
4 Number 20-0552, State of Nevada versus Casey Alan Johns. The
5 record will now reflect the presence of the parties and
6 counsel, all officers of the court.

7 We're meeting outside the presence of the jury.
8 This is day two of the trial. We have not heard any evidence
9 yet. The Court was informed that you requested to meet
10 before we brought the jury in. Who requested this?

11 Mr. Neidert.

12 MR. NEIDERT: Your Honor, I want to bring it to
13 the Court's attention that at the point in time I went in to
14 speak with my client prior to court, I gave him a couple of
15 photographs that were a more colorized version of the
16 photographs that I had supplied to him yesterday. These
17 photographs, at least the one photograph that I have, matches
18 or is similar to a photograph that was a non-colorized
19 version of a photograph that was introduced by the defense
20 during -- You probably remember there was some discussion
21 about the time stamp on these two different photographs.
22 Mr. Johns requested to see the two photographs that were seen
23 yesterday. I was informed by the court administrator that
24 the best way to accomplish that would be on the first break

1 at that point after the jury had left following that break.
2 Then the court clerk, even the prosecution was remaining in
3 the courtroom --

4 THE COURT: Are we talking about exhibits that
5 have been marked and admitted?

6 MR. NEIDERT: Yes.

7 THE COURT: What about if we did this? One of
8 the concerns the Court always has -- And I'll let you finish
9 in a minute -- is when an exhibit is marked and admitted in
10 to evidence, the court of the clerk -- the clerk of the court
11 has a responsibility to maintain the integrity of that. But
12 we do have a color copier here. And, if you identify the
13 exhibits that you want, we can make color copies and let you
14 see those, but not the actual exhibits. Because if they were
15 to somehow be altered or affected without the parties talking
16 about it, that could be a problem. Would that address that
17 issue?

18 MR. NEIDERT: That would address the first part
19 of the issue that I had prior to the hearing.

20 THE COURT: Okay. Would that address your
21 concerns about seeing the exhibit?

22 THE DEFENDANT: My concern is the fact that he is
23 saying, well, I'm not the one that did this, you're the one
24 that did this. He's actually telling me -- I'm innocent

1 until proven guilty. And I got my own public defender
2 pointing the finger at me.

3 THE COURT: What you don't want to do, Mr. Johns,
4 is you have a right to attorney/client privilege. And what I
5 don't want you to do is unintentionally waive the
6 communications between you and Mr. Neidert. Does that make
7 sense?

8 THE DEFENDANT: No, it doesn't. Nothing is going
9 to make sense because I am in no mood to talk right now. I
10 am absolutely pissed off. I am not hearing anything right
11 now. I'm sorry. And I'm not trying to prolong anything.
12 But right now I'm not going to --

13 THE COURT: But you want to see some exhibits;
14 right?

15 MR. NEIDERT: Well, that was the first part of
16 it, your Honor.

17 THE COURT: We'll get to the second part. But
18 let's talk about the first part. The Court can't let
19 exhibits be taken -- For example, if Mr. Weed had wanted to
20 take them or Ms. Baker had wanted to take them, I would have
21 given the same answer. Because, once they're marked and
22 admitted, they become evidence of the court and they can't be
23 out of the court's control. But if you want to make sure you
24 have exact copies of what's there because I think there are

1 multiple -- I don't have all of the discovery. But if it's
2 anything like the discovery I've seen in the past, there may
3 be four photos of roughly the same picture. And, so to make
4 sure we're talking about the same ones, we can make a quick
5 photocopy on a copier to make sure the ones admitted in to
6 evidence you have copies.

7 THE DEFENDANT: The pictures I am looking for are
8 43 and 44 of the discovery. They were admitted yesterday in
9 to evidence.

10 THE COURT: Sure. We can make copies of those so
11 you can have those. Will that address that issue so you can
12 have these?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay. Mr. Neidert, go ahead.

15 MR. NEIDERT: When I came in and told him that,
16 certain words were said, certain -- I think, there was an
17 angry outburst from Mr. Johns and from myself. And basically
18 that also lead to probably what Mr. Johns was just talking
19 about, I think he's not happy with my representation at this
20 point. I don't think he believes I'm doing anything for him.
21 And, you know, I understand that the Ninth Circuit says you
22 don't have a right to a meaningful relationship with counsel.
23 I understand that what you have a right to is effective
24 counsel.

1 But, I wanted to make a record with respect to
2 that, because, at this point in time, I am seeing a rapid
3 deterioration of my relationship with Mr. Johns. It happened
4 once before in this case. And I know we can't switch horses
5 in the middle of a trial. But I wanted to make a record with
6 respect to what's going on in the course of our relationship
7 as well, your Honor.

8 THE COURT: Thank you.

9 Mr. Johns, do you have anything you want to say?

10 THE DEFENDANT: Like I said, I don't feel I have
11 representation. As you guys know, I have invoked all of my
12 rights in here. And I understand the pandemic. Pandemic
13 schmandemic. That doesn't give a right to violate my
14 constitutional right to a fair and speedy trial. This
15 happened over 365 days ago, which I have invoked my rights.

16 THE COURT: Okay. So noted. And you've
17 protected the record. And, when this case is over, it will
18 be noted as it has at your previous appearances and that
19 record, you can appeal that, okay.

20 Is there anything else?

21 THE DEFENDANT: There is -- During the
22 preliminary hearing, the State had a flash drive that they
23 used. I want that flash drive. Because I think that there
24 is two different things going on.

1 THE COURT: So in the middle of trial that is not
2 an issue that has been raised. I mean, we have a jury.
3 We're going to go with this case. And, if that's an issue
4 that you've perfected on appeal, you can address it how it
5 is.

6 Mr. Johns, what are the two exhibits that you
7 want?

8 THE DEFENDANT: All I know is they're 43 and 44.

9 THE COURT: Are they Court's Exhibits 43 and 44?

10 MR. NEIDERT: No. They were the ones that I
11 introduced. They were the first two exhibits I introduced.

12 THE CLERK: They would have been Exhibits 32 and
13 33.

14 THE COURT: Mr. Bailiff, can you go and make a
15 color copy of each of those, make it front and back,
16 two-sided, so that we can have copies of those.

17 THE DEFENDANT: May I have the copies for myself?

18 THE COURT: What's that?

19 THE DEFENDANT: May I have the copies for myself?

20 THE COURT: That's who we're making it for.

21 THE DEFENDANT: Thank you.

22 THE COURT: The other thing that I want you guys
23 to be aware of. This is your case, okay, and we want to
24 treat you fairly. And I want the record to accurately

1 reflect we have the jury sequestered across the hall in a
2 separate courtroom that for social distancing purposes has
3 been converted in to a jury room. They are quite a bit a
4 ways away. Court staff has told me that the voices were
5 raised such that the staff in this courtroom could hear you.
6 They tell me that it wouldn't have been heard. I just wanted
7 you to be aware that if voices are raised, particularly when
8 the jury comes back in the courtroom, how you behave is up to
9 you. But I want to make sure that you understand that
10 people -- jurors are watching witnesses and our behavior. Do
11 you understand that?

12 THE DEFENDANT: I do.

13 THE COURT: And these charges are serious and we
14 want to make sure you're treated fairly.

15 THE DEFENDANT: I'm looking at the rest of my
16 life getting taken away from me. I know how serious they
17 are.

18 THE COURT: The other thing -- I don't think
19 anyone -- And the court administrator rightfully said we
20 can't give an exhibit. I would not let Mr. Weed or Ms. Baker
21 take the exhibit out of the presence --

22 THE DEFENDANT: Where the conflict came in, he
23 was trying to tell me those are the pictures. Those ain't
24 the pictures.

1 THE COURT: We'll make copies so you do have
2 them. Does that make sense?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Is there anything else from you,
5 Mr. Neidert?

6 MR. NEIDERT: No, your Honor. I would say that
7 these pictures we're referring to are --

8 THE DEFENDANT: Also, there's a picture in that
9 three-ring binder right there, number 24 in there is not the
10 same pictures as those.

11 THE COURT: Okay. So the Court's exhibits are
12 with the clerk and the copies will now be given to you,
13 Mr. Johns.

14 MR. NEIDERT: Could I ask the clerk to make
15 copies of these as well?

16 THE COURT: Okay. But from now on what we'll do
17 is we'll do that on the break. Does that make sense?

18 MR. NEIDERT: I understand, your Honor.

19 THE COURT: We asked the jurors to get here on
20 time.

21 MS. BAKER: Mr. Neidert, I have extra.

22 THE COURT: Is there any other discussions we
23 need to have outside the presence of the jury?

24 THE DEFENDANT: This is --

1 (The court reporter interrupts)

2 THE DEFENDANT: I said all same time stamp, four

3 different pictures.

4 THE COURT: Is there anything else we need to do

5 on the record, Mr. Neidert, from your perspective?

6 MR. NEIDERT: No. But I'll make Exhibit Number 3

7 that my client is referring to and I'll make sure he gets a

8 copy of that.

9 THE COURT: If you give them to the bailiff right

10 now we'll make copies. But then if there's things that come

11 up, we'll do that on the breaks. Is there anything,

12 Ms. Baker, from the State?

13 MS. BAKER: The pictures that were provided today

14 were at the request of defense counsel. There's different

15 formats of the same picture. One was provided as a scanned

16 copy and included in the report because it's a still of the

17 surveillance video. It was printed in different formats to

18 try to get the complete time stamp.

19 THE COURT: Sure. But none of this is evidence.

20 If there's somebody who wants to on the record explain

21 what's --

22 MS. BAKER: Right. I understand that we're not

23 providing this, but I'm trying to, like, lay the foundation

24 of the purpose of what was provided today and what was

1 provided today.

2 THE COURT: And, Mr. Johns, only evidence that is
3 presented when the jury is here will be evidence that is
4 considered. Does that make sense?

5 THE DEFENDANT: Yeah.

6 THE COURT: So here are the additional copies
7 that Mr. Neidert requested. But what I would encourage you
8 to think about, Mr. Johns, is when you raise your voice --
9 And I don't know whether you did or you didn't, but there was
10 reports that there was yelling coming from the jury room.
11 It's not the jury room. It's what is traditionally the jury
12 room, for the record, in our courtroom is now a place where
13 Mr. Johns and Mr. Neidert to have a work area on all breaks.
14 The jury is in courtroom two across the hall. But when you
15 yell, especially in the presence of the jury, that might not
16 have the best effect on -- it might not have your intended
17 effect. Does that make sense?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you have anything else, Mr. Johns?

20 THE DEFENDANT: No, sir.

21 THE COURT: Very well. Then what we'll do is
22 we'll be in recess. We'll bring the jury in and then we'll
23 start -- we'll start with the State's first witness. Who is
24 your first witness?

1 MS. BAKER: Dr. Andrew Coley.

2 THE COURT: Okay. Very well.

3 (Pause in the proceedings)

4 THE COURT: We're back on the record on Case
5 Number 20-0552, State of Nevada versus Casey Alan Johns. The
6 record will now reflect the presence of the parties, of
7 counsel, all officers of the court, and the full jury and
8 alternate jurors.

9 Will the State and the defense stipulate to the
10 correct seating of the jury?

11 MS. BAKER: Yes, your Honor.

12 MR. NEIDERT: The defense so stipulates, your
13 Honor.

14 THE COURT: Ms. Baker, you may call your next
15 witness.

16 MS. BAKER: Thank you, your Honor. The State
17 would like to call Dr. Andrew Coley.

18 THE COURT: Could you please come forward to the
19 witness stand. If you would stand and face the clerk and
20 raise your right arm to take the oath of a witness.

21 (The witness was sworn in)

22 THE COURT: Thank you. Please be seated. And,
23 Doctor, you may take your mask off.

24 THE WITNESS: Thank you.

1 THE COURT: And that microphone will -- you have
2 to speak in to it. And what I will say is if there's anyone
3 that's having trouble hearing at one point, if you'll just
4 give me a sign, I'll make sure that we adjust it so that you
5 can hear, okay.

6 Go ahead, Ms. Baker.

7 MS. BAKER: Thank you.

8
9 ANDREW COLEY

10 Called as a witness on behalf of the
11 State, having been first duly sworn,
12 Was examined and testified as follows:

13
14 DIRECT EXAMINATION

15 By Ms. Baker:

16 Q. Hello. Can you please state and spell your name
17 for the record.

18 A. Andrew Coley, A-n-d-r-e-w C-o-l-e-y.

19 Q. Thank you. And where do you work?

20 A. I work at Saint Mary's Hospital in Reno, Nevada,
21 in the emergency department.

22 Q. And how long have you worked there?

23 A. I've worked there for almost 13 years.

24 Q. And what is your job title?

1 A. I am an emergency room physician.

2 Q. And what kind of education do you have for your
3 employment?

4 A. I attended college and four years of medical
5 school, four years of emergency medicine training, and I've
6 been practicing emergency medicine for almost 23, 24 years.

7 Q. Thank you. And, kind of redundant, but we're
8 going to ask again. What are your duties for your
9 employment?

10 A. My duties are to take care of any patients that
11 come in to the emergency department, make sure they receive
12 appropriate and prompt care, attend to anything and
13 everything that comes in.

14 Q. And do you perform diagnoses?

15 A. Yes, I do.

16 Q. And were you working on April 16th of 2020?

17 A. Yes.

18 Q. And around 5:22 did you treat a patient named
19 Michael Malone?

20 A. Yes.

21 Q. Is that at Saint Mary's?

22 A. Yes.

23 Q. And do you remember any observations about
24 Mr. Malone?

1 A. Can you be more specific?

2 Q. Just in general. Like, male?

3 A. Male. I don't recall his face. I remember his

4 injury.

5 Q. Okay. And why was he brought in?

6 A. He was brought in for an apparent injury that he

7 sustained to his right hand from, apparently from a knife.

8 The patient was transferred from Fallon to our emergency

9 department to get treatment for his hand injury.

10 Q. Okay. And let's talk about that hand injury. Do

11 you remember which hand?

12 A. His right hand.

13 Q. And then can you describe the injury?

14 A. It was a very deep gash that went across his

15 right palm and it went around to the side. But it was mostly

16 very deep right in the middle here.

17 Q. Okay. And do you remember how long it was?

18 A. If I had to guess I would say that it was

19 probably maybe six centimeters or so.

20 Q. Okay. And how was he treated?

21 A. Before he got to us, he was given some

22 antibiotics, pain medicine, updated on a tetanus vaccination,

23 and then the wound was dressed and he was transported to us

24 here -- or at Saint Mary's.

1 I treated him by undoing the bandages and
2 assessing his wounds, examining him, providing some pain
3 medication for him. And, beyond that, getting an x-ray and
4 just doing a full exam otherwise.

5 And then, ultimately, due to the nature of his
6 injury I contacted one of the orthopedic specialists who also
7 deals with hand injuries.

8 Q. Okay. So going back to you provided --
9 prescribed pain medication?

10 A. Uh-huh.

11 Q. Do you remember what kind?

12 A. I believe I gave him some morphine through an IV.

13 Q. And why was that?

14 A. He, number one, the wound looked very painful.
15 Number two, he said he was in pain. And it seemed like
16 something that would warrant pain medication.

17 Q. And, using your training and experience, what
18 type of pain would somebody typically have with this type of
19 injury?

20 A. Pretty substantial pain. I mean, this was a very
21 deep wound in his palm of his hand. It looked very painful.
22 And he clearly was in some pain by what he described.

23 Q. Okay. And then was there any sensory issues?

24 A. Yeah. So he initially had said that there wasn't

1 and I think because the wound was so distracting and painful.
2 But, when I actually did a full exam on him, he did not have
3 very good sensation on his index and middle finger, which
4 indicated to me that there may have been a nerve injury deep
5 in the hand.

6 Q. Okay. Other than the nerve injury was there any
7 other things that you found in the cut?

8 A. It was just a very deep wound. There was a fair
9 amount of blood in the palm. It was -- It's very difficult
10 to examine that with all of the blood. I didn't initially
11 appreciate any flexor tendon injuries, so he could move his
12 fingers. And the blood supply to his fingers seemed
13 adequate. It was mostly the large gash and the sensory
14 deficits in his index and middle finger.

15 Q. And how were his arteries?

16 A. His arteries -- Well, there's so many different
17 little arteries in the palm of the hand, so, clearly, there
18 was bleeding. There had to have been injury to some vessels.
19 But the blood flow to his fingers was adequate. So he was
20 perfusing his fingers with blood.

21 Q. Okay. And so you indicated -- Before we get
22 there. So after you assessed the hand what did you -- what
23 did you do?

24 A. Well, I knew that it was a very complicated deep

1 injury and that he had a nerve injury. So if there's no
2 immediate vascular compromise, meaning that he could lose his
3 hand from not having blood flow, it's safe at that point to
4 make sure that the wound is irrigated, very clean. And I
5 discussed the case with the hand specialist on -- I believe
6 he came and saw him as well. And, ultimately, it was a
7 decision to close the wound loosely, make sure he's on
8 antibiotics, pain medicine, and he was going to get a prompt
9 follow-up to explore the wound further with the hand
10 specialist.

11 Q. So how do you -- what do you mean by close the
12 wound?

13 A. We used sutures to close the wound. Not a very
14 tight but enough to bring the skin together to help protect
15 the tissues underneath. And then place him on antibiotics
16 and pain medication as well.

17 Q. Okay. Any other injuries?

18 A. I did not remember seeing any other injuries at
19 the time.

20 Q. Okay. And then you said the next steps were to
21 do what?

22 A. The next step was just to make sure that he was
23 comfortable with the pain medicine, make sure that he got a
24 prescription for antibiotics, and make sure that he got

1 immediate follow-up with the hand specialist.

2 Q. Okay. For this type of injury would you expect
3 to have some sensory deficit?

4 A. Yeah. He clearly did when I examined him. So
5 it's hard to know if the nerve is bruised or severed. And
6 that would take, you know, a very deep exploration with the
7 hand specialist to open everything up and really evaluate
8 what was going on.

9 But, based upon the fact that he couldn't feel
10 the ends of his two fingers there, I knew that he had had a
11 nerve injury for sure.

12 Q. Okay. And what kind of nerves are in the hand?

13 A. There are three main nerves that go in to the
14 hand. Down in to the palm is one main one, which is called
15 the median nerve. And that separates out and gives you
16 sensation to the thumb and these first two fingers. And then
17 you have an ulnar nerve that also separates out and gives you
18 sensation to the lazy finger and the pinky finger.

19 Q. Okay.

20 A. And then you have a radial nerve that does the
21 sensation to the back of the hand.

22 Q. Okay. And did you see any issues with the back
23 of the hand?

24 A. I did not. It was all in the front, in the palm.

1 MS. BAKER: May I approach?
2 THE COURT: Yes.
3 MS. BAKER: And Exhibit 3.
4 So what you have next to you is a screen and then
5 we have it up here. I don't know if -- Would it be easier if
6 we turned off some lights or can you see?
7 THE COURT: We're going to go ahead and leave the
8 lights on.
9 MS. BAKER: Okay.
10 Q. (By Ms. Baker) Are you able to see the screen?
11 A. This is blank. This is not on. But I can see
12 that.
13 Q. You can see this?
14 A. Uh-huh.
15 Q. It should be on.
16 THE COURT: If you can get Tiffany. She just
17 checked and said it was working.
18 MS. BAKER: Okay. We'll use up here.
19 Q. (By Ms. Baker) So do you recognize what is
20 marked as Exhibit 2?
21 A. It looks like his injury.
22 Q. Okay. So it's similar to what you saw Mr. Malone
23 on April 16th, 2020?
24 A. Yes.

1 Q. Okay. And so you said that it was -- you
2 estimated it as six?

3 A. Roughly.

4 Q. Roughly?

5 A. Yeah.

6 THE COURT: And, Ms. Baker, I'm going to
7 interrupt you real quick. We're just going to have our
8 technology specialist see if she can get this screen working.
9 It's been working intermittently.

10 THE WITNESS: That's all it took.

11 MS. BAKER: Sometimes you just have to scare
12 technology.

13 THE WITNESS: Sometimes the on button helps.

14 Q. (By Ms. Baker) So, if you can use the screen and
15 you can, if you need to, you can point and mark on the
16 screen. But you can see where does the laceration start and
17 end?

18 A. It looks like it starts right here and then it
19 ends right here. There's a little bit of blood dripping down
20 right here. I can't tell if that's more -- that's the main
21 laceration.

22 Q. Okay. And then when you talk about deep, what do
23 you mean by deep?

24 A. Well, deep is, you know, below the skin itself.

1 You can see that there's -- it's deep in to -- there's fat
2 just below the skin and it's gone beyond that. And then you
3 come below the fat, you'll get in to what's called a fascia
4 or a connective tissue that helps to protect the palm. It
5 looks like that may have been disrupted as well, this area
6 you can see there.

7 Q. Okay. And then you said the median nerve; is
8 that correct? Where would that be located?

9 A. So the median nerve comes in through the wrist
10 here and then it will sort of divide up in to little tiny
11 nerves.

12 It's not really going very well. Sorry.

13 The main nerve comes in through here and then it
14 runs deep here and then it divides up. And then you serve
15 the fingers beyond that.

16 Q. Okay. So for this type of -- if there was a
17 median nerve injury would somebody typical lose
18 functionality?

19 A. For sure, yeah, you lose sensation, number one.
20 You might be able to still potentially move the fingers. But
21 your sensory aspects would be gone.

22 Q. Okay. I'm going to clear this. What's been
23 marked as State's 3 -- And I apologize for the -- It's not
24 the best photo, but we'll get there. Do you recognize this

1 as also Mr. Malone's hand?

2 A. It looks consistent, the same direction. You
3 know, of course that wasn't what I saw in the emergency room.
4 But it looks consistent as well.

5 Q. Okay. And, so looking at it, can you point to
6 what we're looking at inside the hand, the best way you can?

7 A. Sure. So I believe right here you have a major
8 tendon that comes in called the palmaris longus and then you
9 have this all connective tissue sheet here. And then you
10 have this big deeper gash below that. And, I can't say for
11 certain, you know, if I see the actual median nerve there.

12 Q. Uh-huh.

13 A. It would typically be a little deeper than that.

14 Q. Okay. But this depth is consistent with what you
15 saw?

16 A. Yeah, it was quite deep, uh-huh.

17 Q. Okay. And going back to what you remember about
18 the patient, Mike Malone, would you consider him to be in
19 distress?

20 A. He was hurting. You could tell he was in pain,
21 when someone looks like they're in pain, grimacing. It was
22 very tender. So I think he was in a significant amount of
23 pain.

24 MS. BAKER: Pass the witness. Thank you.

1 THE COURT: Mr. Neidert.

2 CROSS-EXAMINATION

3 By Mr. Neidert:

4 Q. Now, looking at exhibit -- the picture that we
5 saw as Exhibit 3, that was not the scene of the emergency
6 room. Is that a fair statement?

7 A. The last photo?

8 Q. Yes.

9 A. Yeah. That is not what I saw in the emergency
10 room.

11 Q. But it looks consistent with the injury you saw
12 in Exhibit 2, which does -- which you do remember as being,
13 at least based on your memory, what you saw and remember with
14 respect to Mr. Malone's hand?

15 A. It looked consistent in the shape and the
16 direction and depth, yes.

17 Q. And that was -- And I'm guessing -- This happened
18 a year ago, so you reviewed medical records to refresh your
19 recollection?

20 A. Yes.

21 Q. And I'm sure you've seen many, many patients
22 between then and now?

23 A. Quite a few.

24 Q. And the nature of the -- I'm sure, is one

1 where --

2 (The court reporter interrupts)

3 Q. The nature of your practice is such that you
4 don't see a lot of repeat patients? You generally see random
5 people coming in?

6 A. I see the same patients all the time.

7 Q. Okay.

8 A. Unfortunately.

9 Q. Unfortunately.

10 A. There are quite a few that come back on a routine
11 basis.

12 Q. But Mr. Malone was not one of them?

13 A. No.

14 Q. And, as part of this, any patient going to the ER
15 is screened for various things; is that correct?

16 A. To the ER or OR? I couldn't hear you.

17 Q. ER, the ER. When they come to the ER are they
18 screened by people for various things?

19 A. I'm sorry. Are we screening?

20 Q. No. Are patients being screened as they come in
21 to the ER?

22 A. Well, we see everyone who comes in. I mean, they
23 go through a triage area and then they're brought back. Or
24 an ambulance would just go straight in to a room and then we

1 see them.

2 Q. And, so in the case of Mr. Malone, he was brought
3 in by ambulance, I'm presuming?

4 A. Yeah, he was, yes.

5 Q. And he saw you close to immediately?

6 A. Yeah, we saw him pretty quickly.

7 Q. Okay. And, on that particular date and time, he
8 was basically because there was -- because there was not --
9 Again, I'm not trying to put words in your mouth. I'm just
10 trying to understand.

11 A. Sure.

12 Q. Because there was -- Because of the nature of his
13 injury, you didn't -- you weren't worried about him losing
14 his hand, per se, is why you would sort of treat it there and
15 say come back in a couple of weeks and report for follow up?

16 A. I didn't say a couple of weeks. I knew he didn't
17 have a life-threatening or limb-threatening injury. But
18 usually when you have a nerve injury, ideally, you're seen,
19 you know, within days to a week or so --

20 Q. Okay.

21 A. -- at most for a delayed repair.

22 Q. And, again, I'm not trying to -- I'm not a doctor
23 and so I'm not trying to --

24 A. Okay.

1 Q. But basic -- I guess what I'm saying is you were
2 doing the immediate stitching of his hand and referring him
3 to come back and see a hand specialist to do the follow-up
4 treatment?

5 A. Yes. I believe he was seen by the hand
6 specialist briefly, as well in the emergency room, and then
7 they arranged follow up to be seen pretty soon after that.

8 Q. Okay.

9 A. Uh-huh.

10 MR. NEIDERT: Thank you very much, Doctor.
11 Nothing further.

12 THE WITNESS: Okay. Thank you.

13 THE COURT: Ms. Baker.

14 MS. BAKER: Thank you, your Honor.

15 REDIRECT EXAMINATION

16 By Ms. Baker:

17 Q. Dr. Coley, thank you. You were questioned about
18 the number of patients you see and you had to use medical
19 records to review. But was Mr. Malone's injury to the extent
20 where you remember it?

21 A. Absolutely, yeah.

22 Q. And why is that?

23 A. To me it was a significant injury in his hand. I
24 think I remember the room he was in and everything. So --

1 Q. Is this a typical injury that you see?

2 A. This was a pretty complicated injury. I mean, I
3 see a lot of trauma. But, you know, that was a very
4 significant hand injury. I probably see 30 or 40 hand
5 injuries a year at least, hundreds over my career, and this
6 one was definitely very substantial.

7 MS. BAKER: Thank you. Nothing further.

8 THE COURT: Anything based on that, Mr. Neidert?

9 RECROSS-EXAMINATION

10 By Mr. Neidert:

11 Q. So you reviewed and again --

12 (The court reporter interrupted)

13 Q. Hand injuries are relatively rare, but you still,
14 with respect to this case, reviewed the records with respect
15 to this case before coming here today?

16 A. Well, I don't think hand injuries are rare. We
17 see quite a few hand injuries. Real severe hand injuries are
18 a little more rare. I reviewed records just to make sure I
19 understood everything that had happened. It had been over a
20 year ago. I just wanted to refresh my memory a little bit in
21 terms of vital signs and the meds that we used and all of
22 that. But the injury itself I remember pretty clearly.

23 Q. And, Doctor, when -- Okay. Thank you, Doctor. I
24 have nothing further based on that.

1 THE WITNESS: Okay.

2 THE COURT: Dr. Coley, thank you.

3 THE WITNESS: Thank you very much.

4 THE COURT: May this witness be excused?

5 MS. BAKER: Yes, your Honor.

6 MR. NEIDERT: Yes.

7 THE COURT: Okay. Thank you.

8 Counsel, just to try to help out the jurors as
9 much as possible because we're spread out more than normal,
10 make sure that the microphone that you're at is on so that
11 they can hear. And, Mr. Neidert, I think yours was on. But
12 I don't think that one you were standing at was on.

13 MS. BAKER: Oh, no. Okay.

14 THE COURT: So just be aware. And so -- And I'll
15 ask the bailiff to always just -- He's checking the sound.
16 And so if anybody sees him go up and tell someone, that's
17 what they're doing is just making sure that we give the
18 jury -- Are maybe those batteries dead? There we go. Okay.
19 So I'm just reminding everyone.

20 Your next witness.

21 MS. BAKER: Oh, thank you, your Honor. Jennifer
22 Hsueh. I've been practicing the name.

23 THE COURT: Ms. Hsueh, if you'll come up to the
24 witness stand. If you would face the clerk and raise your

1 right arm to take the oath of a witness.

2 (The witness was sworn in)

3 THE COURT: Please be seated. Ms. Hsueh, you may
4 take your mask off.

5 Ms. Baker.

6 MS. BAKER: Thank you.

7

8 JENNIFER HSUEH

9 Called as a witness on behalf of the
10 State, having been first duly sworn,
11 Was examined and testified as follows:

12

13 DIRECT EXAMINATION

14 By Ms. Baker:

15 Q. Good afternoon. Can you please state and spell
16 your name for the record.

17 A. Jennifer, J-e-n-n-i-f-e-r, Hsueh, H-s-u-e-h.

18 Q. And where do you work?

19 A. I currently work at the Washoe County Sheriff's
20 Office in the Forensic Science Division.

21 Q. And how long have you worked there?

22 A. I've been there since July of 2019.

23 Q. Okay. And what are your duties?

24 A. My duties include the initial screening of

1 evidentiary items for biological -- Excuse me -- biological
2 bodily fluids, such as blood, semen, and saliva.

3 Q. Go ahead.

4 A. And sample processing, forwarding on possible
5 samples for DNA analysis.

6 Q. Thank you. And what is your job title?

7 A. I am a criminalist.

8 Q. Okay. And what kind of training and experience
9 do you have for your employment?

10 A. I ever a Bachelor of science in biology from Cal
11 Poly San Luis Obispo where I graduated in 2008. I have about
12 ten years of lab experience working in various types of
13 laboratory settings, including research and development,
14 academic research, bio pharmaceuticals, and management of
15 laboratory -- teaching laboratories at the university level.
16 And I underwent an extensive training program at the Forensic
17 Science Division before being signed off as a qualified
18 analyst.

19 Q. Thank you. And did the crime lab receive a
20 request to analyze evidence by Detective Sergeant John
21 Fransden on or about July 17th, 2020?

22 A. Yes.

23 Q. Thank you. And can you discuss how evidence
24 comes in, that process?

1 A. So when evidence first comes to our evidence
2 section, our clerks will examine the packaging of the
3 evidence to make sure that any packaging is intact, that it's
4 labeled correctly. If that is the case then they will create
5 a specific case number, in-house case number, and assign it a
6 specific -- each item a specific item number, and then store
7 it in -- if it needs to be specific temperature controlled or
8 environmentally controlled in a specific location until an
9 analyst is ready to examine it.

10 Q. All right. Thank you. And do you know what
11 items were sent for examination?

12 A. Yes.

13 Q. And can you list those?

14 A. Our item number, our lab item number one, one
15 knife. And item two, a second knife.

16 Q. Were there any other items in their samples?

17 A. Yes. There were two, additionally two reference
18 samples from two different individuals.

19 Q. Okay. And are those needed for the process?

20 A. The reference samples?

21 Q. Yes.

22 A. Yes. They are used for comparison purposes.

23 Q. And can you describe -- You said item number one;
24 is that correct?

1 A. Correct.

2 Q. Can you describe what item number one looked
3 like?

4 A. Item number one was a folding knife that had a
5 camo design handle and a leather lanyard attached to the base
6 of the handle.

7 MS. BAKER: May I approach?

8 THE COURT: Yes.

9 MS. BAKER: Exhibit 29. 15 and 34.

10 Q. (By Ms. Baker) So, Jennifer, I would like to
11 show you what's been marked as proposed Exhibit 15. Are you
12 able to see that on your screen?

13 A. Yes, I am.

14 Q. So, the object in the center, does that look
15 familiar to you?

16 A. It looks to be the item I examined.

17 Q. Okay. And at this point where is the blade?

18 A. It appears to be closed, in the closed position.

19 Q. All right. And when you examined the knife what
20 position was the knife in at that point?

21 A. I actually don't recall how I received it.

22 Q. Okay. Okay. Do you recall examining all parts
23 of this knife?

24 A. Yes, I do.

1 Q. Okay. And exhibit -- sample or item number two,
2 what was that?

3 A. That was another folding knife that had a brass
4 and wooden handle. And I believe it had a longer blade than
5 the first knife.

6 Q. Okay. I would like to show you Exhibit 34. Does
7 that look familiar?

8 A. Yes.

9 Q. And why does it look familiar?

10 A. This appears to be item two that I examined.

11 Q. Okay. So in looking -- I'm sorry. Let's go back
12 here. In referring back to item number one, what did you
13 find when you examined item number one?

14 A. I observed extensive red-brown staining
15 throughout the knife, the blade and the handle, as well as
16 the lanyard, the leather lanyard, that was attached.

17 Q. Okay. And what is your process when you first
18 examine this type of evidence?

19 A. So when I -- when I open up a piece of evidence
20 for the first time, I will objectively look at it, take in
21 the condition of it, any specifics about it, like, a
22 manufacturer or a brand. And once that's noted, any specific
23 defects to that, and then I'll take a look at any staining
24 that's apparent. And if I do find staining, I might apply a

1 presumptive test, something to help me determine what that
2 stain might be from. And then depending on the results of
3 those tests, I might sample that and then forward it on for
4 DNA analysis.

5 Q. Okay. So, for item number one, you said you did
6 find red-brown staining. Specifically where?

7 A. I tested three different areas on the knife, one
8 on the tip of the blade, one on the right side of the blade
9 towards the base of the actual blade, and then I also tested
10 some other staining on the lanyard itself.

11 Q. And what did you do with those samples?

12 A. I tested them with our presumptive test for
13 blood. All of those results came back positive. So I
14 swabbed them and collected them individually and forwarded
15 them individually for analysis, additional analysis.

16 Q. And when you say tested positive what does that
17 mean?

18 A. A positive test for our presumptive test means in
19 conjunction with the red-brown coloring, specifically for a
20 blood test, indicates that it is very likely to be blood. A
21 presumptive test on its own is not a confirmatory test
22 necessarily so it does take in to account other factors that
23 we have to observe.

24 Q. And, those samples, how are they marked? When

1 you take samples off that are presumptive, how do you mark
2 those samples?

3 A. They are given -- They are given a unique
4 identifier. And in our case in our laboratory we will
5 sub-item that number. So as item one I might sample one area
6 as item 1.1, a second area as item 1.2, and so on.

7 Q. All right. Thank you. And let's talk about item
8 number two. What did you observe about item number two?

9 A. Item number two had a few areas of red-brown
10 staining, not extensive as I saw in the first one. There was
11 some red-brown staining on the right side of the handle as
12 well as somewhere on the left side towards the blade end of
13 the handle. And I also observed some staining inside the
14 nail nick of the blade.

15 Q. And what is that nail nick, what does that mean?

16 A. It's the portion of the blade, when it's closed,
17 it's the portion that allows to you open it easily. So,
18 typically, you put your nail in and then pull it out.

19 Q. And any of those samples come back presumptive
20 positive?

21 A. Yes. The two stains on the handle came back
22 positive for a presumptive test. The stain inside the nail
23 nick came back as a weak positive.

24 Q. And what does that mean?

1 A. It means -- So this particular presumptive test
2 is a color change test. And, with that specific area, the
3 color change that I saw was not as vibrant as I would expect
4 for something to be considered a positive result.

5 Q. And what color was it?

6 A. Pink.

7 Q. And the other color?

8 A. So that particular one in the nail nick was a
9 faint pink, whereas the other two stains were a vibrant solid
10 pink.

11 Q. Okay. And then were those sample marked
12 consistent with item number one?

13 A. Yes, they were, in a similar manner.

14 Q. And then where do you send those samples? What
15 happens to them?

16 A. So after swabbing them I'll allow them to dry
17 based on how we swab with a wet cotton swab, allow that to
18 dry. And then cut those swabs and place them in to sample
19 tubes, again, labeled with the appropriate case number and
20 item number. And they are stored in a temporary location
21 until the DNA analyst is prepared to take them in to their
22 custody.

23 MS. BAKER: Pass the witness. Thank you.

24 THE COURT: Mr. Neidert.

CROSS-EXAMINATION

By Mr. Neidert:

Q. So you examined two items, the two knives that were shown you in the photographs. One was Exhibit 29 -- Let me start over. I had my microphone off. You examined two knives with blood on both knives?

A. I'm sorry. I couldn't hear in the middle.

Q. Okay. You were given two knives to examine; correct?

A. Correct.

Q. The one that you identified as item one for your purposes was the one that the district attorney showed you as an Exhibit 29?

A. I don't recall what number she -- what exhibit number she presented.

Q. Let me clarify for you then.

MS. BAKER: I believe it was 15. I had the number wrong. 15 and 34.

Q. (By Mr. Neidert) Just so we're all on the same page. This knife was the one as -- marked as number one for your testing purposes; correct?

A. Correct.

Q. And for the record I showed you Exhibit 15. And the one you identified as number two is the one that is

1 marked as Exhibit 34?

2 A. Correct.

3 Q. It's your testimony that you saw signs of blood
4 on both item number one and item number two?

5 A. Indications of blood.

6 Q. Indications of blood. And obviously you can't --
7 At your point in the lab you don't -- all you can do is test
8 for the presence of blood, you can't say -- you can't go much
9 deeper than that, is that a fair statement?

10 A. Not the presence specifically but an indication
11 that it is likely to be blood.

12 Q. Okay. My point is -- I guess my point is at this
13 point in the process you can't say whose blood somebody's is,
14 is that a fair statement?

15 A. Correct.

16 Q. And you saw less signs of blood, a weak cause,
17 you said, on item number two, which was the folding knife?

18 A. One stain that I located ended up being a week
19 positive, yes.

20 Q. And if an object is wiped down or cleaned in any
21 way, would that remove signs of blood typically, based on
22 your experience?

23 A. It can. Obviously, it affects the physical
24 appearance, right away looking at it. In this particular

1 case I examined that knife with a stereo microscope since I
2 did not see extensive staining as with the first item.

3 MR. NEIDERT: Thank you. I have nothing further.

4 THE COURT: Ms. Baker, do you have anything based
5 on that?

6 MS. BAKER: Yes, your Honor.

7 REDIRECT EXAMINATION

8 By Ms. Baker:

9 Q. So, going back to the question regarding wiped,
10 and you said a knife being potentially wiped. You indicated
11 that you looked through a microscope?

12 A. Correct.

13 Q. What kind of microscope is that?

14 A. A stereo microscope.

15 Q. And can you explain what that means?

16 A. It is basically a scope that allows us to 3-D
17 view a specific item, not microscopic, but it does give us
18 magnification anywhere from 5 to 60 X.

19 Q. So, if a knife was wiped, have you had that
20 experience in looking at a knife under that microscope?

21 A. Particularly, a specifically white knife?

22 Q. Wiped. Something that was wiped. Sorry.

23 A. Sorry. I can't say that I've specifically
24 examined something that has been wiped. But I have seen

1 signs of staining that were not visible necessarily with the
2 naked eye.

3 Q. Okay. And, in this case, in item number two, did
4 you see that?

5 A. I saw some type of possible staining in the nail
6 nick with the naked eye. Upon further exam, under the stereo
7 microscope, I was able to see it more clearly.

8 Q. But did you see anything else?

9 A. In the particular nail nick?

10 Q. In the knife of item number two.

11 A. No.

12 Q. And then going back to when items are logged in
13 from the officers, are they given a case number?

14 A. Yes, they are given a lab number.

15 Q. Okay. And do you recall what the lab number in
16 this case was?

17 A. For items one and two?

18 Q. Yes.

19 A. Are you asking about the agency?

20 Q. Your agency's lab number.

21 A. Our lab numbers were indicated as item one and
22 item two.

23 Q. But you said you get -- Did you get, like, a --
24 for the item one and item two are they overall given a case

1 number for the Washoe County lab?

2 A. Yes.

3 Q. Would you remember what that is?

4 A. Yes.

5 Q. And what is that?

6 A. It's FSD20-001431, I believe.

7 Q. And that correlates with the detective's case
8 number?

9 A. Yes. So it is -- in our system it is linked to
10 the agency's case number.

11 Q. Okay. And would you recall what the agency case
12 number is?

13 A. Yes.

14 Q. And what is that?

15 A. It's 20-2540.

16 MS. BAKER: All right. Thank you. Nothing
17 further.

18 THE COURT: Mr. Neidert.

19 CROSS-EXAMINATION

20 By Mr. Neidert:

21 Q. So you were -- Again, we're talking about any
22 knife that you're examining, if it -- if a knife that -- if
23 it cut somebody, all you can tell is whether blood was left
24 behind on it. Is that a fair statement?

1 A. If it was wiped? I'm sorry. Could you repeat?

2 Q. A knife. With the mask it's hard to hear. I'm
3 talking about knives not wiped now. With respect to a knife,
4 a knife, a blood droplet or part droplet or whatever would be
5 part of basically it was left behind at some point. Is that
6 a fair statement?

7 A. If I were to see some staining on the knife?

8 Q. Right. I might not be too clear, I guess. Is it
9 possible for a knife to slice a person at least and not have
10 blood?

11 A. It is possible.

12 MR. NEIDERT: Okay. Thank you. Nothing further.

13 THE COURT: Anything based on that?

14 MS. BAKER: No, your Honor.

15 THE COURT: Ms. Hsueh, thank you very much.
16 May this witness be excused?

17 MS. BAKER: Subject to recall, your Honor.

18 THE COURT: Okay. Thank you.

19 THE WITNESS: Thanks.

20 THE COURT: Ms. Baker, your next witness.

21 MS. BAKER: Thank you, your Honor. Darby
22 Stienmetz.

23 THE COURT: If you would please come up to the
24 witness stand. If you would face the clerk and raise your

1 right arm to take the oath of a witness. The clerk is over
2 here.

3 (The witness was sworn in)

4 THE COURT: Please be seated. You can take your
5 mask off.

6 Ms. Baker.

7 MS. BAKER: Thank you.

8

9 DARBY STIENMETZ

10 Called as a witness on behalf of the
11 State, having been first duly sworn,
12 Was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 By Ms. Baker:

16 Q. I'm over here, just so you know. It's social
17 distancing. So if you have trouble hearing me, please let me
18 know.

19 Can you please state and spell your name for the
20 record.

21 A. My name is Darby Stienmetz, D-a-r-b-y
22 S-t-i-e-n-m-e-t-z.

23 Q. Thank you. And how are you currently employed?

24 A. I'm employed at the Washoe County Sheriff's

1 Office in the Forensic Science Division.

2 Q. Okay. Can everybody hear her? Okay. Just try
3 to talk in to that microphone. You are a little quiet to me.

4 And how long have you been working there?

5 A. I've been there for approximately five and a half
6 years.

7 Q. Okay. And what are your duties for your
8 employment?

9 A. I am currently a trained DNA analyst and primary
10 examiner.

11 Q. And what is your job title?

12 A. A criminalist two.

13 Q. And what training and experience do you have for
14 your employment?

15 A. To be a primary examiner and a DNA analyst, each
16 one requires undergoing an extensive training program. And
17 in that training program we're required to read a significant
18 amount of scientific literature, watch qualified analysts
19 perform case work, as well as perform case work on samples
20 ourselves and perform oral and written examinations that we
21 must pass.

22 Q. Okay. And did the crime lab receive a request to
23 analyze evidence from a Detective John Fransden on or about
24 July 17th, 2020?

1 A. I'm not sure of the exam date that they received
2 them. But, yes, we were asked to analyze evidence.

3 Q. Okay. And, when evidence comes in, can you
4 describe that process?

5 A. It's checked in to our evidence vault or our
6 evidence section. And, from there, we make a request. After
7 we receive an exam request, then we as an analysts go and
8 send a request to our evidence section to receive the
9 evidence. And then we physically go down there and take
10 custody of the items of evidence. And that's transferred to
11 our custody using an electronic chain of custody that we
12 use -- have to put in our own pin number and password and
13 then we take it in to our custody to be analyzed in the lab.

14 Q. And when it comes in is it given, like, a crime
15 lab case number?

16 A. It's given a crime lab number and an item number.

17 Q. Okay. And is that crime lab number correlated
18 with the detective's case number?

19 A. It is its own case number.

20 Q. Okay. But is it linked or matched?

21 A. It is in our lab management system. So we call
22 it our LMS system. There is a record of the lab number
23 that's associated with that agency case number.

24 Q. Okay. And do you know those numbers?

1 A. Off the top of my head, I do not. I see a lot of
2 them on a daily basis.

3 Q. Okay. Thank you for being honest. So
4 specifically for the items that Detective Sergeant John
5 Fransden dropped off, do you know what those items were?

6 A. I did not specifically examine the items of
7 evidence. I received samples that were taken from those
8 items. But the samples that I analyzed were from two knives
9 and two reference samples.

10 Q. Okay. So then let's go -- Do you know item
11 number one what that item is?

12 A. Yes.

13 Q. And what is that item?

14 A. It was a folding knife with a camo handle and
15 lanyards attached.

16 Q. And item number two?

17 A. Item number two was a folding knife with a wooden
18 and brass handle.

19 Q. So the samples, are they given items numbers?

20 A. Yes, they are given items numbers, which we call
21 sub-numbers as well. Item one had three samples taken from
22 it, which was 1.1, 1.2, and 1.3.

23 Q. And what about item two?

24 A. Item two also had samples taken from it and it

1 was, I believe, two samples, if I can recall. Item
2 two-point -- Actually, I don't remember those ones. 2.2 and
3 2.3, I believe.

4 Q. Okay. And then if -- Did you create a report
5 regarding your examination of this -- of the samples?

6 A. Yes, I did.

7 Q. Okay. If I showed you a copy of that report,
8 would that refresh your recollection to the case numbers as
9 well as the sub-items?

10 A. Yes, it would.

11 MS. BAKER: May I approach?

12 THE COURT: Yes.

13 MS. BAKER: May I approach?

14 THE COURT: Yes.

15 And, Mr. Neidert, have you identified what she's
16 shown you?

17 MR. NEIDERT: We have, your Honor. It was a
18 report that I have in discovery.

19 THE COURT: Okay.

20 MS. BAKER: And, actually -- there's just two
21 different bates numbers for the same report. And so we were
22 matching those.

23 Q. (By Ms. Baker) Have you taken a look at your --
24 that report?

1 A. Yes.

2 Q. And has your memory been refreshed?

3 A. Yes. Are you looking for the --

4 THE COURT: So, Ms. Baker, I'm going to ask to
5 you always make sure -- I want to make sure everyone can hear
6 you. And so go ahead.

7 MS. BAKER: I apologize, your Honor.

8 Q. (By Ms. Baker) So, have you taken a look at that
9 report?

10 A. Yes.

11 Q. And has your memory been refreshed?

12 A. Yes.

13 Q. Okay. And so for the case numbers, what is
14 the -- what is the crime lab's case number?

15 A. It's FSD20-001431.

16 Q. And what about the police department's case
17 number?

18 A. It says it's F20-02540.

19 Q. Okay. And then we're looking at the sub-items of
20 item number two. And what were they?

21 A. There was item 2.2 and item 2.3.

22 Q. Okay. So, in looking at -- And do you know who
23 examined the knife for the samples?

24 A. Yes. That would have been my coworker,

1 Criminalist Hsueh.

2 Q. And then what is the process for getting the
3 samples to you or your department?

4 A. Once samples are collected in the screening and
5 prep process, they are then forwarded on to the DNA analysis,
6 which means a small portion of the sample was taken and put
7 in to a tube with a unique identifier and forwarded on to our
8 section.

9 And, in our section, what we do is first we need
10 to isolate the DNA, which just means that we are separating
11 or opening the cells that allow us to then gain access to the
12 DNA and isolate the DNA specifically and not all the other
13 stuff that's among the cells as well.

14 So then from there, once we do that process, that
15 process is called extraction. From there, it goes through a
16 quantification step, which just means that we're analyzing a
17 very small portion of the sample to see approximately how
18 much DNA is present in the sample.

19 And then from there it goes on to what we call
20 amplification, which is where we're just making tons and tons
21 of copies of the DNA so that we can -- so that we are able to
22 then analyze it.

23 Once it's been amplified, it goes through our
24 genetic analyzer through a process called capillary

1 electrophoresis, which is where we develop the DNA profile
2 from.

3 Q. And how long does that take?

4 A. We, in our lab, do a batch processing. So we
5 process samples from different cases together. So it can
6 take a matter of days to a matter of weeks to get through the
7 entire process.

8 Q. Okay. And you say it's done in a group. Is
9 there any -- How do you ensure that there's no
10 cross-contamination?

11 A. So just a couple of things that we do is that
12 we're always wearing masks, we wear gloves, we clean all of
13 the tools that we use between each use, as well as only
14 opening one tube at a time. And, again, each one of those
15 tubes has its own unique identifier. And then tools,
16 instrumentation, and all of those are wiped down between uses
17 as well.

18 Q. Okay. And so looking at -- Okay. So you did
19 the -- You're explaining the process for the DNA. And you
20 went through that process in this case?

21 A. I specifically didn't. I just took what we call
22 ownership of the results and the data and issued a report
23 based on that data. Our lab does a process, like a
24 task-based process, so each person could have been

1 responsible for a different task. So I did not actually
2 analyze any of the evidence in this case, but I took
3 ownership of the data that was -- came out of our process and
4 took ownership and issued the report.

5 Q. All right. And you're confident with the
6 results?

7 A. Yes, uh-huh.

8 Q. And why is that?

9 A. Everything in our lab is -- We follow protocols
10 every step of the way. So, every time we do something, it's
11 the same between person and person. We also have underwent
12 several validations. All of our staff has undergone the same
13 training. And we all have to pass written, oral, and lab
14 competency tests as well.

15 Q. Okay. And you can verify that the samples in
16 this case went through all of that DNA process that's a
17 policy and procedures in your office?

18 A. Yes. And we also process control samples along
19 with our evidence samples. And all of those controls and
20 regents looked appropriate.

21 Q. Okay. And so did you review the sample results?

22 A. Yes, I did.

23 Q. Okay. And for -- Let's talk about item number
24 one. So, do you know how many samples were in item number

1 one again?

2 A. I believe there was three samples taken from item
3 one.

4 Q. Okay. And so I'm going to use your -- You marked
5 each individual sample as its own identifier at 1.1 and 1.2
6 and 1.3; is that correct?

7 A. Yes.

8 Q. Okay. In looking at 1.1, do you know where that
9 was found?

10 A. Yes. That was a red-brown stain taken from the
11 tip of the blade.

12 Q. Okay. And what did you find when you reviewed
13 that sample?

14 A. Those results indicated a mixture. It just means
15 that there was multiple contributors to the DNA profile. And
16 when that evidence sample was compared to the two reference
17 samples that were submitted in this case from two known
18 individuals, I determined that they were -- could not be
19 excluded as being possible contributors to that mixture and
20 that one in 107.4 billion individuals could have contributed
21 to this mixture. So that's one in 107.4 billion.

22 Q. Okay. And so let's go back to the two reference
23 samples. Do you know -- How were those samples marked, the
24 reference samples?

1 A. They were marked items three and four.

2 Q. Okay. And do you know -- Are they given a
3 certain name to identify those samples?

4 A. We just call them by the item number and they are
5 with their description.

6 Q. Okay. But the description gives -- Do you know
7 who they -- those samples belong -- what person they belong
8 to?

9 A. Yes, yes.

10 Q. Okay. And so for sample number three who did
11 that belong to?

12 A. Michael Malone.

13 Q. And for sample number four who did that belong
14 to?

15 A. Casey Johns.

16 Q. Okay. And so for item 1.1 you're saying it was a
17 mixture?

18 A. Yes.

19 Q. Okay. And you couldn't identify one or the
20 other; is that correct? Explain to me again what that
21 mixture means.

22 A. Yes. So when we look at a DNA profile -- Let me
23 start back from -- We inherit half of our DNA from our mother
24 and half from our father. So when we're looking at a

1 specific location, we usually -- you can see one or two peaks
2 from a single individual. And this just means that it's a --
3 the allele that they inherited from their mother and the
4 allele that they inherited from their father. If they happen
5 to be the same, so, for example, if we call it a four, then
6 you would only see one peak. And if they inherited a four
7 from their mother and a four from their father, it would be a
8 single peak and it would be a four. And, if you inherited a
9 four from your mother and a six from your father, you would
10 appear as a four-six.

11 So, at that specific location, if I only see one
12 or two peaks, I know that's a single source profile. That
13 means it's coming from one person or likely coming from one
14 person. However, if I look at it and I see three, four, more
15 than two peaks, I know that that's coming from multiple
16 contributors.

17 And, in this case, I determined that this mixture
18 was from two people and that I could not distinguish one
19 individual from the other. But I can apply a statistic to
20 this mixture overall because it's only coming from two
21 individuals. And when I looked at both of those reference
22 samples, those individuals at each location fit in to that
23 mixture. Therefore, I could not exclude them as being part
24 of that mixture.

1 Q. Okay. And then for item 1.2 what did you find?

2 A. Item 1.2 was a mixture as well. However, I could
3 pull out a single source dominant profile and that profile I
4 matched to Casey Johns. And, based on the statistics, I
5 could say that it was reasonable to assume that he was the
6 source of that dominant profile.

7 And then the low level, due to the low level of
8 that minor profile or trace profile, I could make no
9 conclusions on that.

10 Q. Okay. And where was that source came from, what
11 part of the knife?

12 A. 1.2 came from red-brown staining from the edge of
13 the blade.

14 Q. Okay. And so item one-point -- it was just --
15 1.3. What did you find on 1.3?

16 A. 1.3 was also indicated a mixture to me. But I
17 was able to pull out a dominant profile again. And when
18 compared to the reference samples concluded that Casey Johns
19 could not be -- that Casey Johns was -- matched that profile
20 and that it was reasonable to assume that he was the source
21 of that profile.

22 Q. Okay. And where did that sample come from, what
23 part of the knife?

24 A. That was from the red-brown staining on the

1 lanyard end.

2 Q. Okay. And then let's look -- let's talk about
3 sample two. For sample two you had 2.1 and 2.2. So what did
4 you find for 2.1?

5 A. I believe it was 2.2 and 2.3.

6 Q. Okay. So did you test it -- Did you get a sample
7 of 2.1?

8 A. I did not, no.

9 Q. And for a sample of 2.2 what did you find?

10 A. I did. The 2.2 sample also indicated a mixture.
11 And this I was able to pull out a dominant profile from, and
12 when compared to the reference samples concluded that it
13 matched the Michael Malone reference sample and that based on
14 the statistics I could conclude that he was likely the source
15 of this DNA profile.

16 Q. Okay. And where did that sample come from from
17 item two?

18 A. 2.2 was red-brown staining from the left side of
19 the handle of the item.

20 Q. Okay. And what about 2.3?

21 A. And 2.3 was a single source profile. And that,
22 one I was able, when compared to the reference samples
23 matched Michael Malone. And, again, I was able to say that
24 it was reasonable to conclude that he was the source of that

1 DNA profile based on the statistics.

2 Q. And where did that sample come from on the item
3 number two?

4 A. That item -- That came from the red-brown
5 staining from the right side of the handle of the item.

6 Q. Okay. And did any samples come from the blade of
7 item number two?

8 A. They did not, no. None that I received.

9 Q. All right. And then once testing is done what's
10 the next step?

11 A. Once testing is done, we issue a report, and then
12 the items are placed back in their packaging or in their own
13 packaging and sent back to our evidence section, which they
14 either then keep or send back to the submitting agency.

15 MS. BAKER: Thank you. Pass the witness.

16 THE COURT: Mr. Neidert.

17 CROSS-EXAMINATION

18 By Mr. Neidert:

19 Q. So, I was assuming, basically, if I have it
20 right, Criminalist Hsueh would do the initial analysis,
21 looking for blood or other things that might contain DNA. Is
22 that a fair statement?

23 A. Yes. She is the one that is physically examining
24 the item.

1 Q. And so -- And so for and then she would note
2 where she actually spotted something and then that would in
3 turn be what you would -- would then be tested later on. Is
4 that a fair statement?

5 A. Yes, uh-huh.

6 Q. So the only thing obviously that could be tested
7 was the residue that was actually left on an object. Is that
8 a fair statement?

9 A. Yes.

10 Q. If something happened, if for example --

11 (The court reporter interrupted)

12 Q. For example, if a cut occurred and no blood was
13 left on the knife, then there would be nothing to test. Is
14 that a fair statement?

15 A. No. Because we can test for residual DNA, which
16 is left behind when someone handles an object. So skin cells
17 would be an example of that, not just blood.

18 Q. Okay. Did -- Was there any residual other than
19 blood that was identified by Criminalist Hsueh to be tested?

20 A. I'm not sure. I only test the samples that I
21 receive.

22 Q. But you referenced from Ms. Hsueh in your
23 appendix as to what test she had done. Is that a fair
24 statement?

1 A. Yes.

2 Q. And so, like I said, she can -- she could only
3 send to you for testing the things that she absolutely
4 observed as far as staining. Is that a fair statement?

5 A. Again, no. Because we can swab items for
6 residual DNA, which means we're looking for DNA that's left
7 behind by someone who has handled the item, not necessarily
8 staining. And that type of residual staining that we're
9 talking about that is left behind by someone who handles an
10 item is not visible with the naked eye.

11 Q. Is there any indication in this report that any
12 of that residual -- there was any residual testing done in
13 this particular case?

14 A. I did not receive any items that were for
15 residual DNA. All of the items that I received were
16 red-brown staining.

17 Q. That's my point. All you had at this point
18 were -- You indicated, well, there could be residual DNA, you
19 said that a couple of times when I asked for clarification.
20 But in this particular case there's no residual DNA, there
21 was no -- you were not asked to test any residual DNA, you
22 were specifically asked to test brown staining that had been
23 identified as blood?

24 A. Yes, those were the samples I received, yes.

1 Q. And, in fact, so, for example, on item 2.2 on
2 that second knife there was a low level of DNA, you could not
3 reach a conclusion as to whose DNA that might have been?

4 A. Yes, that is correct.

5 MR. NEIDERT: Okay. Thank you very much.

6 THE COURT: Ms. Baker.

7 MS. BAKER: Nothing based on that, your Honor.

8 THE COURT: Thank you. May this witness be
9 excused?

10 MS. BAKER: Subject to recall, your Honor.

11 THE COURT: Very well. Is now a good time for a
12 break?

13 MR. NEIDERT: I believe so, your Honor. We've
14 been going for a little over an hour.

15 THE COURT: Ladies and Gentlemen of the jury,
16 we're going to take a -- I'll give you a 15-minute recess, so
17 we'll give you time to take care of whatever you need to.

18 During this recess, you must not discuss or
19 communicate with anyone, including fellow jurors, in any way
20 regarding the case or its merits either by voice, phone,
21 e-mail, text, internet, or other means of communication or
22 social media. You must not read, watch, or listen to any
23 news or media accounts or commentary about the case. You
24 must not do any research such as consulting dictionaries,

1 using the internet, or using reference materials. You must
2 not make any investigation, test the theory of the case,
3 recreate any aspect of the case, or in any other way
4 investigate or learn about the case on your own. You must
5 not form or express any opinion regarding the case until it
6 has been submitted to you for a decision. We'll be in
7 recess.

8 (Recess was taken)

9 THE COURT: The record should reflect we're back
10 on the record on Case Number 20-0552, State of Nevada versus
11 Casey Alan Johns. The record should also reflect the
12 presence of the parties, counsel, all officers of the court.
13 We are meeting outside the presence of the jury.

14 Ms. Clerk, I had a note that we received from
15 juror number --

16 THE CLERK: Two.

17 THE COURT: -- juror number two, Phillip Keller.
18 How has that been marked, as Court's Exhibit?

19 THE CLERK: Court's Exhibit Number 1.

20 THE COURT: Court's Exhibit Number 1. And I
21 provided a copy to both counsel. Ms. Baker, do you have
22 that?

23 MS. BAKER: Yes, your Honor.

24 THE COURT: And, Mr. Neidert, do you have it?

1 MR. NEIDERT: I do. I'm letting Mr. Johns take a
2 look now.

3 THE DEFENDANT: I can't even read it.

4 MS. BAKER: And, your Honor, for the record, the
5 State met with Ms. Jennifer Hsueh during the break and she
6 also notified me that she recognized a juror as a Phillip.
7 She did not remember his last name. But she said that she
8 had worked with him at the university prior to starting her
9 employment with the crime lab.

10 THE COURT: And, if I recall her testimony, she
11 had chemistry classes at University of Nevada, Reno, and he
12 worked in the chemistry department.

13 So, Mr. Neidert, I'll let you make whatever
14 record you think is appropriate.

15 MR. NEIDERT: Your Honor, obviously I'm somewhat
16 concerned in that -- I'm not accusing him of any sort of
17 misconduct. I just think he probably missed a name. And,
18 with Ms. Hsueh's name, it could easily be mispronounced given
19 its unique spelling. And, unfortunately, this is a case
20 where, unlike many cases in the past, of where we have a list
21 of witnesses that the -- that is there for the jurors to see,
22 we didn't have that in that case. And so it was missed.
23 Certainly that obviously is an issue that would have been
24 subject to voir dire.

1 THE COURT: I want to make sure -- Do you want to
2 take a few minutes and talk to Mr. Johns?

3 MR. NEIDERT: Sure.

4 THE COURT: Okay. And that way -- And we'll just
5 go off the record. I'll stay here. Take all the time you
6 need. And you can use your work room.

7 MR. NEIDERT: Okay.

8 (Recess was taken)

9 THE COURT: We're back on the record on Case
10 Number 20-0552, State of Nevada versus Casey Alan Johns. The
11 record should reflect that the presence of the parties and
12 counsel, all officers of the court. And we're meeting
13 outside the presence of the jury. We took a brief recess so
14 that Mr. Neidert and Mr. Johns could take all the time they
15 needed to discuss Court's Exhibit 1, which was a note from
16 juror number two, Phillip Keller, indicating that once he saw
17 the witness, Jennifer Hsueh -- And the Court does note that
18 Mr. Neidert was accurate that when I hear the word -- name
19 Hsueh, that is not how I pictured the spelling. But I wanted
20 to give you a chance to talk that over with your client.
21 Have you had that opportunity?

22 MR. NEIDERT: We have, your Honor. And, having
23 discussed it, my client has no real concern. It seems like
24 certainly Mr. Keller bringing it to the Court's attention

1 certainly is not misconduct of sort of hidden that fact and
2 if we discovered it afterward, that would be a whole
3 different situation. But it's quite the opposite. He said,
4 hey, I recognize somebody.

5 Your Honor, the reality is it's not with an
6 expert like -- a witness like Ms. Hsueh but a witness that we
7 typically have in routine cases, often times jurors are going
8 to recognize somebody like local law enforcement or somebody
9 that's in the community for one thing or another. They might
10 recognize their name and say I do know that person.

11 So, having discussed it with my client, we don't
12 have a particular problem with moving forward at this point
13 in time.

14 THE COURT: Mr. Johns, do you have anything you
15 want to add?

16 THE DEFENDANT: No, sir.

17 THE COURT: So -- And my recollection of
18 Ms. Hsueh's testimony was she tested a knife for the presence
19 of what something may have indicated blood but not -- It
20 wasn't -- I mean --

21 THE DEFENDANT: It wasn't a strong hit for blood
22 is what they're saying.

23 THE COURT: Well, but, I mean, it was just about
24 her testing the samples and then passing them down the line.

1 Is that an accurate --

2 MS. BAKER: Yes, your Honor. She examined the
3 knives and found what she thought was the red-brown staining
4 and then took samples from that and forwarded it on.

5 MR. NEIDERT: The only thing I would correct was
6 two knives, she checked two knives.

7 MS. BAKER: Yes.

8 THE COURT: Correct. And so you have no problem,
9 Mr. Johns, with Mr. Keller staying on as a juror?

10 THE DEFENDANT: No, sir.

11 THE COURT: And Ms. Baker?

12 MS. BAKER: Judge, I mean, I don't know if the
13 Court wants to voir dire this juror just to ensure that he's
14 going to remain unbiased.

15 THE COURT: And I'm looking for each person's --
16 I'm happy to do that. I'm also -- I mean, there are
17 strategic reasons that each side may want me to do it or not
18 want me to do it and I want to listen before I --

19 MS. BAKER: If the defense does not feel that
20 that's necessary, then the State is ready to proceed.

21 THE COURT: Mr. Neidert?

22 MR. NEIDERT: We're ready to proceed, your Honor.

23 THE COURT: Mr. Johns?

24 THE DEFENDANT: Yes, sir.

1 THE COURT: Very well then. We'll take a brief
2 recess. We'll call the jury back in. And we'll go ahead and
3 proceed.

4 MS. BAKER: Thank you, your Honor.

5 (Recess was taken)

6 THE COURT: We're back on the record on Case
7 Number 20-0552, State of the Nevada versus Casey Alan Johns.
8 The record will now reflect the presence of the parties and
9 counsel, all officers of the court, and the full jury and the
10 alternate jurors. Will counsel stipulate to the correct
11 seating of the jury?

12 MR. NEIDERT: Yes, your Honor.

13 MS. BAKER: Yes, your Honor.

14 THE COURT: Very well. Ms. Baker, you may
15 proceed.

16 MS. BAKER: Thank you, your Honor. The State
17 would like to call Brandie West-Castillo.

18 THE COURT: Ma'am, if you'll please come up here
19 to the witness stand. If you would face the clerk and raise
20 your right arm to take the oath of a witness.

21 (The witness was sworn in)

22 THE COURT: Please be seated. And,
23 Ms. West-Castillo, you can take your mask off.

24 And, Ms. Baker, you may proceed.

1 MS. BAKER: Thank you.

2

3 BRANDIE WEST-CASTILLO

4 Called as a witness on behalf of the
5 State, having been first duly sworn,
6 Was examined and testified as follows:

7

8 DIRECT EXAMINATION

9 By Ms. Baker:

10 Q. Hi, Brandie. I'm over here. If you have trouble
11 hearing me, please let me know. There's a microphone right
12 in front of you. You can talk in to it when you address the
13 jury and the Court.

14 Can you please state and spell your name for the
15 record.

16 A. Brandie West-Castillo, B-r-a-n-d-i-e, West,
17 W-e-s-t hyphenated Castillo, C-a-s-t-i-l-l-o.

18 Q. Thank you. And how are you currently employed?

19 A. I'm a manager, assistant GM, for McDonald's over
20 there on Williams.

21 Q. And how long have you been working there?

22 A. Since 2017.

23 Q. Okay. And do you have any other employment?

24 A. No, not at this time. Just that.

1 Q. Okay. And in April of 2020 were you -- were you
2 working at anywhere else?

3 A. Yes. I was working for AB Food and Liquor over
4 there on Williams.

5 Q. Okay. How long had you been there?

6 A. I was there from 2017.

7 Q. Okay. And in April of 2020, did you have a
8 conversation with Officer Kevin Grimes of the Fallon Police
9 Department?

10 A. Yes, I did.

11 Q. Do you remember when in April?

12 A. No, I don't. It was a while ago. But I know I
13 was working. And my oldest son goes, there's an officer here
14 looking for you, and I said, well, send him to my work. And
15 he did. And he said that he asked who I was and I told him
16 who I was and he asked me if I had identification. I said,
17 no, my wallet was, you know, I can't find my wallet. And
18 then he said -- he goes I have your wallet.

19 Q. Okay. Well, we'll go back down to that. So
20 you're talking about you didn't have any identification?

21 A. Not on me at the time.

22 Q. So when was the last time you saw your wallet?

23 A. It was probably about a week prior to that. I
24 was doing laundry with my oldest.

1 Q. Okay. And what was inside your wallet?

2 A. All of my credit cards, like, Safeway cards,

3 cash, my license, debit cards, stuff like that.

4 Q. Okay. So let's go back down to -- Let's

5 describe, what did your wallet look like?

6 A. It was a brown folded wallet.

7 Q. Any identifying markers?

8 A. It was wore out.

9 Q. Okay.

10 A. That's it.

11 Q. So was it -- Did it fold or was it straight?

12 A. It was a fold.

13 Q. It was a folding wallet?

14 A. It was just like this.

15 Q. And you said -- Do you know how many credit cards

16 you had in it?

17 A. About three. Yeah, about three.

18 Q. And those credit cards were, what kind of cards

19 were they?

20 A. They were for, you know, like different banks and

21 stuff. They were for my money and to get my -- I was trying

22 to set up direct deposit so I didn't have to cash a check

23 there and then go to McDonald's and cash a check. It was

24 just, I didn't have the time for all of that.

1 Q. Okay. And so what other contents was in the
2 wallet?

3 A. A check from AB Food and Liquor, Safeway card,
4 cash, change.

5 Q. Okay. And, talking about your cash, how much
6 cash did you have in the wallet?

7 A. It should have been 315.

8 Q. And how do you know that?

9 A. Because I had just cashed a check and paid a bill
10 and I'm, like, well, I'm 315 in debt. Yeah, so that's what I
11 had left.

12 Q. Did you have a purpose for that 315?

13 A. Yeah. I was going pay my rent and bills with it.

14 Q. Okay. And so you said a week before it went
15 missing?

16 A. Yeah.

17 Q. What did you think?

18 A. Well, I lived at 260 West Center Street,
19 Apartment 6. So I lived on the corner of it. And what
20 happened -- When I was running up and down the stairs, I
21 wouldn't take everything with me. I would leave it in my
22 son's red Cadillac. We never had a problem before. So we
23 ran up to go grab more laundry and bring it down, and I
24 didn't think of anything. And we had went to three stores

1 prior to that so I know my wallet was in the car.

2 Q. Okay. So had you misplaced your wallet before?

3 A. Oh, yeah. I found it in the toy box. I found it
4 in the freezer. You know, my kids playing with stuff. I
5 mean, and then I had all of my cards monitored on my phone.
6 So they weren't being used. So then I thought, well, it's in
7 this house or in the car somewhere.

8 Q. So did you report your wallet stolen?

9 A. Nope.

10 Q. And why is that?

11 A. Because I didn't see any monitoring on any of my
12 cards at all, none whatsoever.

13 Q. And so do you personally know Casey Alan Johns?

14 A. No, I don't.

15 Q. And before April of 2020 had you seen him before?

16 A. At the store, AB Liquor.

17 Q. And why do you say that?

18 A. Well, I remember certain people, because I've
19 been in customer service for many years. And working over
20 there at the store, it has been robbed and stuff. So I pay
21 attention to people's tattoos or marks or markings, you know,
22 in case anything happens. And I was always trained like
23 that. So I can recognize a tattoo anywhere.

24 Q. Okay. But did you know his name?

1 A. No. Never even heard of his name before until
2 the cop told me that day.

3 Q. Did you ever give anybody permission to take your
4 credit cards?

5 A. No.

6 Q. Did you give anybody permission to take your
7 wallet?

8 A. Nope.

9 Q. Did you give anybody permission to take your
10 driver's license?

11 A. No.

12 Q. Did you give anybody permission to take your
13 cash?

14 A. No.

15 Q. All right. And does that include Casey Alan
16 Johns?

17 A. Yes.

18 Q. And you said between you being contacted by law
19 enforcement and you missing the wallet, how much time had
20 passed?

21 A. It was about a week. Yeah, because I had to go
22 over and meet the officer at the city hall. I think that's
23 the city police. And that was on a weekend. So I had to go
24 down there and meet him.

1 MS. BAKER: All right. May I approach?
2 THE COURT: Yes.
3 MS. BAKER: Exhibits 10 and 11.
4 Q. (By Ms. Baker) What's been marked as proposed
5 Exhibit 10, are you able to see that on the screen?
6 A. Yes, ma'am.
7 Q. And do you recognize anything in this photo?
8 A. Yes.
9 Q. What do you recognize?
10 A. My cards and my license and cash.
11 Q. Anything else?
12 A. Just the cash. But, you know -- And the check
13 from my work.
14 Q. Okay. And is there a wallet in the photograph?
15 A. Yes, ma'am.
16 Q. And do you recognize that wallet?
17 A. Yes.
18 Q. And where do you recognize that?
19 A. Actually my deceased husband gave me that a long
20 time ago. So I knew --
21 Q. So is that the wallet that went missing?
22 A. Yes, ma'am.
23 Q. And then how many credit cards are listed there?
24 A. Five.

1 Q. All right. And then on the right side of the
2 photograph what do you see in that?

3 A. Cash and a check.

4 Q. Okay. And what's been marked as proposed Exhibit
5 11, do you see that's kind of a continuation of --

6 A. Yes.

7 Q. Okay. And what do you see in this photograph?

8 A. Twenties, fives, and stuff that I had in my
9 wallet.

10 Q. All right. And can you count the cash in this
11 photograph?

12 A. 165 and change.

13 Q. Okay. And, out of the 165, how much cash should
14 have been there?

15 A. There should have been 315 altogether.

16 Q. So, to you, is there money missing?

17 A. Yes.

18 MS. BAKER: Pass the witness.

19 THE COURT: Mr. Neidert.

20 CROSS-EXAMINATION

21 By Ms. Baker:

22 Q. Is there anything other than the \$150,
23 approximately, is there anything at all missing from your
24 wallet?

1 A. No. Even the key, my spare key, to my storage
2 was in there.

3 Q. So, other than the missing cash, nothing else
4 is -- everything else was -- that was in your wallet is with
5 your wallet?

6 A. Yeah.

7 Q. And, do I have your testimony correct,
8 approximately a week before the officer called you is when
9 you last saw the wallet?

10 A. Yes.

11 Q. If I have it correct, you had been paid -- you
12 went and paid somebody a bill with part of your paycheck and
13 had the \$315 left?

14 A. Yes.

15 Q. Is that a fair statement?

16 A. Yes. Because I got paid in a check and cash.

17 Q. Okay. So your testimony was you paid somebody
18 something?

19 A. Yes.

20 Q. And the remainder was the \$315 in cash that you
21 say was in your wallet?

22 A. Yes.

23 Q. And on the day that -- the day you last remember
24 seeing it, you went to three separate locations, paid some --

1 spent money or did something at all three of those locations
2 and that -- and so the last time you're sure you actually had
3 the wallet was at that third location?

4 A. At my house, yes, because I always stuck the
5 wallet and my key in between the seat and the little pop-up
6 thing.

7 Q. Okay. So the last time you actually saw your
8 wallet, do you remember was -- Do you remember actually
9 taking a wallet from that third location and sticking it in
10 your car or is that just the last place you remember spending
11 money?

12 A. No. I had it in my son's car because he asked me
13 for some cash for gas. And we were sitting in front of my
14 house.

15 Q. Okay. So your testimony is that you actually --
16 your son asked for money for -- some money for gas. And
17 whether you gave it to him or not is irrelevant. You
18 remember at that point in time in front of your house having
19 your wallet?

20 A. Yes. Because I had to get in the wallet to give
21 him ten dollars for gas.

22 Q. Okay. And then the wallet -- And then you don't
23 remember seeing it after that because, as you testified, you
24 misplaced your wallet in the past and it had been located in

1 a variety of unusual locations?

2 A. Yes.

3 Q. Do you remember at what -- Do you remember at
4 what point -- We have a time -- the time we have you last
5 seeing your wallet and being contacted by Detective Fransden.
6 The time given -- when you gave your money to your son is the
7 last time you remember seeing your wallet at all?

8 A. Yes. And we didn't go in to any stores after
9 that.

10 Q. Okay. So was it -- So that was the last time
11 you remember seeing your wallet. At what point did you
12 realize your wallet was missing?

13 A. After we put -- Well, probably the next day,
14 because I had to work that night. So I told the boys to make
15 sure they take all the stuff up there to the apartment.
16 Because I had to go and get to sleep because I had to open at
17 1:00 o'clock in the morning. And the boys said they would
18 finish doing everything. And then I went to work and then
19 the boys told me my wallet wasn't in the car.

20 Q. Okay. So your instructions were for your son to
21 take the wallet in to your apartment?

22 A. Yes. And I've never had a problem with the boys
23 ever taking my wallet.

24 Q. And I wasn't accusing them of anything, ma'am.

1 I'm really not. I'm just trying to clarify when you first
2 realized that it was missing. And, because you misplaced
3 your wallet in the past, you didn't report it stolen or
4 anything like that?

5 A. No.

6 Q. You just figured it's going to show up some
7 place?

8 A. Yep.

9 Q. And then a week or so later Detective Fransden
10 said you need to come down to the police department because
11 we might have your wallet?

12 A. Yes. He went to AB Liquor. He found me at AB
13 Liquor and told me what was going on.

14 Q. And so he came to where you were working?

15 A. Yep.

16 Q. And asked you to come to the police department to
17 see if you can identify it?

18 A. Yeah, to identify my wallet, yes.

19 Q. Okay. Now, on the credit cards, I want to make
20 sure I have it clear in my mind. There are a total of one,
21 two, three -- I count five credit cards. Is that a fair
22 number?

23 A. Yes.

24 Q. And you testified that you have an app on your

1 phone to indicate when your credit cards are used?

2 THE COURT: I need you to answer out loud, ma'am.

3 THE WITNESS: Yes.

4 Q. (By Mr. Neidert) And in the entire time from
5 when you last saw your wallet to the time that the Detective
6 Fransden contacted you, none of your credit cards were used
7 at all?

8 A. No.

9 Q. Not one? Not for anything?

10 A. No.

11 MR. NEIDERT: Okay. Thank you very much, ma'am.
12 I have no other questions.

13 THE COURT: Ms. Baker.

14 MS. BAKER: Yes, your Honor. Thank you.

15 REDIRECT EXAMINATION

16 By Ms. Baker:

17 Q. So you indicated that you lost your wallet in the
18 past?

19 A. Yes.

20 Q. But then you found it. Where did you kind of
21 find your wallet?

22 A. It was when my son was younger. He thought I --
23 I don't know what he thought with my wallet. But he put it
24 in his toy box. One time he was playing and he had it with

1 his Army men and I found it in the freezer. So it was always
2 in the house. It was never, like, lost out in the public.

3 Q. Before April of 2020 when was the last time you
4 had misplaced your wallet?

5 A. When my son was five.

6 Q. And how old is your son now?

7 A. He just turned 13.

8 Q. Okay. So it's been a while?

9 A. It's been a while.

10 Q. Why weren't you concerned?

11 A. I thought I just -- I asked him, you know, and my
12 son, you know, not paying attention, you know, just said, I
13 could have brought it in the house, you know, because he's
14 younger and he doesn't pay attention.

15 Q. Okay. But you were monitoring your credit cards?

16 A. Yes. Because I did not want to cancel them and
17 then find the wallet two days later and then still have no
18 access to my money. So --

19 Q. So were you hopeful you would find it?

20 A. Yes.

21 MS. BAKER: Thank you, your Honor.

22 MR. NEIDERT: Nothing based on that, your Honor.

23 THE COURT: Thank you. May this witness be
24 excused?

1 MS. BAKER: Subject to recall.
2 THE COURT: Okay. Thank you.
3 THE WITNESS: Okay.
4 Ms. Baker, your next witness.
5 MS. BAKER: Kevin Grimes.
6 THE COURT: Mr. Grimes, if you would come up to
7 the witness stand. If you would face the clerk and raise
8 your right arm to take the oath of a witness.
9 (The witness was sworn in)
10 THE COURT: Please be seated.
11 Ms. Baker, you may proceed.
12 MS. BAKER: Thank you, your Honor.
13
14 KEVIN GRIMES
15 Called as a witness on behalf of the
16 State, having been first duly sworn,
17 Was examined and testified as follows:
18
19 DIRECT EXAMINATION
20 By Ms. Baker:
21 Q. Good afternoon.
22 A. Good afternoon.
23 Q. As I'm telling everybody, I'm all the way over
24 here, so if you have trouble hearing me, let me know.

1 A. Okay.

2 THE COURT: Make sure that's on.

3 MS. BAKER: Yeah. It was on earlier. I think it

4 just goes off.

5 THE COURT: Go ahead, Ms. Baker.

6 MS. BAKER: Thank you.

7 Q. (By Ms. Baker) Can you please state and spell

8 your name for the record.

9 A. My name is Kevin Grimes, K-e-v-i-n G-r-i-m-e-s.

10 Q. And how are you currently employed?

11 A. I am currently employed as an officer with the

12 Kenai Alaska Police Department in Kenai, Alaska.

13 Q. Okay. I'm horrible with -- I know Alaska is

14 north. But where in Alaska is that?

15 A. So, if you take the main portion of Alaska, it's

16 the south center, just about three hours south of Anchorage.

17 Q. And how long have you been employed there?

18 A. Since November 18th of 2020.

19 Q. Okay. And what are your duties for your

20 employment?

21 A. I'm a patrol level officer. So I investigate

22 deaths, DUIs, traffic infractions, anything up to homicides,

23 sexual assaults, basic patrol officer duties.

24 Q. All right. And on April of 2020 where were you

1 employed?

2 A. I was employed with the Fallon Police Department
3 here in Fallon, Nevada.

4 Q. Okay. And what was your title at the Fallon
5 Police Department?

6 A. I was a police officer, patrol officer.

7 MS. BAKER: It went out again. I think I'm just
8 go to turn --

9 THE LAW CLERK: Do you have the lapel mic?

10 THE WITNESS: I'm not having any trouble hearing
11 you, if that helps.

12 Q. (By Ms. Baker) I appreciate that. So what was
13 your job title with the Fallon Police Department?

14 A. I was a patrol officer.

15 Q. Okay. And around 1:00 p.m. on April 16th, 2020,
16 specifically 1:28 p.m., were you dispatched to a call at that
17 time?

18 A. I was.

19 Q. And where was that call?

20 A. It was at the Budget Inn here in Fallon.

21 Q. And do you know where that's at exactly?

22 A. Yeah. It's on South -- South Allen Road.

23 Q. And is that in Churchill County, Nevada?

24 A. Yes, ma'am.

1 Q. And, when you arrived at the Budget Inn, what did
2 you observe?

3 A. I observed -- So another officer arrived before
4 me. And, as I was arriving, I observed Officer Groom
5 speaking with the defendant. I also observed the door to the
6 hotel room open. And I heard the defendant making excited
7 utterances.

8 Q. Okay. Let's go back to when you arrived you said
9 you saw the defendant. How do you know the defendant?

10 A. So I know the defendant through prior law
11 enforcement contacts to that call. He had been identified on
12 multiple different calls.

13 Q. So you knew him as Casey Alan Johns?

14 A. Yes, ma'am.

15 Q. So if you -- Would you be able to recognize Casey
16 Alan Johns if you saw him again?

17 A. I would.

18 Q. Okay. Now, would you be able to recognize Casey
19 Alan Johns if he was wearing a mask?

20 A. Yes.

21 Q. So can you look around the courtroom and see if
22 you can identify Mr. Johns?

23 A. I can.

24 Q. Can you please point him out and describe an

1 article of clothing?

2 A. He is the gentleman sitting behind the desk with
3 the long black hair and blue button-up shirt.

4 MS. BAKER: May the record reflect the
5 identification of the defendant?

6 THE COURT: The record will reflect the
7 identification of Mr. Johns.

8 MS. BAKER: Thank you.

9 Q. (By Ms. Baker) And when you first arrived and
10 saw Mr. Johns what observations did you make regarding him?

11 A. He was standing outside of the hotel room. The
12 other officer had him sit on a log that was used to block the
13 parking lot off. He had some dried red substance, assumed to
14 be blood, on his hands. And he was saying, I stabbed him
15 because he stabbed me first.

16 Q. Okay. And then you said you saw -- And let's
17 describe that room. Where is it located in that building of
18 the Budget Inn?

19 A. So, if you're facing the main office of the
20 Budget Inn, it's a long rectangular building. Off to the
21 left there's a perpendicular building that is another block
22 of hotel rooms. It is all the way at the far end on the
23 bottom floor, the very last room.

24 Q. Okay. And what did you see regarding that room?

1 A. So the door was open and there was blood outside
2 on the sidewalk or -- I apologize. It was a red substance.
3 Q. What did it appear to you to be?
4 A. It appeared to be blood.
5 Q. And why do you say that?
6 A. Due to the injury to the victim's hand who was
7 sitting inside the hotel room.
8 Q. Okay. So let's -- You were able to see in the
9 hotel room?
10 A. Yes, ma'am.
11 MS. BAKER: Okay. May i approach?
12 THE COURT: Yes.
13 MS. BAKER: 24.
14 Q. (By Ms. Baker) So did you -- Are you issued,
15 when you worked at the Fallon Police Department, a body
16 camera?
17 A. I was.
18 Q. If I showed you a picture from your body camera
19 would you be able to identify that?
20 A. Yes.
21 MS. BAKER: And is this proposed?
22 MR. WEED: It's been admitted.
23 Q. (By Ms. Baker) It's been admitted. So this is
24 Exhibit 24. Are you able to see that on your screen?

1 A. Yeah, I can see it, yes.

2 Q. Now, is this a true and accurate depiction of
3 what you saw when you entered the room?

4 A. Yes.

5 Q. And can you kind of just tell us what we're
6 seeing here?

7 A. The victim is on the bed. That is blood on the
8 blanket, the comforter there, and on the ground. It was
9 actively, like, coming out of the towel that he had wrapped
10 around his hand. There was also some red substance on
11 Ms. Douglas' chest and her face. That is what I observed.
12 The blood did come further out, like, towards the doorway.

13 Q. So when you're entering the doorway, what do you
14 mean the blood was coming out? What kind of blood did you
15 see?

16 A. There was droplets. So there was some kind of
17 concentrated right there in the doorway. And then you could
18 see, I would say, a trail of blood back to the bed where the
19 defendant -- or the victim was sitting.

20 Q. Okay. And the victim you're saying is which
21 individual in this photograph?

22 A. The gentleman in the red polo shirt.

23 Q. And you indicated that you saw him still actively
24 bleeding?

1 A. Yes. There was blood coming out from the towel.

2 Q. Okay. And on the bottom right hand by the door,
3 what are we seeing right there?

4 A. That would be a dog.

5 Q. So when you saw the dog what was your response?

6 A. My response was to get the dog away from the
7 scene. Dogs have a tendency to lick blood. And I didn't
8 want him destroying any evidence in the room or leaving
9 tracks or anything like that that we couldn't discern. So I
10 had him put in the bathroom -- or I asked Ms. Douglas to put
11 him in the bathroom. Eventually he was placed in the
12 bathroom.

13 Q. Okay. Did you tell anybody that you put the dog
14 in the bathroom?

15 A. I did not.

16 Q. And, other than the dripping blood, what were
17 your observations of Mike?

18 A. Of Michael? He was actually fairly calm. I was
19 trying to keep him -- or keep the injury elevated above his
20 heart to try to control the breathing. And then he went in
21 to telling me what happened during the altercation.

22 Q. Was he concerned about Mr. Johns?

23 A. He was. He asked us how he was doing. He was
24 concerned about him. He didn't want him coming back in the

1 room, because he had just been cut in the hand.

2 Q. Okay. And what were your observations regarding
3 the female individual?

4 A. She was very shook up. Her -- She had a lot of
5 adrenaline going. She was speaking very fast. She had a
6 hard time focusing on the task, like, it took her a couple of
7 times to get the dog in the bathroom. She was scared for
8 sure.

9 Q. And did you identify her?

10 A. I did.

11 Q. And what was her name?

12 A. Deanna Douglas.

13 Q. So did you investigate the incident?

14 A. I investigated a portion of the incident. I was
15 assisted by Sergeant Fransden.

16 Q. Okay. Was there a determination made for an
17 arrest?

18 A. There was.

19 Q. And did you make that arrest?

20 A. I did.

21 Q. And who did you arrest?

22 A. I arrested the defendant.

23 Q. Okay. And let's -- And where was he when you
24 made the arrest?

1 A. The defendant was sitting on the log, the log
2 barrier. We had placed him in handcuffs to detain him. And
3 then when he was advised of the arrest, he was actually in a
4 seated position on top of the log.

5 Q. Okay. And did you inform him of the arrest?

6 A. I did.

7 Q. And what were your observations, other than where
8 he was sitting, about the defendant?

9 A. So he was making excited utterances, he was
10 calling out for somebody named Corey. It was as if he could
11 see her or him, who ever Corey was. He kept yelling, get up
12 Corey, get up Corey, we're going to be okay. There was
13 nobody on scene named Corey. We did not find anybody named
14 Corey. He had involuntary movements of his hands. The hands
15 were moving very fast. I don't know how to describe it. It
16 was, like, just kind of twitching of the hands, which is
17 indicative of somebody on a stimulant.

18 Q. Okay. And you know that based on your training
19 and experience?

20 A. Yes.

21 Q. And, when you say there was nobody named Corey,
22 did you determine how many people were in room 135?

23 A. Yes.

24 Q. And who was in room 135?

1 A. Deanna Douglas, Michael Malone, and the dog.

2 Q. And let's describe what happened when you placed
3 the defendant under arrest.

4 A. I advised the defendant of his arrest. Due to
5 COVID precautions, it was right at the height of the COVID
6 precautionary time, we had a policy within our department
7 that we place everybody in a face mask before they ride in
8 our car. The face masks are very easy to pull down over your
9 face just using your mouth, you can manipulate them. So, as
10 a secondary precaution, we placed a spit hood over it to hold
11 the face mask in place.

12 The defendant was calm. He was fairly
13 cooperative. He brought his head back to me when I said,
14 hey, you know, tilt your head back, I need to put this spit
15 hood on you.

16 Q. Did you indicate the reasons why you were putting
17 the mask and spit hood on?

18 A. I don't believe I told the defendant why --

19 Q. Okay.

20 A. -- until we were in the car. We were trying to
21 get him in -- out of the car at the hospital and we told him
22 why he had to have the spit hood.

23 Q. Okay. And then once you got the spit hood on --
24 Let's talk about the spit hood. What did it look like?

1 A. So the spit hood is basically the same thing as
2 our paper masks that we're wearing, except it goes all the
3 way around the head and then there's a mesh portion on top,
4 so you can still see, but it prevents body fluid from being
5 ejected from the mouth.

6 Q. Okay. And was he standing or sitting at that
7 point?

8 A. He was still sitting.

9 Q. Okay. And then after that was placed on his head
10 what happened next?

11 A. He remained calm. We stood him to his feet.
12 And, as we were getting ready to walk him to our car, he
13 started twisting away and trying to get free of our grip.

14 Q. So, before we get in to that, you said you
15 noticed his fingers moving. Did you notice anything else
16 about his fingers?

17 A. The dried blood was on his hands. There was also
18 a cut on his index finger.

19 Q. On do you know which hand?

20 A. His right hand.

21 Q. And I'm getting sidetracked a little. And I
22 apologize. Did you have an opportunity to review any video
23 surveillance of the Budget Inn?

24 A. I had, yes.

1 Q. And was there an incident that you saw on the
2 surveillance that would lead you to believe how the cut
3 got -- how his hand got injured?

4 A. Yes, there was.

5 Q. Why?

6 A. So you could see Mr. Johns on the surveillance
7 video from the actual hotel pacing up and down the corridor
8 there outside of the rooms. I believe it was three rooms
9 down from Mr. Malone's room. He actually kicked the door.
10 And he had an object in his hand and he was gripping it and
11 it was believed to be the knife. The way he was holding the
12 knife, it was approximately halfway up the full length of the
13 knife as the blade was extended. So it would put his index
14 finger over the blade. He then pushed -- made a stabbing
15 motion at the window of the hotel room and then turned around
16 and walked back towards Mr. Malone's room.

17 As he was walking away, you could actually see
18 droplets appearing on the sidewalk underneath his hand as he
19 walked. So it is believed that that is where he obtained the
20 cut.

21 Q. Did he have any other injuries?

22 A. He did not.

23 MS. BAKER: Exhibit 30.

24 THE COURT: I've been told that if this would be

1 a good time for a break.

2 MS. BAKER: Sure.

3 THE COURT: So Ladies and Gentlemen of the jury,
4 we're going to take -- we'll make this brief, a little bit
5 less than ten minutes. During this recess you must not
6 discuss or communicate with anyone, including fellow jurors,
7 in any way regarding the case or its merits either by voice,
8 phone, e-mail, text, internet, or other means of
9 communication or social media. You must not read, watch, or
10 listen to any news or media accounts or commentary about the
11 case. You must not do any research such as consulting
12 dictionaries, using the internet, or using reference
13 materials. You must not make any investigation, test the
14 theory of the case, recreate any aspect of the case, or in
15 any other way investigate or learn about the case on your
16 own. You must not form or express any opinion regarding the
17 case until it has been submitted to you. We'll be in recess.

18 (Recess was taken)

19 THE COURT: We're back on the record on Case
20 Number 20-0552, State of Nevada versus Casey Alan Johns. The
21 record will now reflect the presence of the parties and
22 counsel, all officers of the court, and the full jury and the
23 alternate jurors.

24 Will counsel stipulate to the correct seating of

1 the jury?

2 MR. NEIDERT: Yes, your Honor.

3 MS. BAKER: Yes, your Honor.

4 THE COURT: Very well. Ms. Baker, you may
5 proceed.

6 MS. BAKER: Thank you. I thought I got all of
7 this ready, but it looks like -- Technology is not my friend.
8 Thank you.

9 Q. (By Ms. Baker) So what I have picked is Exhibit
10 30. I'll be playing you a video. We're going to play it and
11 then we're going to discuss it. So if you can watch. So
12 let's try it again. I got sidetracked. So what I'm playing
13 you this video marked as 34206, which is the second video on
14 this disc. You can watch it and then we'll talk.

15 (Video was played)

16 Q. Okay. So is this what you were talking about
17 earlier, the video you saw?

18 A. Yes, it is.

19 Q. So I've replayed it and paused it at colon ten.
20 Can you describe what we're seeing in the defendant's hand?

21 A. So the knife that we recovered on the scene was a
22 lighter color. It was that -- You can't see it very well.
23 But that matches the same color as the knife. It's the same
24 shape and size as the knife that we found. By all accounts

1 he is holding the knife that we located off of the ground
2 next to him.

3 Q. And then I've stopped it again at colon 21. Now,
4 this walkway, what are we seeing on the walkway at this
5 point?

6 A. At this point you -- So, currently, it's a clean
7 walkway. There should be no blood droplets that we can
8 observe from the video.

9 Q. Okay. And just to let you know that that screen
10 that you have, you can mark on it and it will make a -- There
11 you go.

12 A. Oh, okay.

13 Q. So I'm going to clear it.

14 A. So --

15 Q. Hold on. We'll go and I'll have you mark the
16 next time.

17 A. Okay.

18 Q. Hold on. There we go. So I've stopped it at
19 colon 38. Do we see anything at this point?

20 A. Right there.

21 Q. Do it again.

22 A. I don't know why it's not --

23 Q. Are we seeing something at this point?

24 A. There are three distinct drops that you can see

1 that appear as he was standing there.

2 Q. Okay.

3 A. I was trying to circle them, but it wasn't
4 working for me.

5 Q. That's not working, okay. But, the markings that
6 you put on the screen, is that the general area?

7 A. Yes. There's one at the back of the foot, one
8 right at the tip of his toe, and then there's one just lower
9 than that.

10 Q. I'm going to keep playing.

11 A. They're right in front of his feet. Sorry.

12 Q. And what I'm going to play again, and then we'll
13 stop and go through it, is 34417, which is the third video.

14 So in this video -- And I've stopped it at colon
15 07 -- what are we seeing?

16 A. There were more droplets appearing as he was
17 walking. You could see them show up on the sidewalk. You
18 can see the knife in his hand as well as some blood on the
19 tip of his finger.

20 Q. Okay. What about the leg, the right leg?

21 A. There is some blood on the front of his leg as
22 well that was dripping down the front.

23 Q. Okay. And it's still the colon 07, same time
24 stamp up on top, it's just a fraction of a moment later.

1 What are we seeing in this photograph?

2 A. You can actually see the knife very well in his
3 hand.

4 Q. Okay. Now, when you -- Thank you. And I'm going
5 to turn this off.

6 So, when you observed the defendant and you talk
7 about his injury, did he have any bite marks?

8 A. I did not observe any bite marks.

9 Q. Okay. So, now that we've been sidetracked, I'm
10 going to go back to when you arrested the defendant. Where
11 was he sitting again?

12 A. He was sitting on the log just outside of the
13 room, the victim's room.

14 Q. Okay. And what is that log used for?

15 A. It's just to divide up the parking area. It's
16 like an end to their parking lot before it goes in to the
17 field.

18 Q. Okay. And so he was sitting down and then you
19 stood him up. How many officers were around you?

20 A. It was me and Officer Shine were on either side
21 of the defendant. And then Officer Ugaldi was behind us five
22 or six steps.

23 Q. Any other officers?

24 A. Officer Groom was speaking with the captain on

1 the other side of the -- not the other side of the parking
2 lot but --

3 Q. How far away?

4 A. -- north of our position. I don't know. 50
5 yards maybe.

6 Q. So --

7 A. Sorry. 15 yards. He wasn't that far.

8 Q. So when you stand the defendant up where were
9 your hands?

10 A. So I placed my hand, my right hand, under his
11 left arm, to assist him with standing up, and my other arm
12 was just free, ready to react --

13 Q. Okay.

14 A. -- if need be.

15 Q. And when I say you handcuffed him, where was his
16 hands?

17 A. His hands were behind his back. He was
18 handcuffed.

19 Q. And then once he was on his feet what happened?

20 A. He was on his feet. He took maybe half a step
21 forward and then twisted his body towards Officer Shine
22 trying to break my grip from his arm and then he twisted
23 back. We told him to stop. He continued to try to twist
24 away from us and walk forward, so we laid him on the ground

1 in front of where he was standing.

2 Q. Okay. So when you laid him on the ground what
3 was -- were there choices of where to put him down on?

4 A. I -- We didn't have a lot of choices. It was
5 either the concrete or the dirt. We chose not to lay him on
6 the concrete just to prevent injury. Dirt is a little bit
7 softer, not much. So we were trying to avoid the edge of the
8 concrete there.

9 Q. Was there anything in the dirt area?

10 A. We later found out that there was some goat heads
11 in the dirt area, yes.

12 Q. But you didn't realize that before?

13 A. No.

14 Q. And once he's on the ground what happened next?

15 A. When he was on the ground, he continued to thrash
16 his body around and kick his legs. I apologize. He did not.
17 He calmed down and we were able to stand him back up.

18 Q. And then once he was standing up what was your
19 intention?

20 A. We were going to walk him to the back of Officer
21 Ugaldi's car because it was the closest one on scene.

22 Q. And what happened when he was stood up again?

23 A. When we stood him back up, he then kicked his
24 legs. He kicked his right leg and then continued to try to

1 kick with his left leg. And so we laid him back down on the
2 ground to control him.

3 Q. Okay. Now, where were all the officers at that
4 point when he was kicking?

5 A. When he started kicking, everybody rushed to us,
6 so they were all standing -- Me and Officer Shine were still
7 on either side of him and Officer Groom and Officer Ugaldi
8 were behind him.

9 Q. Okay. And were you able to get him in the patrol
10 vehicle?

11 A. We were. We carried him to the car.

12 Q. Okay. So after he was in the patrol vehicle did
13 you look at your uniform?

14 A. I did.

15 Q. What did you find?

16 A. I found a shoe imprint -- a shoe print on my left
17 leg on the inside of the shin area.

18 Q. Okay. Now, was that on your uniform before this
19 altercation?

20 A. It was not.

21 Q. How do you know?

22 A. I was checking my shoes for blood because I had
23 walked in to the hotel room. And before I got in to my car I
24 wanted to make sure that the blood was cleaned off my shoes

1 so that I wasn't tracking it all over the place. So I know
2 my pant legs were free of any shoe impressions.

3 Q. Okay. Did you feel when the shoe impression went
4 on your uniform?

5 A. I did not, no.

6 Q. And what were you concentrating on when the
7 altercation happened?

8 A. I was concentrating on controlling the defendant.

9 Q. Were you worried about your person?

10 A. I was not.

11 Q. Did you inspect your leg afterwards?

12 A. Yes.

13 Q. Did you find anything?

14 A. The shoe impression. It was a dust -- It was a
15 shoe impression made with dust or a shoe print made with
16 dust. Sorry.

17 Q. Okay. So there had to have been -- Was there --
18 What kind of force was used to get the impression on your
19 uniform?

20 A. It was a kick. I mean, I was kicked in the shin.
21 Yeah, it wasn't just like a brush or a scuff.

22 Q. All right. And then -- But did you look at your
23 leg?

24 A. I did.

1 Q. And was there a mark on your leg?

2 A. There was not.

3 Q. Did you feel anything on your leg?

4 A. No.

5 Q. There was a lot of officers around you. Could

6 one of the other officers have kicked you in the shin?

7 A. They could not have, no.

8 Q. Why is that?

9 A. So the position of the shoe impression and where

10 it was, you could distinctly see it was -- the toe was

11 pointed down towards my ankle. And the position of the other

12 officers standing on either side -- So I was on his left side

13 and Shine was on his right side. And then Groom was behind

14 me and Officer Ugaldi was on the other side. So they would

15 have had to move their legs in an unnatural way to create

16 that shoe impression on my leg.

17 Q. Did you observe the defendant kicking?

18 A. Yes.

19 Q. And how was he kicking?

20 A. He was kicking back and to the side.

21 Q. And is that in your direction?

22 A. Yes.

23 MS. BAKER: May I approach?

24 THE COURT: Yes.

1 MS. BAKER: Exhibits proposed 8 and 9.

2 Q. (By Ms. Baker) What's on the screen is proposed

3 Exhibit 8. Do you recognize this?

4 A. Yes.

5 Q. And what is it of?

6 A. Me.

7 Q. And when was it taken?

8 A. Shortly after we got the defendant in the car.

9 Q. Was it at the Budget Inn?

10 A. It was.

11 Q. And was it on April 16th, 2020?

12 A. Yes.

13 Q. And does it truly and accurately reflect what

14 your uniform looked like after arresting the defendant?

15 A. It does.

16 MS. BAKER: Move to admit State's proposed

17 Exhibit 8.

18 MR. NEIDERT: No objection.

19 THE COURT: Exhibit 8 will be admitted.

20 Q. (By Ms. Baker) Showing you what's marked as

21 proposed Exhibit 9. Can you describe what we're seeing in

22 this?

23 A. So this is the shoe impression here. If you

24 looked at the bottom of Mr. Johns' shoes, there was this

1 distinct pattern in the tread of the shoe. And you can
2 actually line it up with the direction that the shoe was
3 pointing. It was downward toward my ankle.

4 Q. Okay. And does this truly and accurately reflect
5 what your bottom of your leg looked like on this date on
6 April 16th, 2020?

7 A. It does.

8 MS. BAKER: Move to admit proposed Exhibit 9.

9 MR. NEIDERT: No objection.

10 THE COURT: Exhibit 9 will be admitted.

11 Q. (By Ms. Baker) And, so, in looking at this, what
12 are you saying about the tread? Can you explain that a
13 little bit more?

14 A. So this oval portion here that I circled --

15 Q. Oh, I think I moved. Sorry.

16 A. Here we go. It's -- Well, that's a line through
17 it.

18 Q. Oh, sorry. Okay. So you marked a line
19 through --

20 A. That's the oval portion of the tread on the shoe
21 that he was wearing.

22 Q. All right. And did you -- Let's go forward.
23 Once the defendant was in the back of the patrol vehicle
24 where did you guys go?

1 A. We went to Banner Churchill Hospital.

2 Q. Okay. And did you accompany Mr. Johns to that

3 hospital?

4 A. I did.

5 Q. Okay. And then did you take pictures of

6 Mr. Johns at the hospital?

7 A. I did.

8 MS. BAKER: 6 and 7.

9 Q. (By Ms. Baker) Going back real fast to the

10 altercation, silly question, but did you want to be kicked?

11 A. No.

12 Q. And -- Thank you. So what's proposed Exhibit 6,

13 do you recognize this?

14 A. Yes.

15 Q. And what is this a picture of?

16 A. Mr. Johns' right hand.

17 Q. And when was it taken?

18 A. At Banner on the 16th.

19 Q. On April 16th, 2020?

20 A. Yes.

21 Q. And who took the photograph?

22 A. I did.

23 Q. And does it accurately reflect what you saw that

24 day?

1 A. It does.

2 MS. BAKER: Move to admit State's Exhibit 6.

3 THE COURT: Mr. Neidert.

4 MR. NEIDERT: Real quick voir dire?

5 THE COURT: Of course.

6 VOIR DIRE EXAMINATION

7 By Mr. Neidert:

8 Q. Officer, there appears to be a Band-Aid on one of

9 the fingers. Was that Band-Aid on Mr. Johns before he went

10 to the hospital or was this after treatment at the hospital?

11 A. It was placed on by hospital staff.

12 Q. So that -- I'm just -- So the Band-Aid, the blue

13 Band-Aid that we see in this photograph was put on by the

14 hospital?

15 A. Yes.

16 MR. NEIDERT: Okay. Thank you. With that

17 clarification, your Honor, I have no objection.

18 THE COURT: Exhibit 6 will be admitted.

19 MS. BAKER: Thank you.

20 Q. (By Ms. Baker) And then were you present when

21 they treated him?

22 A. I was.

23 Q. Okay. And let's describe that. How was

24 Mr. Johns acting when he was at Banner?

1 A. He was -- He was cooperative. He was coherent.
2 He was responding to questions. But he was also verbally
3 uncooperative. He was chanting in a Native American, I
4 guess, language. We asked him to quiet down. He refused.
5 But he was also responding to hospital and ER staff
6 questioning.

7 Q. Did he know where he was, to your knowledge?

8 A. I believe he did, yes.

9 Q. When -- Did the hospital staff ask him regarding
10 certain treatment?

11 A. Yeah. They asked if they could stitch his hand.
12 He ultimately refused.

13 Q. And so what did they do?

14 A. They placed a, I believe, like a cloth stitch
15 over the cut and then they placed the bandage and then the
16 bandage wrap around the outside.

17 Q. And did you see the cut?

18 A. I did.

19 Q. Can you describe it?

20 A. It was a pretty deep laceration across the -- not
21 the end but right about the knuckle here.

22 Q. Okay. And what direction was it going?

23 A. Horizontally.

24 Q. Now, using your training and experience and after

1 seeing the surveillance, can you come to a conclusion on how
2 Mr. Johns was injured?

3 A. Yeah. The injury came from -- Well, I'm not a
4 medical professional. So, with my training and experience, I
5 would say that the injury came from the knife that he was
6 holding in his hand when he punched the window.

7 Q. Okay. And what's been marked as proposed Exhibit
8 7, did you take this photograph?

9 A. I did.

10 Q. And what is this photograph of?

11 A. Of Mr. Johns' shoe.

12 Q. And what part of the shoe?

13 A. The sole of the shoe.

14 Q. And when was this taken?

15 A. This was taken April 16th, 2020, at Banner ER.

16 Q. And does it truly and accurately reflect what you
17 saw that day?

18 A. Yes.

19 MS. BAKER: Move to admit proposed Exhibit 7.

20 MR. NEIDERT: No objection.

21 THE COURT: Exhibit 7 will be admitted.

22 Q. (By Ms. Baker) So, when you're talking about the
23 tread and your pant leg, can you explain what you were
24 talking about?

1 A. Yes. So this oval section here on the heel, that
2 was the portion that you could actually see imprinted on my
3 pant leg.

4 MS. BAKER: Thank you. Exhibit 28.

5 Q. (By Ms. Baker) We discussed previously that you
6 wore a body camera; is that correct?

7 A. Correct.

8 Q. And have you viewed that body camera?

9 A. Yes. Yes, I have.

10 Q. And, if I showed you a copy of it, would you be
11 able to identify it?

12 A. Yes, I would.

13 Q. This has been proposed Exhibit 28.

14 (Video was played)

15 Q. Now, I've stopped it at 00:03. Do you recognize
16 what's on this video?

17 A. Yes. That's the Budget Inn.

18 Q. And is that the body cam that you were wearing?

19 A. Yes, it is.

20 Q. And were wearing on April 16th, 2020?

21 A. Yes.

22 Q. And at what point was this, what we're seeing in
23 this video, at what point during that incident are we seeing?

24 A. I had just stepped out of my patrol car when I

1 arrived on scene and activated my body cam.

2 Q. Okay. And what buildings are we looking at?

3 A. So this -- this is the main building where the
4 front office is located just to the right here. And then
5 over here is the hotel room in question where the incident
6 occurred.

7 Q. In the other building?

8 A. In the other building, yes. That building that
9 is perpendicular.

10 MS. BAKER: Move to admit.

11 THE COURT: Mr. Neidert.

12 MR. NEIDERT: Brief voir dire?

13 THE COURT: Of course.

14 VOIR DIRE EXAMINATION

15 By Mr. Neidert:

16 Q. So the body cam was -- You -- The body cam system
17 the Fallon Police Department is one where you have to push a
18 button or do something to activate it. Is that a fair
19 statement?

20 A. That is fair.

21 Q. And with respect to the body cam video that you
22 have right now, is it on continuously? At any point did you
23 turn it off?

24 A. I did not.

1 MR. NEIDERT: Thank you. On that basis, no
2 objection, your Honor.

3 THE COURT: This is exhibit?

4 MS. BAKER: This is Exhibit 28.

5 THE COURT: Exhibit 28 will be admitted.

6 MS. BAKER: Starting it at 21:13.

7 THE COURT: Ms. Baker, just for the record, is
8 that --

9 MS. BAKER: And that's the time on the bottom.

10 THE COURT: What does that correspond to?

11 MS. BAKER: The minutes when it first started.

12 So it's 00:00 is when he turns it on. So this is 21 minutes
13 and 13, 14 seconds in since the beginning of the video.

14 Q. (By Ms. Baker) And on -- down here next to the
15 defendant, what time stamp is that?

16 A. That is the time stamp that is put on the video
17 by the lens lock system that we can't alter.

18 Q. And does that indicate the date and time of the
19 incident?

20 A. Yes, it does.

21 Q. I'm going to go ahead and hit play. And this is
22 Mr. Johns sitting on the log?

23 A. Yes.

24 (Video was played)

1 Q. And I've stopped it at 2305. So, after seeing
2 the video, again, at what point do you believe you were
3 kicked?

4 A. So after we stood him up the second time when you
5 could see his leg come up and he started kicking, he kicked
6 once, missed, and then he kicked with his left leg as well.
7 And I believe that's when I got hit.

8 Q. But you don't know?

9 A. I don't.

10 Q. Okay. And, again, why is that?

11 A. Because of the positioning of the print on my leg
12 as well as the positioning of his left foot, it would have
13 been in a good spot to actually make that impression.

14 Q. Okay. And was there a lot going on?

15 A. There was a lot going on.

16 Q. And, finally, after you went to Banner, where did
17 the defendant go after that?

18 A. He was transported to the jail.

19 Q. And at the jail was there a search conducted of
20 the defendant?

21 A. Yes. Yes, there was.

22 Q. And what --

23 A. Go ahead.

24 Q. And did anything come to your attention from that

1 search?

2 A. Yeah. I was provided with a wallet that was
3 located on his person.

4 Q. What did that wallet look like?

5 A. It was a black wallet that contained various
6 plastic debit cards, library card, and some cash and a check.

7 Q. Did it have a driver's license?

8 A. It had a driver's license as well, yes.

9 Q. And what name was on the driver's license?

10 A. Brandie West-Castillo.

11 Q. And what name was on the credit cards?

12 A. Brandie West-Castillo.

13 Q. And was there a check?

14 A. There was a check.

15 Q. Who was the check issued to?

16 A. Brandie West-Castillo at her place of work.

17 Q. Did you contact Ms. West-Castillo?

18 A. I did.

19 Q. And where did you contact her?

20 A. I spoke with her at the police -- Well, okay. I
21 contacted her at work and then she came to the police
22 department where I spoke with her about the incident.

23 Q. And did you contact her about April 24th, 2020?

24 A. I did.

1 Q. And then how many days is that after the -- this
2 incident?

3 A. Approximately eight days.

4 Q. Okay. Had she made a report that her wallet was
5 stolen?

6 A. She had not reported it, no.

7 Q. Did she indicate to you how much money was --
8 cash was in her wallet?

9 A. She believed there was \$316 in cash.

10 Q. Okay. And how much cash did you find when you
11 looked through the wallet?

12 A. \$165.79.

13 Q. And what does that indicate to you?

14 MR. NEIDERT: Objection. That calls for a
15 conclusion. I don't believe he -- I mean --

16 THE COURT: Sustained. Sustained.

17 MS. BAKER: Okay. So, using your training and
18 experience, what would be easier to spend, using credit cards
19 or cash?

20 MR. NEIDERT: Objection, your Honor. Again, this
21 calls for speculation.

22 THE COURT: I'll allow him to answer that
23 question if he can based on his training and experience.

24 THE WITNESS: Cash would be easier to spend.

1 MS. BAKER: And why is that?

2 THE WITNESS: You can't track it. Credit cards
3 have statements and receipts and then you can track down
4 video of them.

5 MS. BAKER: Okay. Exhibit 6 and 7. Thank you.
6 10 and 11. I apologize.

7 THE COURT: So this is Exhibit 10.

8 MS. BAKER: This is proposed Exhibit 10 and 11.
9 Julie is keeping me on track.

10 Q. (By Ms. Baker) And what is this photograph of?

11 A. This is a photograph of the wallet and its
12 contents.

13 Q. And did you take this photograph?

14 A. I did.

15 Q. And when did you take it?

16 A. I returned to the police department after
17 completing the booking of Mr. Johns. I booked the wallet in
18 to evidence until we knew that it was stolen. And then the
19 next day, April 25th, I pulled it out of evidence and
20 photographed everything inside.

21 Q. Okay. And does -- What's proposed Exhibit 11,
22 what is this picture of?

23 A. It's a second photo of the contents of the
24 wallet.

1 Q. And why did you have to take two?
2 A. They didn't fit on one picture to get good enough
3 detail.
4 Q. And does this truly and accurately reflect what
5 you saw in the contents of the wallet?
6 A. It does.
7 MS. BAKER: Move to admit State's proposed 10 and
8 11.
9 MR. NEIDERT: No objection.
10 THE COURT: 10 and 11 will be admitted.
11 MS. BAKER: Pass the witness, your Honor.
12 THE COURT: Mr. Neidert, I'll defer to you. I'm
13 inclined -- It's ten minutes to five. And I don't want to
14 interrupt. I want to give you plenty of time. I'm inclined
15 to recess for the evening and then come back with your
16 cross-examination in the morning.
17 MR. NEIDERT: Your Honor, that would be my
18 preference as well, because we promised they would be out by
19 five, and there's no way that this is going to be less than
20 ten minutes.
21 THE COURT: Very well.
22 Then, Ladies and Gentlemen of the jury, we're
23 going to take our evening recess. During this recess, you
24 must not discuss or communicate with anyone, including fellow

1 jurors, in any way regarding the case or its merits either by
2 voice, phone, e-mail, text, internet, or other means of
3 communication or social media. You must not read, watch, or
4 listen to any news or media accounts or commentary about the
5 case. You must not do any research such as consulting
6 dictionaries, using the internet, or using reference
7 materials. You must not make any investigation, test the
8 theory of the case, recreate any aspect of the case, or in
9 any other way investigate or learn about the case on your
10 own. You must not form or express any opinion regarding the
11 case until it is submitted to you.

12 We'll be in recess until 9:00 o'clock tomorrow
13 morning, at which point we'll resume.

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STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

I, CHRISTY Y. JOYCE, Nevada Certified Court
Reporter Number 625, do hereby certify:

That I was present in the District Court of
Fallon Township, in and for the State of Nevada, on Tuesday,
the 11th day of May, 2021, for the purposes of reporting in
verbatim stenotype notes the within-entitled hearing;

That the foregoing transcript, consisting of
pages 239 through 359, is a full, true, and correct
transcript of said hearing.

Dated at Reno, Nevada, this 17th day of June,
2021.


Christy Joyce/
CHRISTY Y. JOYCE, CCR #625