

IN THE SUPREME COURT OF THE STATE OF NEVADA

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JAMEL JACQKEY GIBBS,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-21-355769-1
Related Case A-21-844881-W
Docket No: 84569

RECORD ON APPEAL VOLUME 2

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1 into that database you just described as a felony vehicle?

2 A Yes. We notify our records department; they enter it for us.

3 Q Okay. Did you do that because you were investigating
4 whether or not this particular vehicle was involved in this shooting?

5 A We had reason to believe it was at the time, and that there
6 was possibly a child in the vehicle when it fled that we had not been able
7 to locate at that time.

8 Q Okay. So I was asking you earlier about whether
9 Michaela Parker was on scene, correct?

10 A Correct.

11 Q I asked you that earlier. Was Navaya Parker [phonetic] on
12 scene?

13 A No.

14 Q Okay. Did that give you some concern that maybe
15 Navaya Parker was in that vehicle we just described?

16 A It did.

17 Q Okay. And do you know how old Ms. Navaya Parker was at
18 the time?

19 A I believe she was eight. May have been seven.

20 Q Okay. And so that vehicle was entered into the database for
21 officers to be on the lookout for; is that fair to say?

22 A That's fair.

23 Q And that was entered into the database on March the 4th,
24 correct?

25 A Correct.

1 Q The early morning hours?

2 A Correct.

3 Q Because you're still working this long, graveyard type shift,
4 correct?

5 A Correct.

6 Q Okay. Now, you indicated earlier that you received the DMV
7 information, it gave you the address of the Scott Robinson address,
8 specifically Apartment 1011, for Michaela Parker, correct?

9 A Correct.

10 Q Did you confirm that with the management of the apartment
11 complex?

12 A I did.

13 Q Okay. After confirming that information through the DMV, as
14 well as confirming it through the management, did you or someone from
15 your team author a search warrant for Apartment 1011 at that
16 Scott Robinson address?

17 A Yes, Detective Hudson did.

18 MS. BEVERLY: I'm showing Mr. Mueller what has been
19 marked as State's Exhibits number 121 through 165, with some -- with
20 some numbers missing. If I can have him flip through those.

21 THE COURT: Okay.

22 [Pause]

23 MS. BEVERLY: I don't believe Mr. Mueller has an objection
24 to these, but I'm going to go through the numbers because --

25 THE COURT: Okay.

1 MS. BEVERLY: -- some of them have been taken out, just --

2 MR. MUELLER: I have no objection. Presumably she
3 establishes they were taken pursuant to the search warrant and fairly
4 and accurately represent the scene.

5 THE COURT: Okay.

6 MS. BEVERLY: Okay. Can I -- may I approach?

7 THE COURT: Yes.

8 BY MS. BEVERLY:

9 Q I'm going to go through these numbers again, but I'm going
10 to ask that you do the same thing, flip through these and let me know if
11 you recognize them. Okay?

12 MS. BEVERLY: So for the Court's record, it's going to be
13 State's proposed 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131,
14 132, 133, 148, 149, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161,
15 164 and 165.

16 BY MS. BEVERLY:

17 Q Detective, can you please look through these and tell me if
18 you recognize what's depicted in those photos. If you can actually flip
19 them over so that they stay --

20 A Sure.

21 Q -- in order. Thank you.

22 [Witness reviews photographs]

23 BY MS. BEVERLY:

24 Q Do you recognize these photos, Detective?

25 A I do.

Q Are these photos taken by crime scene analysts in your presence during the execution of the search warrant at 3940 Scott Robinson, Apartment 1011?

A Yes.

MS. BEVERLY: At this time I would ask to move into evidence the numbers that was previously mentioned.

THE COURT: Okay. Based on no objection from Mr. Mueller, 121 through 133, 148 and 149, 151 through 161, and 164 and 165 will be admitted.

[State's Exhibits 121 through 133, 148, 149, 151 through 161, 164,
165 admitted into evidence]

MS. BEVERLY: Thank you. Permission to publish.

THE COURT: Yes.

MS. BEVERLY: Thank you.

BY MS. BEVERLY:

Q So the search warrant for that apartment, was it actually applied for on March the 3rd of 2021?

A Yes.

Q And was it executed on March the 4th?

A Yes.

Q Okay. So again, we're going -- we're talking about late night hours into the early morning hours of those two dates, correct?

A That's correct.

Q Okay. Prior to the warrant being executed on the apartment, did officers with the North Las Vegas Police Department SWAT call into

1 the apartment to see -- to have anyone come out?

2 A Yes. They made announcements for any occupants of the
3 apartment to exit.

4 Q Okay. Did anyone exit the apartment?

5 A No.

6 Q Did Michaela Parker exit the apartment?

7 A No.

8 Q Did Jamel Gibbs?

9 A No.

10 Q Did Navaya Parker?

11 A No.

12 Q After SWAT announced themselves and said anyone come
13 out, and no one came out, did they then enter the unit and begin the
14 search, you or you and your team?

15 A Yes.

16 Q Showing you what has now been admitted as State's Exhibit
17 Number 121, zoom out here, what are we looking at here?

18 A That is the front door to Apartment 1011 at 3940
19 Scott Robinson.

20 Q Can you describe for us the general layout of the -- these
21 type of apartments in this complex?

22 A Well, this particular one, you walk into a bottom floor, which
23 has a living room, kitchen, a bathroom and goes out to the rear, which is
24 a garage. There's stairs going up to a second floor, and there were two
25 bedrooms on the second floor.

1 Q So there is actually an attached garage to this unit?

2 A Yes.

3 Q And just to give a little bit better of a perception, 123. Zoom
4 out a bit. Is that that living room area you're describing and the stairs
5 leading up to the second floor?

6 A Yes.

7 Q During the course of your searching of the unit did you find
8 paperwork in the unit belonging to a Jamel Gibbs?

9 A Yes.

10 Q What about a Michaela Parker?

11 A Yes.

12 Q And what about Navaya Parker?

13 A Yes.

14 Q Showing you Exhibit Number 129. Is this one of the
15 bedrooms and bathrooms of that -- in the upstairs portion of that unit?

16 A Yes. That's what we would identify as the master bedroom.

17 Q Okay. In that master bedroom was there an end table next to
18 the bed?

19 A Yes, there was.

20 Q Okay. Showing you Exhibit Number 131. Is that that end
21 table?

22 A That's one of them, yes.

23 Q And what are we looking at here that would be of relevance
24 to your investigation?

25 A On the blue rag is a magazine for a 9 millimeter

1 semiautomatic pistol, with cartridges in the magazine.

2 Q I'm showing you a closer up view of that, Exhibit
3 Number 133. Is that that magazine with the 9 millimeter bullets in it?

4 A Yes.

5 Q Now, you indicated that one of the -- that there was
6 paperwork found with the name of Jamel Gibbs in that unit; is that
7 correct?

8 A That's correct.

9 Q Was one of those -- some of that paperwork a birth certificate
10 for Mr. Gibbs?

11 A Yes.

12 Q Okay. Exhibit Number 148, would that be the birth certificate
13 that you located for a Jamel Jacq'key Gibbs?

14 A Yes.

15 Q And do you recall where in the unit that birth certificate was
16 located?

17 A It was in the master closet.

18 Q The master closet?

19 A Correct.

20 Q Did you also locate, during your search, a gun case?

21 A Yes.

22 Q Where was that gun case located?

23 A It was a safe also in the master closet.

24 Q Exhibit Number 157, is that that gun case?

25 A Yes.

1 Q Is it empty or full?

2 A Empty.

3 Q So it looks like a firearm and magazine are missing?

4 A Correct.

5 Q I'm going to zoom in a little bit. Can we see the shape in the
6 -- I guess it's like foam where the firearm is supposed to be?

7 A Yes.

8 Q And then the shape and foam of where the magazine is
9 supposed to be; is that correct?

10 A That's correct.

11 Q Is this the top -- I'm going to zoom out. Sorry. Is this the top
12 of that gun case?

13 A Yes.

14 Q Does it describe the type of weapon that came in the case?

15 A It does.

16 Q What does it say?

17 A Well, I can't read the sticker, but I know what it says. It's an
18 SCCY 9 millimeter blue handgun.

19 Q Okay. I'm going to show you a closer up view of that,
20 Exhibit Number 160. Is that a closer up of that sticker?

21 A Yes.

22 Q And does that describe the type of weapon that would have
23 presumably came in that gun case?

24 A Yes.

25 Q So we have a 9 millimeter blue pistol with BLI. Do you know

1 what that is?

2 A Yes. I searched that particular model, and the full description
3 is blue pistol with black slide.

4 Q Okay. And then the serial number as well, correct?

5 A Correct.

6 Q Did you also locate some paperwork for that gun by the
7 casing?

8 A Yes.

9 Q Okay. Exhibit Number 161, what are we looking at here?

10 A It's basically a transfer form, purchasing a gun online, sent to
11 New Frontier Armory in North Las Vegas and then transferred to
12 Ms. Parker.

13 Q Okay. So if someone buys a gun online, it gets transferred to
14 like a local gun shop; is that fair to say?

15 A Correct.

16 Q Okay. And then someone goes and picks up the gun?

17 A Correct.

18 Q Presumably?

19 A Right.

20 Q And in this case we have the paperwork showing it was -- the
21 gun was shipped to a person by the name of Michaela Parker,
22 New Frontier Armory and this address in North Las Vegas; is that
23 correct?

24 A Correct.

25 Q Now, we saw earlier that there was a magazine on the

1 nightstand with some 9 millimeter bullets in it, correct?

2 A Yes.

3 Q Were you able to take out those bullets and examine them?

4 A CSI removed the bullets, yes.

5 Q Showing you what's been marked -- or excuse me -- what's
6 been admitted as Exhibit Number 165. What are we looking at here?

7 A Eight GECO Luger 9 millimeter cartridges.

8 Q Okay. I'm going to zoom in a little bit. So these are the
9 headstamps; is that correct?

10 A That's correct.

11 Q And we have GECO 9 millimeter Luger; is that correct?

12 A Yes.

13 Q And did that match the headstamp that we saw earlier in
14 your testimony that was actually collected from the scene?

15 A It did.

16 Q Okay. I want to continue along with your investigation. I'm
17 now going into the later morning hours of March 4th. You had been
18 working all night from March 3rd into March 4th, correct?

19 A Correct.

20 Q At some point do you leave the scene of the entranceway of
21 Scott Robinson and leave the scene where you just conducted the search
22 warrant and go back to the North Las Vegas Detective Bureau?

23 A Yes.

24 Q When you arrive, or at some point after you arrive at the
25 Detective Bureau, are you still continuing your investigation?

1 A Yes.

2 Q How long are you working this day?

3 A At that point I'm not sure. I probably worked at least 24
4 hours.

5 Q Okay. When you get back to your location, your Detective
6 Bureau, are you notified that a person by the name of Michaela Parker
7 has come into a North Las Vegas substation?

8 A Yes.

9 Q Okay. When she came in, were you notified that she came in
10 and said she wanted to --

11 MR. MUELLER: Objection. Hearsay.

12 MS. BEVERLY: Okay. It's not being offered for the truth of
13 the matter. It's being --

14 THE COURT: Can counsel approach?

15 [Sidebar at 10:08 a.m., ending at 10:09 a.m., not transcribed]

16 MS. BEVERLY: Thank you, Your Honor.

17 MR. MUELLER: For the record, my objection was granted?

18 THE COURT: Yes, your objection's sustained.

19 BY MS. BEVERLY:

20 Q So just to be clear, you're notified that Michaela Parker has
21 come to a North Las Vegas Detective -- or North Las Vegas substation;
22 is that correct?

23 A That's correct.

24 Q Would that be on March the 4th?

25 A Yes.

1 Q Is it sometime in the morning or --

2 A Early morning.

3 Q Early morning. Okay. Do you then interview Ms. Parker?

4 A Yes, I did.

5 Q What was her demeanor like during the interview?

6 A Mostly cooperative.

7 Q After your conversation with Ms. Parker, did you submit for
8 an arrest warrant for Jamel Gibbs?

9 A Yes.

10 Q And is that -- was that based on what you had learned and
11 your investigation up and to that point on March the 4th?

12 A Yes.

13 Q Okay. Let me ask you this. After your interview with
14 Michaela Parker on March the 4th, in the course of your investigation at
15 that point was Michaela Parker a suspect in the actual shooting of
16 Mr. Tiffith?

17 A No.

18 Q At any point during your investigation did Michaela Parker
19 become a suspect in the actual shooting of -- and death of Mr. Tiffith?

20 A No.

21 Q Now, you submitted for an arrest warrant, as you just
22 described, for Mr. Gibbs on March the 4th, correct?

23 A Correct.

24 Q Did you still continue along with your investigation even
25 after March the 4th?

1 A Yes, I did.

2 Q Would it be fair to say that as of March the 4th Mr. Gibbs had
3 not been located?

4 A Correct.

5 Q Okay. Was there ever, during the -- well, during the course of
6 your investigation, did you ever receive any 911 calls from Mr. Gibbs?

7 A No.

8 Q Okay. Were you ever notified of Mr. Gibbs going to a police
9 station?

10 A No.

11 Q As part of your continued investigation even after you had
12 submitted for the arrest warrant, were you able to obtain a phone -- a
13 possible phone number for Mr. Gibbs of 702-902-3867?

14 A Yes.

15 MS. BEVERLY: Actually, I want to go back for one second
16 before we get to that. I'm going to show Mr. Mueller what has been
17 marked as State's Exhibits Number 166 through 176.

18 MR. MUELLER: May we approach?

19 THE COURT: You may.

20 [Sidebar at 10:13 a.m., ending at 10:14 a.m., not transcribed]

21 MS. BEVERLY: May I approach the witness?

22 THE COURT: Yes.

23 BY MS. BEVERLY:

24 Q I want to go back to -- for one second to March the 4th, when
25 you interviewed Michaela Parker. Were some photographs taken of her?

1 A Yes.

2 Q Okay. If you can flip through Exhibits Number 166 through
3 176, and let me know if you recognize those.

4 [Witness reviews photographs]

5 A Yes, I do.

6 Q Are these a fair and accurate depiction of photographs that
7 were taken of Ms. Parker during your interview with her?

8 A Yes.

9 MS. BEVERLY: At this time I'd ask State's Exhibits Number
10 166 through 176 be admitted.

11 THE COURT: Any objection, Mr. Mueller?

12 MR. MUELLER: No, Your Honor.

13 THE COURT: All right. 166 through 176 will be admitted.

14 [State's Exhibits 166 through 176 admitted into evidence]

15 MS. BEVERLY: Thank you. Showing you -- permission to
16 publish?

17 THE COURT: Yes.

18 BY MS. BEVERLY:

19 Q Showing you on the overhead what's now been admitted as
20 State's Exhibit Number 166. I'll zoom out. What are we looking at here?

21 A It is a picture of the front of Michaela Parker.

22 Q Exhibit Number 167, is that another view of Ms. Parker
23 looking up?

24 A That's another picture of her, yes.

25 Q Okay. Did you observe some bruising on Ms. Parker?

1 A CSI took the photos and advised me of what they had seen.

2 Q Okay. So as an example, Exhibit Number 169, would this be
3 crime scene analysts documenting the bruising on Ms. Parker?

4	A	Yes.
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5 [Pause]

6 THE COURT: Okay. And State, while we get there, we're
7 going to take a brief recess.

8 Ladies and gentlemen, during the recess you must not
9 discuss or communicate with anyone, including fellow jurors, in any way
10 regarding this case or its merits, either by voice, phone, e-mail, text,
11 internet or other means of communication, or social media.

12 You must not read, watch or listen to any news or media
13 accounts or commentary about this case. You must not do any research,
14 such as consulting dictionaries, using the internet or using reference
15 materials.

16 You must not make any investigation, test the theory of the
17 case, recreate any aspect of the case, or in any other way investigate or
18 learn about the case on your own. And you must not form or express
19 any opinion regarding this case until it's finally submitted to you.

20 Ladies and gentlemen, it's 10:25. We'll be in recess until
21 10:40.

22 THE MARSHAL: All rise for the jury.

23 [Jury out at 10:17 a.m.]

24 [Outside the presence of the jury]

25 THE COURT: Okay. Detective, you may step down. I'll just

1 remind you you're under oath and you're not allowed to speak with
2 anyone about your testimony while we're on the recess.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Okay. Okay. May the record reflect we're
5 outside the presence of our jury.

6 Mr. Mueller, there seems to be some confusion between you
7 and your investigator about the mask policy in this Court. You have to
8 wear your mask unless you are speaking to a witness or unless you are
9 testifying.

10 You will not be allowed to remain in this courtroom without
11 wearing your mask. There is an administrative order that is in place that
12 operates this Court. Does anybody have any questions about the mask
13 requirement?

14 MR. MUELLER: No, Your Honor.

15 THE COURT: Thank you very much. So please do not get an
16 attitude with my Marshal when he is enforcing the rules that exist in this
17 Court.

18 MR. MUELLER: Yes, Your Honor.

19 THE COURT: And as far as your investigator goes, the next
20 time you don't have your mask on, you're going to be removed from
21 these proceedings. Thank you.

22 [Recess taken from 10:19 a.m. to 10:42 a.m.]

23 THE MARSHAL: All rise for the jury.

24 [Jury in at 10:43 a.m.]

25 THE MARSHAL: All present, Your Honor.

1 THE COURT: Okay. You may all be seated. We are back on
2 the record in C-355769, State of Nevada v. Jamel Gibbs. May the record
3 reflect Mr. Gibbs is present with his attorney. Deputy District Attorney is
4 on behalf of the State. Do both parties stipulate to the presence of our
5 jury?

6 MS. BEVERLY: Yes.

7 MR. MUELLER: Yes, Your Honor.

8 THE COURT: Okay. And Detective, I just remind you that
9 you are still under oath.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Okay. Ms. Beverly, you can pick up where you
12 left off.

13 MS. BEVERLY: Okay. Thank you.

14 BY MS. BEVERLY:

15 Q Where we left off is that I asked you if you had obtained
16 information about phone number 702-902-3867 during the course of your
17 investigation after March the 4th when you submitted an arrest warrant
18 for Mr. Gibbs. Do you recall that?

19 A Yes.

20 Q Okay. And did you do some investigation onto that phone
21 number to see who it belonged to?

22 A I did.

23 Q Okay.

24 MS. BEVERLY: I have previously shown Mr. Mueller what
25 has been marked as State's proposed Exhibits Number 332 as well as

1 328 through 331. I do not believe he has an objection to those.

2 THE COURT: Mr. Mueller, any objection to 328 through 332?

3 MR. MUELLER: No, Your Honor, not if they're the cell phone
4 data.

5 THE COURT: Okay. No objection. Those will be admitted.

6 [State's Exhibits 328 through 332 admitted into evidence]

7 BY MS. BEVERLY:

8 Q Let me ask you, Detective. Are you familiar with the term,
9 CDRs?

10 A Yes.

11 Q What are CDRs? Can you explain that for the jury?

12 A They're call data or call detail records held by cell phone
13 providers.

14 Q Okay. So if I have a cell phone, like we all have cell phones,
15 does that cell phone -- well, does the cell phone company that whatever
16 provider you have track your data, call log location data?

17 A Yes.

18 Q Okay. Assuming you're using the phone. Is that fair to say?

19 A That's fair.

20 Q Okay. On a Wi-Fi network; is that fair to say? Or some type
21 of internet network?

22 A No, not necessarily. Call detail records will be cellular data
23 communicating with towers.

24 Q Okay. And the cell phone company keeps records of that as
25 well, correct?

1 A Correct.

2 Q Do the cell phone companies also keep records of the
3 subscriber information for a particular phone number?

4 A Yes.

5 Q What is subscriber information?

6 A It denotes who essentially owns the phone.

7 Q Okay. And in your experience as a North Las Vegas
8 detective, have you had experience interpreting call detail records of this
9 type of nature?

10 A Yes.

11 Q Okay. What -- can you describe for us what your experience
12 is with that?

13 A Prior to being a homicide detective, I was in part of the FBI's
14 criminal apprehension team for about two and a half to three years. And
15 one of our primary -- it's a fugitive team. We look for fugitives. One of
16 the primary ways that we find people is by interpreting, analyzing,
17 plotting these same type of records --

18 Q Okay.

19 A -- based on phone numbers associated with the persons that
20 we're looking for.

21 Q Did you take any classes or have any training regarding
22 interpreting cell phone data from the cell phone company?

23 A Yes, provided by the FBI.

24 Q Okay. What type of classes was it?

25 A Their experts in analyzing, plotting CDR, other cell phone

1 records is called their CAST team and that's who provided the training to
2 me as well as on the job training from experienced detectives.

3 Q And when we're talking about plotting location data, are
4 there like cell phone towers where phones hit off of or can you kind of
5 describe that for the jury?

6 A Yeah. When a cell phone communicates, it goes through a
7 cell phone tower. When we get the call data records, the cell phone
8 tower during the time of those communications is denoted in those
9 records in latitude and longitude as well as sometimes an address and
10 they give a general direction from the tower that the phone is located.

11 Q Okay. So the information will give you an area where the
12 phone might be or where the phone is at a particular time. Is that
13 correct?

14 A Correct, while it's communicating on a tower.

15 Q Okay. Are you also familiar with what is known as UTC time?

16 A Yes.

17 Q What is UTC time?

18 A It's a universal standard of time so that companies like cell
19 phone providers, when they provide records, they use UTC time, so they
20 don't have to calculate time differences for whatever time zone they're
21 sending the records to.

22 Q Okay. So when you get the records, and you're interpreting
23 them, do you have to adjust the time for whatever time zone you --
24 you're in or the phone is in?

25 A Yeah. There are programs that will do it for you

1 automatically and you can do it manually yourself looking at the time on
2 the records and subtracting the correct amount of time.

3 Q Okay. So for Pacific time, what is the difference between
4 UTC time and what we are on here in Las Vegas Pacific time?

5 A Outside of Daylight Savings, which was March 14th -- so
6 prior to March 14th, it was -- we were eight hours behind UTC.

7 Q Okay. So whatever the UTC time says on the records, you
8 subtract eight hours and that gives us the time here in Las Vegas when
9 the phone was communicating?

10 A Correct.

11 Q Okay. Now, going back to the specific phone number that
12 you were investigating, 3867 -- ending in 3867, were you able to obtain
13 subscriber information for that phone number?

14 A Yes.

15 Q Who did that phone number belong to?

16 A Jamel Gibbs.

17 Q Okay. And was that as of March the 3rd of 2021?

18 A Yes.

19 Q Now, were you -- in the subscriber information, are you also
20 able to see when the phone was cut off?

21 A I'm able to see when it stops communicating. The cell phone
22 provider can advise whether service has been terminated, suspended or
23 whatever.

24 Q In this particular case, was the service for the phone number
25 ending in 3867 belonging to Jamel Gibbs terminated on March the 8th of

1 2021?

2 A I believe so, but the communication -- the cell phone stopped
3 communicating with towers and stopped registering that number on
4 March 4th.

5 Q Okay. So the phone actually -- there's no other data after
6 March 4th on the phone. Is that correct?

7 A All income data is -- was routed to the generic voice mail
8 number for T-Mobile.

9 Q Okay. So no -- after March 4th, essentially nothing. Is that
10 correct?

11 A Correct.

12 Q Okay.

13 A It could have been March 5th UTC. March 4th or March 5th.

14 Q Okay. But the UTC time is a little off. Is that correct?

15 A Yeah. I don't remember the exact time.

16 Q Okay. And those records from that cell phone would be
17 contained on Exhibit Number 332; is that correct?

18 A Yes.

19 Q Do you see it?

20 A On the disk, yeah.

21 Q Okay. As well as the subscriber information. Is that fair to
22 say?

23 A Correct.

24 Q Okay.

25 A Yes.

1 Q Now, as part of your mapping of the phone number
2 belonging to Mr. Gibbs -- actually, I'm sorry. I forgot to ask you. What
3 cell phone service was it?

4 A T-Mobile.

5 Q Okay. And that's where you got the records from. Is that
6 correct?

7 A Correct.

8 Q Okay.

9 MS. BEVERLY: Permission to publish, Your Honor?

10 THE COURT: Yes.

11 BY MS. BEVERLY:

12 Q As part of your mapping of call detail records, I'm going to
13 show you what's been marked as Exhibit Number 328. What are we
14 looking at here?

15 A This is from a program called ZETX and the raw data from T-
16 Mobile is uploaded into the ZETX program, and it takes the data from
17 specific times, shows a pin of where the tower is and a general direction
18 from that tower that the phone is and the coverage area of that tower.

19 Q Okay.

20 A In that direction.

21 Q Okay. Actually, I'll put this back up here. So -- actually, let
22 me go back for one second. Based on your interpretation of the cell
23 records, was there any calls or call detail from prior to the actual
24 shooting on March the 3rd at 6:45 when the 911 call came out?

25 A There was -- I don't remember the exact amount of time, but

1 there was at least an hour and a half, if I remember right, prior to the
2 shooting that there was any communication with any cell towers from
3 that phone.

4 Q Okay. So if there's -- no one's using the cell phone, it's not
5 tracked. Is that correct?

6 A Not through ---

7 Q Or you -- the location --

8 A -- cell phone towers.

9 Q -- is not tracked?

10 A No.

11 Q Okay. Let me put this back up here. This is going to be
12 Exhibit Number -- sorry -- 1 -- sorry -- 328. All right. Let's go back to
13 that. So here, before we look at this green stuff over here. This little box
14 here you're describing, that's the software that the raw data from T-
15 Mobile is put into and it gives you information about the phone at a
16 particular time. Is that correct?

17 A Yes. That particular program converts the time from UTC as
18 you can see on the time zone section of it --

19 Q Yes.

20 A -- to Pacific time or whatever time zone you're in.

21 Q Okay. So let's zoom in. One second. And again, the
22 members of the jury will have this to take back with you, but -- so here
23 we have T-Mobile. That's a cell phone company, correct?

24 A Correct.

25 Q Then we have the target number, which is 702-902 -- I'm

1 sorry -- 702-902-3867, correct?

2 A Correct.

3 Q And that's the number belonging to Jamel Gibbs, correct?

4 A Correct.

5 Q And then we have what looks like an outgoing call; is that
6 correct?

7 A Yes.

8 Q And then there's a phone number there; is that correct?

9 A Correct.

10 Q Okay. And then we have the tower number, which is where
11 the phone is hitting off of; is that correct?

12 A It's the tower that the device is in communication with at the
13 time of that call.

14 Q Okay. And then we have some information about time zone
15 here and it says, "This call was provided in UTC time," as you just
16 described, correct?

17 A Correct.

18 Q The time was adjusted Minus eight hours to convert into
19 pacific time. Do you see that?

20 A Correct.

21 Q So we have the original from the original date as being 3/4/21
22 2:48 a.m., correct?

23 A Correct.

24 Q And then when it's adjusted to Pacific Time, it is 3/3/21 6:48
25 p.m.?

1 A That's correct.

2 Q Now, let's zoom out a little bit. Now, we have a green big
3 circle here. What does that circle represent?

4 A It's the basic coverage area of that cell tower in that direction.

5 Q And does that area include 3940 Scott Robinson Boulevard?

6 A Yes.

7 Q Okay. So essentially, is what this telling us that the cell
8 phone number is hitting off of a tower that includes the location of 3940
9 Scott Robinson about three minutes after the 911 call comes out?

10 A Correct.

11 Q As part of -- oh. After getting the CDR information from Mr.
12 Gibbs's phone, did you continue to do additional investigation in this
13 case after March the 4th?

14 A Yes.

15 Q Okay. Now, as of March the 4th, had the vehicle been
16 located, the Hyundai that you had put the felony vehicle hit on? Had that
17 been located yet?

18 A No.

19 Q Okay. At the beginning of --

20 [Counsel confer]

21 BY MS. BEVERLY:

22 Q You were telling us at the very beginning of your testimony
23 that Ms. Terrell had shown you the Facebook profile, Jamel.Gibbs; is that
24 correct?

25 A Correct.

1 Q Was a -- did you investigate that Facebook profile?

2 A Yes.

3 Q Okay.

4 MS. BEVERLY: Court's indulgence.

5 [Pause]

6 BY MS. BEVERLY:

7 Q Okay. Okay. So detective, you indicated to us that you did
8 some investigation into Mr. Gibbs' Facebook. Is that correct?

9 A That's correct.

10 Q Okay. As you investigating his Facebook, did you locate a
11 video involving Mr. Gibbs in possession of the -- a similar style and make
12 of gun that we were talking about earlier that was referenced in the
13 case?

14 A Yes.

15 Q Okay.

16 MR. MUELLER: Your Honor, may we approach?

17 THE COURT: Yes.

18 [Sidebar at 10:59 a.m., ending at 11:00 a.m., not transcribed]

19 MS. BEVERLY: If I could switch over. Permission to publish
20 the -- just the first frame of the video for authentication.

21 THE COURT: Well, you can bring the laptop --

22 MS. BEVERLY: Oh, okay.

23 THE COURT: -- up here and let him authenticate it.

24 MS. BEVERLY: Sure.

25 THE COURT: We're not going to publish it before it's

1 admitted.

2 MS. BEVERLY: Sure. May I approach?

3 THE COURT: Yes.

4 BY MS. BEVERLY:

5 Q Detective, looking at the screen, State's Exhibit Number -- it
6 is State's Exhibit Number 335. Are you familiar with what is depicted on
7 this -- the beginning of this video?

8 A Yes.

9 Q Okay. Is this the video that you took that was in the FB
10 records that Facebook provided to you during the course of your
11 investigation of Mr. Gibbs' Facebook profile?

12 A Yes.

13 Q Okay. Is this a fair and accurate copy of that particular video?

14 A From what I can see from here, yes.

15 Q Okay. And did Facebook also provide with their records a
16 certification of authentication that these are the Facebook records of this
17 particular account?

18 A Yes.

19 Q Okay.

20 MS. BEVERLY: At this time, I would ask to move into
21 evidence State's --

22 THE COURT: 335?

23 MS. BEVERLY: Thank you. Proposed 335.

24 THE COURT: Any objection to 335, Mr. Mueller?

25 MR. MUELLER: Nothing other than expressed at the bench,

1 Judge.

2 THE COURT: Okay. 335 will be admitted.

3 [State's Exhibit 335 admitted into evidence]

4 BY MS. BEVERLY:

5 Q The video that you recovered, that was recovered from
6 November -- approximately November of 2020. Is that fair to say?

7 A It was posted to the account on November 11th.

8 Q Okay. So a couple of months before the murder. Is that --

9 A Of 2020. I mean, excuse me. November 19th, which was
10 UTC time. It would have been November 18th, to be accurate.

11 Q Okay.

12 MS. BEVERLY: Permission to publish?

13 THE COURT: Yes.

14 [Whereupon, a video recording, State Exhibit 335 was
15 played in open court from 11:02 a.m. to 11:02 a.m., not transcribed]

16 MS. BEVERLY: Okay. Can you pause that and go back, Mr.
17 Palal from [indiscernible], please?

18 [Whereupon, a video recording, State Exhibit 335 was
19 played in open court from 11:02 a.m. to 11:02 a.m., not transcribed]

20 MS. BEVERLY: Little bit further back. Okay. Right there.

21 BY MS. BEVERLY:

22 Q Detective, we stopped the video at approximately looks like
23 about 16 seconds in. What are we looking at here?

24 A It appears to be the base plate of a magazine inserted into
25 the grip of a handgun.

1 Q Okay. And earlier, you were talking about the slide of a
2 handgun. What portion of a gun is a slide?

3 A It's the top of the gun, the part that actions to eject expelled
4 cartridges and load new ones.

5 Q Okay. And you were just -- actually told earlier about a very
6 specific description of a gun that was on the case found in Michaela's
7 apartment; is that correct?

8 A Correct.

9 Q Or the gun case, correct?

10 A Correct.

11 Q Describing the gun that was -- should have been located in
12 that --

13 A Yes.

14 Q -- casing. Okay. And it was involved -- it was blue, correct?

15 A Correct.

16 Q Okay. And did finding this video on Mr. Gibbs' Facebook
17 match the description of the gun on the case that was located in
18 Michaela's apartment?

19 A Yes.

20 Q Okay. And just to be clear, what we're looking at here, the
21 blue portion of the handgun is the grip; is that right?

22 A Yeah. It's considered the frame, which is the grip and the
23 upper part that the slide connects to.

24 Q Okay. And the top portion is the black slide part that --

25 A Correct.

1 Q -- where the bullets are expended from; is that correct?

2 A That's correct.

3 Q Okay.

4 MS. BEVERLY: You can finish playing it.

5 [Whereupon, a video recording, State Exhibit 335 was
6 played in open court from 11:04 a.m. to 11:04 a.m., not transcribed]

7 BY MS. BEVERLY:

8 Q Okay Detective, I want to now direct your attention -- we'll
9 continue along with your investigation. During the course of your
10 continued investigation after March the 4th, were -- did you have the
11 ability to listen to some 911 calls that were made on the night of the
12 shooting?

13 A Yes, I did.

14 Q Was one of those calls from a person by the name of
15 Nasharia Searles?

16 A Yes.

17 Q And was one from Brionte Terrell?

18 A Yes.

19 Q Okay. After reviewing those 911 calls, did it become clear to
20 you that other than Ms. Terrell and Ms. Parker, Ms. Searles was the only
21 other person who witnessed the shooting?

22 A Yes.

23 Q Okay. Did you later have the opportunity to interview Ms.
24 Searles on April the 15th, 2021?

25 A Yes, I did.

1 Q Okay. And why was it so long after March the 3rd that you
2 interviewed Ms. Searles?

3 A Typically I would have been notified of a potential witness at
4 the time of the call. That information must have come out before I was
5 dispatched or before I arrived, so I didn't know she existed until I listened
6 to those 911 calls.

7 Q And then did you try to connect with her to interview her on
8 several occasions?

9 A I did.

10 Q Okay. And was there a conflict with her schedule?

11 A That she initially was unavailable, and I was able to meet
12 with her a little later on. I don't remember the exact time lapse.

13 Q Okay. During her interview, did she give a description of the
14 shooter that she observed on March the 3rd at the Scott Robinson
15 address?

16 A A basic description, yes.

17 Q Okay. I want to direct your attention -- excuse me -- I want to
18 direct your attention now to March the 10th of 2021. Would it be fair to
19 say that from March 3rd up to March 10th, you had been investigating
20 the death of Jaylon Tiffith?

21 A Yes.

22 Q Okay. Earlier we talked about how you had put Ms. Parker's
23 vehicle into the database as a felony vehicle; is that correct?

24 A Yes.

25 Q On March the 10th, was that vehicle located?

1 A Yes.

2 MS. BEVERLY: Showing Mr. Mueller what has been
3 marked -- I think actually, it's already admitted -- what has already been
4 admitted -- and permission to publish.

5 THE COURT: Which ones are they?

6 MS. BEVERLY: It is 1 -- they start at 177. They've already
7 been admitted.

8 THE COURT: 177 to 289 is in, yes.

9 MS. BEVERLY: Okay. Thank you.

10 BY MS. BEVERLY:

11 Q I'm going to show you on the screen 177.

12 THE COURT: You got a switch it on, Ms. Beverly. Push the
13 blue button.

14 MS. BEVERLY: Oh.

15 THE COURT: In the front. No, in the very front. In front of
16 the Elmo.

17 MS. BEVERLY: I am not technologically savvy.

18 THE COURT: There you go.

19 BY MS. BEVERLY:

20 Q Okay, 177. Is this the location where the vehicle was found?

21 A It's the nearest intersection, yes.

22 Q Okay. Exhibit Number 178, is that the house where the
23 vehicle was located?

24 A The -- that house is the first house north of where the vehicle
25 was located.

1 Q Okay. And Exhibit Number 179, is this the vehicle back here?

2 A Yes.

3 Q Now, when you located that vehicle, was it occupied?

4 A It was unoccupied.

5 Q Did you obtain a search warrant for that vehicle?

6 A I did.

7 Q Was that vehicle towed -- sealed and towed back to the North
8 Las Vegas Crime Lab?

9 A Yes. CSI Torres accompanied me to the location, sealed the
10 vehicle. It was towed to the North Las Vegas evidence bay and the
11 warrant was served the following day.

12 Q So that warrant was actually served on March the 11th; is
13 that correct?

14 A Yes.

15 Q And did CSI Graziano [phonetic] process and document that
16 vehicle?

17 A Yes.

18 Q Exhibit Number 183. Is that a closer up of the vehicle at the
19 location where it was found abandoned?

20 A Yes.

21 Q And were you present during the search of that vehicle?

22 A Yes, I was.

23 Q Was one of the things found in that vehicle a 30-day pass
24 with Jamel G on it?

25 A Yes.

1 Q Okay. As well as some items for Michaela Parker. Is that fair
2 to say?

3 A That's fair.

4 Q After the vehicle was processed, what happened to the
5 vehicle?

6 A It was towed by one of the tow companies we use, I believe
7 Fast Towing.

8 Q Okay. And do they tow it to like a toe yard or something?

9 A Yes.

10 Q Do you know who picks -- who picked up the vehicle or if it
11 was picked up later?

12 A I found out later. I didn't know at the time that it was actually
13 picked up.

14 Q Okay. So once the police department processed the vehicle,
15 it gets released to the tow company and then it's up to the tow company
16 whether they release it to the owner or whoever, someone else. Is that
17 fair to say?

18 A Yeah, typically they'll only release it to the owner.

19 Q Okay. Now, you're a -- let's go to March the 24th of 2021.
20 Between March the 3rd, the day of the shooting and March the 24th, had
21 Mr. Gibbs been located?

22 A No.

23 Q You submitted for his arrest on March the 4th, though,
24 correct?

25 A The warrant was signed on March 5th, I believe.

1 Q Okay. And so from March 5th to March 24th, where there
2 attempts made to locate him?

3 A Yes.

4 Q You had that phone number belonging to Mr. Gibbs that we
5 described earlier; is that correct?

6 A Correct.

7 Q But you indicated that the phone number stopped
8 communicating on like March 4th or March 5th; is that right?

9 A Correct.

10 Q Okay. What is a pin register?

11 A It's something used to assist in locating persons based on
12 their cell phone activity.

13 Q Okay. Is that one thing that you use to help locate an
14 outstanding suspect?

15 A Yes.

16 Q Okay. Now, in order to locate Mr. Gibbs, did you provide
17 information that you had to the criminal apprehension team?

18 A Yes.

19 Q Okay. And did they then begin to attempt to locate Mr. Gibbs
20 through various investigative means?

21 A Yes.

22 Q Okay. Going to March the 4th -- excuse me -- March the 24th
23 of 2021, did the criminal apprehension team locate Mr. Gibbs at 8501
24 West University, Unit 1100?

25 A Yes.

1 Q Okay. Do you know who that house belonged to?

2 A The primary resident was a female identified as Taylor
3 Wilson.

4 Q So to be clear, the criminal apprehension team had been
5 trying to located Mr. Gibbs for approximately almost 20 days; is that
6 right?

7 MR. MUELLER: Objection. Foundation.

8 MS. BEVERLY: He just testified that the criminal --

9 MR. MUELLER: What --

10 MS. BEVERLY: -- that the criminal apprehension team --

11 MR. MUELLER: It -- seriously the --

12 MS. BEVERLY: I have to finish my --

13 THE COURT: Hold on, Mr. Mueller. She has to finish what
14 she's saying.

15 MS. BEVERLY: The Detective just testified that he submitted
16 documents that the criminal apprehension team once the warrant was
17 signed on March the 5th and that they had begun looking for him, so I'm
18 clarifying that.

19 THE COURT: Objection overruled.

20 MS. BEVERLY: Thank you.

21 BY MS. BEVERLY:

22 Q Okay. So between the time the warrant was signed until
23 March 24th, that would be approximately 19, 20 days; is that right?

24 A Correct.

25 Q And that whole time, they were looking for Mr. Gibbs; is that

1 right?

2 A That's correct.

3 Q Now, did you obtain a search warrant once CAT located Mr.
4 Gibbs at 8501 West University?

5 A Yes, I did.

6 Q At that location, was the Hyundai Elantra also there?

7 A It was present in the parking lot, yes.

8 Q Okay. At the location of 8501 West University, was Mr. -- Mr.
9 Gibbs was there, correct?

10 A Correct.

11 Q Was Michaela Parker there?

12 A Yes, she was.

13 Q And were two other people there?

14 A Yes.

15 Q Including Ms. Wilson, the owner of the house; is that correct?

16 A Yes.

17 Q Okay. Detective, as we were preparing for trial for this case,
18 are you aware of whether or not Michaela Parker was issued a subpoena
19 to be here for this trial?

20 A I was advised that she was.

21 Q Okay. Were you advised that a material witness warrant had
22 been issued for Michaela parker?

23 A Yes, I was.

24 MR. MUELLER: Objection. Hearsay.

25 MS. BEVERLY: Okay. Well, it goes to what efforts he took to

1 locate Ms. Parker.

2 MR. MUELLER: That wasn't the question.

3 MS. BEVERLY: Well, I --

4 THE COURT: Objection's overruled. He can answer the
5 question.

6 MS. BEVERLY: Okay. Thank you.

7 BY MS. BEVERLY:

8 Q What is a -- well, first of all, what is a subpoena?

9 A It's a notice served to -- that your presence is required in
10 court.

11 Q Okay. Is it like an invitation, like, hey, if you want to come to
12 court, you can come. If not --

13 A It's a demand.

14 Q Okay. What is a material witness warrant?

15 A It's a warrant for arrest for somebody who is potentially a
16 vital witness in the case.

17 Q Okay. Did you receive a material witness warrant in this case
18 to try to locate Michaela Parker?

19 A Yes.

20 Q Okay. Was that about a week and a half ago?

21 A Roughly.

22 Q Okay. Have you been looking for Michaela Parker?

23 A Yes.

24 Q Has she been located?

25 A No.

1 Q Up until today, have you been looking for her?

2 A Yes.

3 Q And up until today, has she been located?

4 A No.

5 Q Did you -- were you also given a material witness warrant for
6 Taylor Wilson?

7 A Yes.

8 Q Okay. Did you begin looking for Ms. Wilson approximately a
9 week and a half ago?

10 A Yes. Myself and the criminal apprehension team were
11 looking for both.

12 Q Okay. Up until today, has Ms. Wilson been located?

13 A No.

14 Q During the course of your investigation, did you use
15 investigative means to intercept calls made by Mr. Gibbs after his arrest?

16 A Yes.

17 Q Okay.

18 MS. BEVERLY: Your Honor, pursuant to prior discussions
19 between the parties, I'm going to ask to admit State's Exhibit Number
20 334, which is a series of calls.

21 THE COURT: Okay. 334 will be admitted with the noted
22 objections by Mr. Mueller.

23 [State's Exhibit 334 admitted into evidence]

24 MR. MUELLER: Thank you, Your Honor.

25 BY MS. BEVERLY:

1 Q Now, to be clear. During the course of your investigation,
2 you became familiar with Mr. Gibbs' voice; is that correct?

3 A Correct.

4 Q And you became familiar with Michaela Parker's voice; is that
5 correct?

6 A Correct.

7 MR. PALAL: Your Honor, may I inquire? Is the sound on the
8 televisions on? Because when I was playing the Facebook, I didn't hear
9 it.

10 THE COURT: Because what? I'm sorry.

11 MR. PALAL: When I was playing the Facebook, I didn't really
12 hear the sounds from the TV. I just wanted to make sure it worked.

13 THE COURT: Brian, can you make sure it's on for him?

14 BRIAN: Yeah, it's on.

15 MS. BEVERLY: Okay. Thank you.

16 MR. PALAL: Cool. Thank you. Appreciate it.

17 MS. BEVERLY: At this point, Your Honor, I would ask
18 permission to publish a series of calls that were intercepted by Mr.
19 Gibbs.

20 THE COURT: State's 334 will be allowed to be published.

21 MS. BEVERLY: Thank you.

22 BY MS. BEVERLY:

23 Q We're going to start with -- okay. So call number 1 is going
24 to be from phone number 725-232-7606. Do you recognize that number,
25 Detective?

1 A Yes.

2 Q Whose number does that belong to?

3 A Michaela Parker.

4 [Whereupon, an audio recording, State Exhibit 334 was
5 played in open court from 11:18 a.m. to 11:19 a.m., not transcribed]

6 BY MS. BEVERLY:

7 Q Detective, do you recognize the two voices on this call so far?

8 A Yes.

9 Q Who are the two voices?

10 A Jamel Gibbs and Michaela Parker.

11 MS. BEVERLY: We'll continue playing. Okay. We're going to
12 fast forward a little bit 'til two minutes. Again, the jury will have these to
13 take back into the jury deliberation room.

14 [Whereupon, an audio recording, State Exhibit 334 was
15 played in open court from 11:19 a.m. to 11:20 a.m., not transcribed]

16 MS. BEVERLY: The next call is going to be phone number
17 two from the same 7606 number.

18 [Whereupon, an audio recording, State Exhibit 334 was
19 played in open court from 11:21 a.m. to 11:21 a.m., not transcribed]

20 MS. BEVERLY: The next call is going to be -- oh, I'm sorry.

21 BY MS. BEVERLY:

22 Q Just for the record, Detective, did you recognize the voices
23 on that call?

24 A Yes.

25 Q And who were those?

1 A Michaela Parker and Jamel Gibbs.

2 MS. BEVERLY: Next call is going to be number 3 from 6044.

3 [Whereupon, an audio recording, State Exhibit 334 was
4 played in open court from 11:22 a.m. to 11:27 a.m., not transcribed]

5 MS. BEVERLY: Okay. We're going to stop this call. Again,
6 the members of the jury will have the remainder of the call to listen to if
7 they choose to in the jury deliberation room. We're going to move on to
8 call number 4.

9 [Whereupon, an audio recording, State Exhibit 334 was
10 played in open court from 11:28 a.m. to 11:37 a.m., not transcribed]

11 MS. BEVERLY: And the last call is going to be call number 5.

12 [Whereupon, an audio recording, State Exhibit 334 was
13 played in open court from 11:37 a.m. to 11:42 a.m., not transcribed]

14 THE COURT: Can Mr. Palal and Mr. Mueller approach while
15 you're doing that?

16 [Sidebar at 11:42 a.m., ending at 11:43 a.m., not transcribed]

17 BY MS. BEVERLY:

18 Q Detective, showing you what has already been admitted as
19 State's 184. Is this how Jamel Gibbs appeared when he was arrested on
20 March the 24th, 2021?

21 A Yes.

22 MS. BEVERLY: No further questions.

23 THE COURT: Okay. Ladies and gentlemen, we do not want a
24 break of the examination of the witnesses, so that it flows for you guys
25 to hear as well as so Mr. Mueller doesn't have to stop mid-sentence and

1 go to lunch. So right now we're going to take our lunch recess.

2 During this recess, you must not discuss or communicate
3 with anyone, including fellow jurors in any way regarding this case or its
4 merits, either by voice, phone, email, text, internet or other means of
5 communication or social media. You must not read, watch or listen to
6 any news or media accounts or commentary about this case.

7 You must not do any research, such as consulting
8 dictionaries, using the internet or using reference materials. You must
9 not make any investigation, test a theory of the case, recreate any aspect
10 of the case or in any other way investigate or learn about the case on
11 your own. You must not form or express any opinions regarding this
12 case until it's finally submitted to you. Ladies and gentlemen, it's 11:50.
13 We will be in recess until 1:30.

14 THE MARSHAL: All rise for the jury.

15 [Jury out at 11:45 a.m.]

16 [Outside the presence of the jury]

17 THE COURT: Okay, Detective, you may step down. I'll just
18 remind you you're still under oath, so do not discuss your testimony
19 with anyone over the lunch hour.

20 THE WITNESS: Yes, sir.

21 THE COURT: Thank you, sir. Okay. May the record reflect
22 we are outside the presence of our jury. If everyone's comfortable, we
23 can remove our masks during the settling of jury instructions. All right.
24 Let's talk about the jury instructions.

25 MR. MUELLER: If I might be heard for just a moment, Your

1 Honor?

2 THE COURT: Yes.

3 MR. MUELLER: The phone call file that was just played
4 began with an admonishment that this phone call is being recorded and
5 it abruptly cuts to my investigator talking with Mr. Gibbs. That phone
6 call is inaccurately edited. The admonishment on that call was minutes
7 later on an earlier call where Mr. Gibbs talked to some third person
8 getting a phone call. Mr. Hardy was not admonished when he picked up
9 the phone to talk to Mr. Gibbs that that was a recorded jail phone call.
10 Mr. Gibbs and my investigator or investigator that -- on this case were
11 talking about an issue that I was concerned about, specifically the
12 placements of the car.

13 You may recall yesterday, I objected to the car and the body
14 being used as a representation of where the car was. It wasn't and is
15 not -- going to this trial, it was not clear to me where the Parker vehicle
16 was in relation to the Dodge Stratus. Now the jury has heard Mr. Gibbs
17 and my client or my investigator speaking about something that's
18 concerning me. That's attorney-client -- something I was concerned
19 about, as Mr. Gibbs' attorney in preparation for trial. I objected to that
20 phone call being -- this morning and now at this point, I'm going to move
21 for a mistrial. My personal -- my theories of the liability of the case have
22 been compromised.

23 My attorney-client privilege has been compromised. And
24 more importantly, that editing of that phone call is incorrect. Now, that's
25 not how that call went down. That's a 10 or 14 minute phone call and

1 was concatenated down to about three and a half or four minutes and
2 tightly edited. That's fine. We can move the proceedings along. But it
3 has created the false impression that Mr. Hardy knew that that was a jail
4 call and that it was being recorded, which in fact, he could not
5 reasonably have known.

6 Now, we talked earlier about having Mr. Hardy testify
7 regarding this, about whether he should have known that Gibbs was in
8 jail or not, but the reality is is my trial strategy or the things that I was
9 concerned about at trial are now compromised and I'm going to object
10 and move for a mistrial.

11 THE COURT: Okay. State, your response to that?

12 MR. PALAL: Yes, Your Honor. I'm just going to reiterate the
13 arguments that I made. I think we discussed this prior to this jail call
14 being admitted. It's just that, again, the privilege belongs to Mr. Gibbs.
15 Whether or not Mr. Hardy knew that they were recorded or not is
16 immaterial. I put the -- I edited the phone call down. I did leave in the
17 fact that it was being recorded, because I didn't want the jury to have the
18 misapprehension that we were secretly recording calls between
19 investigators and attorneys and defendants when in fact that's not the
20 case. So I left that part in, so the fact that Mr. Gibbs knows that it's being
21 recording, because that's really the person that has to know that the call
22 is being recorded.

23 Additionally, again, I'll stick by my earlier representation that
24 the full phone call will demonstrate that Mr. -- sorry -- the investigator
25 knows that the call is being recorded and he knows that he's in custody

1 and that he knows that he's in custody, given the fact that it's the
2 Tuesday before -- trial's a few days ahead of time, so there's no way the
3 investigator is not going to know that he's in custody, particularly when
4 he says I'm going to come visit you. Unless he's planning on going to
5 some residence I don't know, he's going to CCDC.

6 THE COURT: Mr. Mueller, any response to that?

7 MR. MUELLER: No, Your Honor. I've made my
8 representations.

9 THE COURT: Okay. And based on the previous ruling of the
10 Court, Mr. Gibbs waived the -- first of all, the privilege does not exist
11 between Mr. Gibbs and the investigator. The investigator has no
12 privilege. The privilege exists. It belongs to Mr. Gibbs, and it exists
13 between Mr. Gibbs and Mr. Mueller. Mr. Gibbs chose to violate the rules
14 of CCDC, thereby waiving the privilege, when he asked a third party to
15 make a call to the investigator or somehow got in touch with the
16 investigatory through a third party.

17 It is absolutely immaterial whether or not the investigator
18 know that he was in custody, which I find it very hard to believe that a
19 couple of days before trial, as they're discussing a trial strategy, the
20 investigator did not know the location of the Defendant, especially
21 considering the fact that Mr. Gibbs has been in custody since he was
22 apprehended on March 24th in this case, so all communication with him
23 has been through the CCDC.

24 So unless he had made bail and the investigator didn't know
25 anything about it, the investigator should have known that he was in

1 custody. So why they're having conversations on a three-way call, I
2 have no idea. But Mr. Gibbs waived that privilege when he chose to go
3 down that road. So based upon that, your motion for a mistrial is denied.

4 MR. PALAL: Do we want to discuss jury instructions?

5 THE COURT: We're discussing jury instructions right now.
6 All right. There's some self-defense jury instructions.

7 Mr. Gibbs, can you have a seat, sir? Thank you. There are
8 some self-defense jury instructions that the State submitted on behalf of
9 Mr. Mueller.

10 MR. MUELLER: At my request, yes, Judge.

11 THE COURT: Are you asking to admit them?

12 MR. MUELLER: Yes, I want them -- I would like the self-
13 defense jury instructions given.

14 THE COURT: Any objection to that, State?

15 MR. PALAL: No, Your Honor.

16 THE COURT: Okay. Any object -- Mr. Mueller, Ms. Beverly
17 submitted a series of them. Are those the one that you want?

18 MR. MUELLER: There was one that -- yes.

19 THE COURT: Okay.

20 MR. MUELLER: This is -- as far -- this -- and having done this
21 a few times, this looks like the entire Runyan catalogue --

22 THE COURT: It is.

23 MR. MUELLER: -- of instructions.

24 THE COURT: Okay. Where would you like those placed in
25 regards to jury instructions that we already have?

1 MR. MUELLER: We can put them right at the end of the
2 specials.

3 THE COURT: Okay. So right after -- right after the flight
4 instruction?

5 MR. MUELLER: Yes, Judge.

6 THE COURT: Okay. And there's eight of them. Is that what
7 you guys have?

8 MS. BEVERLY: Yes. All right. Okay. Mr. Mueller, do you
9 object to the giving of any of the State's other instructions?

10 MR. MUELLER: I would like to see a -- no, temporarily, I do
11 not. I'd like to reserve the right to -- for -- until the absolute end of
12 testimony, but no, at the moment, I don't see any problems with them.

13 THE COURT: Okay.

14 MR. MUELLER: But I'd like to see what exactly the
15 detective's going to say on a couple key points this afternoon.

16 THE COURT: A couple key points on cross?

17 MR. MUELLER: Yes, Judge.

18 THE COURT: Okay. Do you desire to have the Crawford
19 instruction in the packet?

20 MR. MUELLER: No, Your Honor.

21 THE COURT: Okay. No, you don't want it?

22 MR. MUELLER: That's the one where -- give me a second.

23 THE COURT: Okay.

24 MR. MUELLER: That's the one where it says he cannot be
25 compelled to testify; you may not infer and reasonably?

1 THE COURT: Yes.

2 MR. MUELLER: Yeah. No, I want that in.

3 THE COURT: You do want it in?

4 MR. MUELLER: Yes.

5 THE COURT: You do want it in?

6 MR. MUELLER: Yes.

7 THE COURT: Okay. Okay. So in light of what we have right
8 now, Mr. Mueller, with you reserving any other objections until the end
9 of testimony in this case, which is going to be after this officer. Is that
10 correct?

11 MR. MUELLER: Anticipate.

12 THE COURT: Okay. All right. All right. So let's go through
13 and number the ones that we do have right now. Okay. I have number 1
14 as it is now my duty as Judge.

15 Number 2 is if in these instructions.

16 Number 3 is an indictment is. I want to take out the statutory
17 provisions for the charge, because I'd never want this jury to go and start
18 researching the NRS as well as I still don't know what a NOC [phonetic]
19 code is, so I know this jury does not, so I don't see a reason to have that
20 in there. Do you guys object to removing the statute and the NOC code?

21 MR. PALAL: No objection, Your Honor.

22 MR. MUELLER: No, Your Honor.

23 THE COURT: Okay. And then I'm going to -- the -- it is the
24 duty of the jury to apply the rules of law, that should be at the end and
25 not right after the charge.

1 MS. BEVERLY: Do you want me to fix it or are you --

2 THE COURT: No. I'm doing it right now.

3 MS. BEVERLY: Oh, okay.

4 THE COURT: Okay. So that instruction should read, "In this
5 case, it is charged in indictment that on or about the third day of March,
6 2021, the Defendant, Jamel Gibbs, committed the offenses of murder
7 with use of a deadly weapon that he did," and then started with did.
8 Take out all that other stuff. They don't need to know the category of the
9 felony, because they are not to consider punishment. So it'll start with
10 that he did -- that the Defendant did willfully and unlawfully -- and then
11 go with the instructions on murder. And that after that, there'll be
12 another paragraph that says, "It is the duty of the jury to apply the rules
13 of law."

14 I have Instruction Number 4 as to constitute the crime
15 charged.

16 Number 5 is the evidence which you are to consider.

17 Number 6, the Defendant in -- I mean, in this case.

18 And Mr. Mueller, you want the voluntary instructions as
19 well?

20 MR. MUELLER: Yes.

21 THE COURT: Okay.

22 THE COURT: Number 7, murder is.

23 Number 8, malice of forethought.

24 Number 9 is expressed malice.

25 Number 10, the Prosecution is not required.

1	Number 11, murder of the first degree.
2	Number 12, willfulness.
3	13, deliberation.
4	14, a deliberate determination.
5	15 is premeditation is a design.
6	16 is premeditation need not be.
7	17, the law does not undertake.
8	18, the true test.
9	19, murder of the second degree.
10	20, voluntary manslaughter.
11	21, the heat of passion.
12	22, when it is possible.
13	23, the jury is instructed.
14	24, you are instructed.
15	25, a deadly weapon.
16	26, the State is not required.
17	27, the flight of a person.
18	28, the killing of another person.
19	29, the right of self-defense.
20	30, a bare fear of death.
21	31, actual danger.
22	32, the killing is justified.
23	33, if evidence of self-defense.
24	34, an honest but unreasonable belief.
25	35, if a person kills another.

1 36, Defendant is presumed innocent.
2 37, it is the constitutional right.
3 38, a witness who has special knowledge.
4 39, the credibility or believability.
5 40, although you are to consider.
6 41, in arriving at a verdict.
7 42 is during the course of trial and there's just a formatting
8 thing that I'm going to line that 4 up with the 3.
9 43, when you retire.
10 44, if during your deliberation.
11 And then 45 will be, now you will listen.
12 Mr. Mueller, have you seen the verdict form?
13 MR. MUELLER: No, I have not.
14 THE COURT: Okay. I'm going to need you to look it, so we
15 can settle these.
16 MR. MUELLER: Okay. Sorry. I just didn't see it. I was
17 listening to a lot of stuff this morning.
18 THE COURT: All right. Well, we don't have them printed, Mr.
19 Mueller. You're going to have to -- is the State familiar with the Court's
20 proposed jury instructions 1 through 45?
21 MR. PALAL: Yes, Your Honor.
22 THE COURT: Does the State object to the giving of any of
23 those instructions?
24 MR. PALAL: No, Your Honor.
25 THE COURT: Does the State have any additional instructions

1 you would like to propose?

2 MR. PALAL: No, Your Honor.

3 THE COURT: Mr. Mueller, is the Defendant familiar with the
4 Court's proposed jury instructions 1 through 45?

5 MR. MUELLER: I am familiar with them, yes, Judge.

6 THE COURT: Do you object to the giving of any of these
7 instructions?

8 MR. MUELLER: Not at the moment. I would like to reserve
9 final ruling until I've tracked down the testimony.

10 THE COURT: Okay. Do you have any additional instructions
11 you would like to propose?

12 MR. MUELLER: Not at the moment, but I'm still con -- not
13 quite sure what the detective is going to say on a couple key points.

14 THE COURT: Okay. Does the State or the Defendant object
15 to the proposed verdict forms?

16 MR. MUELLER: No, Your Honor.

17 MR. PALAL: No, Your Honor.

18 THE COURT: And I'm sorry. I said forms. It's only one form.
19 It's singular. All right. So we'll leave the jury instructions number 1
20 through 45 as they are right now. We will take a break after this
21 detective finishes with this testimony and then Mr. Mueller, if you have
22 any additional objections or any jury instructions, we'll do it at that time.
23 And then at that time, I will print what we have, because we'll be
24 probably on a short break. I'll probably just print enough copies for us,
25 for me and you guys, so that you can start your closing with the

1 understanding the jury will have theirs before they deliberate.

2 MR. MUELLER: Okay.

3 MS. BEVERLY: Sounds good.

4 THE COURT: Okay. Any other issues outside the presence?

5 MR. MUELLER: No, Your Honor. Time to be back?

6 THE COURT: 1:30?

7 MR. MUELLER: Okay. Thank you.

8 [Recess taken from 11:59 a.m. to 1:21 p.m.]

9 [Outside the presence of the jury]

10 THE COURT: All right. We're going to go back on the record
11 in C-355769, State of Nevada v. Jamel Gibbs. May the record reflect Mr.
12 Gibbs is present with his lawyer. Deputy District Attorney is on behalf of
13 the State. May the record reflect we are outside the presence of our jury.
14 So in regards to the evidence. Based upon everything that is -- and just
15 so we're clear. I show -- do you have this, Madam Clerk, 1 through 4 is
16 admitted.

17 THE CLERK: 1 through 4.

18 THE COURT: Do you have that?

19 THE CLERK: I do.

20 THE COURT: 5 is not admitted.

21 THE CLERK: Correct.

22 THE COURT: 6 is admitted.

23 THE CLERK: Correct.

24 THE COURT: Then I go to 18.

25 THE CLERK: Correct.

1 THE COURT: 18 through 20 is admitted.
2 THE CLERK: Correct.
3 THE COURT: 27 through 29.
4 THE CLERK: Correct.
5 THE COURT: 34 through 36.
6 THE CLERK: Correct.
7 THE COURT: 39 through 40.
8 THE CLERK: Correct.
9 THE COURT: 41 through 68.
10 THE CLERK: Correct.
11 THE COURT: 72 through 83?
12 THE CLERK: Correct.
13 THE COURT: 94?
14 THE CLERK: Yes.
15 THE COURT: Okay. 96 through 120?
16 THE CLERK: I have 94 through 105.
17 THE COURT: You have 94 through 105?
18 THE CLERK: 94 through 105 and then 106 --
19 THE COURT: Through 120?
20 THE CLERK: Through 120 --
21 THE COURT: 1?
22 THE CLERK: 121.
23 THE COURT: Okay. And then 121 through 133?
24 THE CLERK: Yes.
25 THE COURT: 148 and 149?

1 THE CLERK: Yes.

2 THE COURT: 151 through 161?

3 THE CLERK: Yes.

4 THE COURT: 164 through 1 -- 164 through what? What do
5 you have?

6 THE CLERK: I have through -- 164 -- I have all the way up to
7 289.

8 THE COURT: But isn't there 245 through 276 is not in?

9 THE CLERK: I haven't withdrawn those yet [indiscernible].

10 THE COURT: But they have not been admitted?

11 THE CLERK: Let me look. 245 --

12 THE COURT: Okay. 245 through 276 is going to be
13 withdrawn, so we'll say 177 through 244 has been admitted. And then
14 277 through 289. You have that?

15 THE CLERK: Correct.

16 THE COURT: 291 through 327?

17 THE CLERK: Correct.

18 THE COURT: 328 through 332?

19 THE CLERK: Correct.

20 THE COURT: 334 and 335?

21 THE CLERK: Correct.

22 THE COURT: Okay. So we have those as admitted. 245
23 through 276 will be withdrawn and Ms. Beverly, you confirmed that's
24 what you intended to admit?

25 MS. BEVERLY: Exactly.

1 THE COURT: Okay. So based on that, is the State prepared
2 to rest as soon as we bring in the jury?

3 MS. BEVERLY: Yes.

4 MR. PALAL: After cross-examination.

5 MS. BEVERLY: Well, after cross.

6 THE COURT: Oh, I'm sorry. I'm so sorry.

7 MS. BEVERLY: Yeah. Sorry.

8 THE COURT: I got ahead of myself.

9 MS. BEVERLY: Yes.

10 THE COURT: After Mr. Mueller's cross-examination.

11 MS. BEVERLY: Yes.

12 MR. PALAL: I mean, I want it to be over, too, Judge, but --

13 THE COURT: Sorry. All right. We're going to bring in the
14 jury. I apologize. I got ahead of myself. I can only do one thing at a
15 time. And Mr. Mueller, you said you were ready, correct?

16 MR. MUELLER: Yes, Judge.

17 THE COURT: Okay.

18 THE MARSHAL: All rise for the jury.

19 [Jury in at 1:35 p.m.]

20 THE MARSHAL: All present, Your Honor.

21 THE COURT: Okay. You may all be seated. We are back on
22 the record in C-355769, State of Nevada v. Jamel Gibbs. May the record
23 reflect Mr. Gibbs is present with his attorney. Deputy District Attorney is
24 on behalf of the State. Do parties stipulate to the presence of the jury?

25 MS. BEVERLY: Yes.

1 MR. MUELLER: Yes, Your Honor.

2 THE COURT: Okay. And Detective, I would just remind you
3 that you are still under oath.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Mr. Mueller, whenever you're ready for cross-
6 examination.

7 MR. MUELLER: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. MUELLER:

10 Q All right. I'll try to keep it punched up, Detective. I know it's
11 after lunch and it's the sleepy hour --

12 A Yes, sir.

13 Q -- so let's keep it going. All right. Detective, you've been on
14 North Las Vegas Police Department for a number of years, correct?

15 A Correct.

16 Q All right. And you're what, 15, 16-year detective, if I
17 remember right?

18 A Four -- I've been on the force 14 years.

19 Q 14 years. Okay. And you worked your way up to homicide
20 and violent crimes, correct?

21 A Correct.

22 Q Now sir -- and I know we all have preconceived ideas about
23 being a homicide detective, mostly based on TV, but I want to ask you
24 just a couple basic questions about your job in the real world. Okay?

25 A Sure.

1 Q Day in and day out. Your job is to understand and know
2 human nature, correct?

3 A Partially.

4 Q All right. And I know we all like to think of ourselves as
5 special creatures, but the reality is is people have patterns. And after a
6 while, you see the same the same kind of crimes over and over again,
7 the same motivations, correct?

8 A Sure.

9 Q Well, just -- I mean, how many homicide cases have you
10 worked on, Detective?

11 A I've been a part of -- involved in dozens.

12 Q Dozens. Okay. And as you get -- the number becomes more
13 and more, you get more experienced, you start to see things, you kind of
14 know what's going to happen before it happens, just like any other job
15 that you do for a number of years, correct?

16 A Can you be more specific?

17 Q Well --

18 A I don't necessarily know what's going to happen. Every
19 investigation takes its own course.

20 Q No. I understand, sir. I'm not minimizing, but the reality is is
21 you know, husbands and wives or ex-husbands, ex-wives, they can to be
22 violent with each other, correct?

23 A I've seen that happen.

24 MS. BEVERLY: Your Honor, I'm going to object, as it calls for
25 speculation.

1 MR. MUELLER: He's a detective with 14 years' experience.
2 I'm coming to a quick point, Judge, if I could just get a little leeway.

3 THE COURT: All right. I'll overrule the objection and give
4 you a little leeway.

5 MR. MUELLER: All right.

6 BY MR. MUELLER:

7 Q So ex-husbands, ex-wives, ex-boyfriends, ex-girlfriends, that
8 seems to be -- is that a hard spot in your enforcement of the law?

9 A A hard spot?

10 Q Yeah, I mean, does she -- boyfriends and girlfriends tend to
11 arouse passions to each other. That kind of leads to violence?

12 A I've been to many domestic violence calls.

13 Q Okay. So domestic disputes, people know each other very
14 well and they get under each other's skin very efficiently, correct?

15 A That can happen, yes.

16 Q All right. In this particular case, the one we're here on, you
17 were called out at about -- if I remember right, about 7, 8:00 at night on
18 March 3rd this year, correct?

19 A Correct.

20 Q Now, you didn't have a lot to start with, did you, when you
21 arrived?

22 A Depends on what, I guess, your interpretation of a lot is.

23 Q Well, you've got one person -- you've got one eyewitness
24 staying there, correct?

25 A Correct.

1 Q She reported that she'd been attacked by another woman?

2 A Correct.

3 Q Okay. And that there had been a brawl?

4 A Correct.

5 Q Okay. There was a car there and this woman. That was it
6 and unfortunately, the late Mr. Tiffith, correct?

7 A Yeah, according to what I saw at the scene --

8 Q Yes.

9 A -- yes, there was a car, Mr. Tiffith and Ms. Terrell.

10 Q All right. Now, was Michaela Parker at the scene?

11 A No.

12 Q All right. Now, did the name, Michaela Parker come up
13 pretty early in the course of your investigation?

14 A Yes.

15 Q Okay. And that came up as -- in the context of being the
16 woman who attacked Terrell?

17 A The woman who fought Terrell, yes.

18 Q Yes, fought Terrell. Okay. Now, you saw evidence of a fight.
19 There was personal effects strewn on the driveway, correct?

20 A Yes.

21 Q And you found bruises. Did you look for bruises on Terrell or
22 marks or scratches?

23 A I didn't see anything obvious.

24 Q Did she report --

25 A I don't recall like a full visual examination of her.

1 Q She reported that her -- actually, garment had -- her clothes
2 had been ripped in the fight?

3 A She had told me that one of her earrings had been ripped
4 out.

5 MS. BEVERLY: Judge, I'm going to object at this point. Can
6 we approach?

7 THE COURT: Yes.

8 [Sidebar at 1:39 p.m., ending at 1:40 p.m., not transcribed]

9 THE COURT: Objection is sustained.

10 MR. MUELLER: All right.

11 BY MR. MUELLER:

12 Q So you interviewed Terrell, correct?

13 A Yes.

14 Q And based on that, you had two potential suspects, Michaela
15 Parker and Mr. Gibbs, correct?

16 A Suspects, so --

17 Q For the shooting.

18 A Based on my interview with her, I had one suspect to the
19 shooting.

20 Q Right. Now, let me ask you a question, sir. Mr. Tiffith, you
21 did not actually go to the autopsy in this case. One of the CSIs did?

22 A Along with Detective Santos, who was at the scene as well.

23 Q Santos got the call on this one?

24 THE COURT: And I'm sorry, Mr. Mueller. Just one second.
25 Detective, I'm going to need you to scoot a little bit closer to that

1 microphone. It's just a little bit difficult --

2 THE WITNESS: Sure.

3 THE COURT: -- for me to hear you, so I don't know if the
4 ladies and gentlemen in the jury are struggling.

5 MR. MUELLER: All right.

6 BY MR. MUELLER:

7 Q So Detective Santos -- or -- went. Now, Mr. Tiffith was --
8 what his size, sir?

9 A He was over six foot tall, and I believe over 300 pounds.

10 Q 300 pounds. Without getting into too fine a point, would you
11 say 6 foot 4, 341 pounds, per the autopsy?

12 A Driver's license lists him at 6-2.

13 Q Okay.

14 A Per the autopsy, potentially 6-4.

15 Q 6-4. So there's not anybody on the planet going to consider
16 him a small man. He was a large guy?

17 A Most people would consider him a large guy, yes.

18 Q Okay. Anybody would --

19 A Well, I mean Shaquille O'Neal might consider him a smaller
20 person, but --

21 Q All right. You --

22 A -- and he's on the planet.

23 Q Touché, Detective, but I mean, most of us would consider
24 him a very large man?

25 A Yes.

1 Q All right. Now, you also got a description from Ms. Terrell
2 about Mr. Gibbs, correct?

3 A Correct.

4 Q And what size did you get was Mr. Gibbs' description?

5 A Around 5 foot 4 with a slender build.

6 Q I'm sorry?

7 A 5 foot 4 with, slender build.

8 Q 5 foot 4, slender build. All right. Mr. Tiffith probably
9 outweighs him by or outweighed him by about 220 pounds and about a
10 foot and a half in height, correct?

11 MS. BEVERLY: I'm going to object as it --

12 THE WITNESS: I'm not sure exactly about 220.

13 MS. BEVERLY: -- calls for -- I'm going to object --

14 THE COURT: Hold on just one second, Detective.

15 THE WITNESS: Yeah. No problem.

16 THE COURT: What's the objection, Ms. Beverly?

17 MS. BEVERLY: Calls for speculation.

18 THE COURT: Well, he can -- he gave an estimate as to Mr.
19 Gibbs' height, so I'll allow it. Objection overruled.

20 MR. MUELLER: All right.

21 BY MR. MUELLER:

22 Q Now, you issued an arrest warrant for Mr. Gibbs right away,
23 almost the next couple days. You spent the morning talking about it,
24 correct --

25 A Yes.

1 Q -- looking for him? But you didn't actually talk to Ms. Sorrell
2 [phonetic]] until actually the middle of April?

3 MS. BEVERLY: I'm going to object.

4 THE WITNESS: No.

5 MS. BEVERLY: I'm going to object as to misstates his
6 testimony.

7 MR. MUELLER: I've got the statement here. I'll ask him.

8 MS. BEVERLY: He did not say that he talked to Ms. Terrell in
9 the middle of --

10 THE COURT: Okay. Hold on. Hold on. Hold on. We're --

11 MR. MUELLER: I said --

12 THE COURT: -- going to do all these speaking objections.
13 You guys can approach.

14 MR. MUELLER: Sure.

15 THE COURT: Bring the statement, Mr. Mueller.

16 [Sidebar at 1:43 p.m., ending at 1:43 p.m., not transcribed]

17 THE COURT: That objection will be overruled. Go ahead,
18 Mr. Mueller.

19 MR. MUELLER: All right.

20 BY MR. MUELLER:

21 Q You didn't speak to Nasharia Searles until the middle of
22 April?

23 A Correct.

24 Q That's literally -- a witness came forward on this case, you
25 testified, a month and a half after you'd already petitioned for and got an

1 arrest warrant for Mr. Gibbs.

2 A Correct.

3 Q Now, am I correct in my understanding that there is, in fact,
4 only two witnesses to the shooting? Ms. Terrell and Ms. Searles?

5 A No. I interviewed three --

6 Q Okay.

7 A -- potential witnesses.

8 Q All right. That would be --

9 A Michaela Parker.

10 Q -- Michaela. Okay. Now, let's go through what we have -- or
11 had to work with and what we don't have. This is a commercial
12 apartment complex, correct?

13 A It's a residential apartment complex, yes.

14 Q Did you look around? Are there any big cameras showing
15 the area in and around the keyboard punch pad?

16 A Not that I saw.

17 Q Not that you saw. Did you check with management to see if
18 they had maybe a camera or security system that caught the incident on
19 tape?

20 A I asked them. They said they did not.

21 Q So you're not able to located any of them. Were there any
22 surrounding businesses that might have had a camera that had a slightly
23 side angle and had the incident off to the side, perhaps captured on
24 video?

25 A The surrounding area is residential, so no, there was not.

1 Q No. You weren't able to find any. When you and your fellow
2 detectives walked through the area, were you able to recover a firearm?

3 A No.

4 Q Was a firearm found?

5 A No.

6 Q All right. Were any fingerprints taken at the crime scene?

7 A I don't recall if Ms. Terrell's vehicle was processed for
8 fingerprints, but to my recollection, no, there were not.

9 Q All right. Now, you interviewed Ms. Searles on April 15th at
10 about 4:15 --

11 THE COURT: Mr. Mueller, are we talking --

12 BY MR. MUELLER:

13 Q -- correct?

14 THE COURT: -- are you talking Ms. Searles -- Mr. Mueller --

15 MR. MUELLER: Searles.

16 THE COURT: Mr. Mueller, Searles or Ms. Terrell?

17 MR. MUELLER: Ms. Searles.

18 THE COURT: Okay.

19 THE WITNESS: Searles.

20 MR. MUELLER: I apologize.

21 THE WITNESS: Yeah.

22 THE COURT: Okay.

23 MR. MUELLER: I will endeavor to be more distinct.

24 THE WITNESS: Ms. Searles, yes.

25 BY MR. MUELLER:

1 Q Now, she that there were two men fighting.
2 MS. BEVERLY: Your Honor --
3 THE WITNESS: Correct.
4 MS. BEVERLY: -- I'm going to object as to hearsay.
5 THE COURT: She's testified, and we've actually already
6 heard her testimony --
7 MS. BEVERLY: And Judge --
8 THE COURT: Can you approach with the statement?
9 MS. BEVERLY: -- may we approach?
10 [Sidebar at 1:45 p.m., ending at 1:47 p.m., not transcribed]
11 THE COURT: That objection is overruled. Go ahead, Mr.
12 Mueller.
13 MR. MUELLER: All right. Thank you.
14 BY MR. MUELLER:
15 Q So I'm going to come back, and I want to slow down and
16 enunciate a little bit better, so everyone understand what I'm saying.
17 A Sure.
18 Q Ms. Searles --
19 A Yes.
20 Q -- teenage girl was in the car approaching this scene reported
21 to you that there was two men fighting, correct?
22 A She said there were two men arguing.
23 Q Arguing. And she reported to you that one was chasing
24 another, correct?
25 A At some point. She --

1 Q At some --

2 A -- said one was following the other.

3 Q Following the other?

4 A Correct.

5 Q Now, that -- or -- and that the smaller one pulled out a
6 firearm at close -- or -- and shot the larger one at -- from a firearm that
7 pulled -- was pulled from the car, correct?

8 A Correct.

9 Q All right. Now, Ms. Terrell did not report seeing the
10 shooting, correct?

11 A Correct.

12 Q All right. Now, Ms. Searles was not able to identify, other
13 than in general build who the parties were, correct?

14 A Build, hair description and race.

15 Q Yes, sir. But she was --

16 A Correct.

17 Q All right. And -- but was not actually able to identify
18 anybody?

19 A She indicated she wouldn't be able to pick the person out of
20 a photo lineup, so she wasn't shown one.

21 Q Okay. Now, this report for Ms. Searles --

22 THE COURT: Okay. That's not a report, Mr. Mueller. That's
23 a statement.

24 BY MR. MUELLER:

25 Q Or this statement from Ms. Searles was a month and a half

1 after the arrest warrant was already issued?

2 A Correct.

3 Q All right. Now, there was two cars at the scene, correct?

4 A One when I got there. According to Ms. Searles, two cars.

5 Q Two cars. One car belonged to Ms. Terrell and the other car
6 belonged to who?

7 A Michaela Parker.

8 Q And the woman who lived at the apartment complex was
9 who?

10 A Michaela Parker.

11 Q And Mr. Tiffith was the ex-boyfriend of who?

12 A Michaela Parker.

13 Q Ms. Terrell reported that Ms. Parker had something in her
14 hands. She believed them to be rocks. Do you remember that?

15 A Yes.

16 Q Okay. Now, a firearm was eventually found in Ms. Parker's
17 apartment, correct? Residence. Or I should say a firearm box.

18 A Correct.

19 Q And a firearm receipt was found in the name -- for purchase
20 of a firearm was found in whose name?

21 A Michaela Parker.

22 Q And for the record, this is from --

23 MR. MUELLER: Counsel, this is 161?

24 MS. BEVERLY: Yes. Thank you. Yes. Thank you.

25 THE COURT: Which exhibit is that, Mr. Mueller?

1 MR. MUELLER: 161.

2 THE COURT: Okay.

3 MR. MUELLER: Showing the witness.

4 BY MR. MUELLER:

5 Q This was taken, and the firearm was purchased from whom?
6 Or it was purchased by Ms. Parker?

7 A I'm sorry. Which --

8 Q For purchase --

9 A -- which part of the question?

10 Q The firearm was purchased by whom?

11 A Michaela Parker.

12 Q All right. Now, sir, if you want to know if someone -- or
13 scientifically, if you wanted to know if someone has recently fired a
14 firearm, there are chemical tests to do so, correct?

15 A Correct. Gun --

16 Q All right.

17 A Gunshot residue tests, yes.

18 Q I'm sorry?

19 A It's called a gunshot residue test.

20 Q Gunshot residue test?

21 A Yes.

22 Q Okay. Now, when you had Ms. Parker at the station the very
23 next day, did it occur to you that maybe doing a gunshot residue test on
24 Ms. Parker would have been a good idea?

25 A No.

1 Q All right. Now, she was at the scene, correct?

2 A Correct.

3 Q She is the purchaser of a firearm, correct?

4 A Correct.

5 Q It was her ex-boyfriend who's now dead, correct?

6 A Correct.

7 Q She was the one who started a fight, correct?

8 A That may or not be correct, depending on which --

9 Q She was the one that --

10 A -- girl you ask.

11 Q Okay. Without digressing on who shot Johnny -- or who
12 shoved Johnny. Pardon the pun. She's one of the two participants in
13 the fight, correct? So we know her passion's up. We know she owns a
14 gun. She knows that it's her ex-boyfriend and she's down at your
15 station. You didn't think it was a good idea to get a paraffin test on her?

16 A No.

17 Q Now, was a firearm ever recovered?

18 A Not to my knowledge.

19 Q So we have no ballistics test to match the bullet that was
20 taken from Mr. -- unfortunately Mr. Tiffith's ring didn't match against
21 any firearm?

22 A Correct.

23 Q Now, a gun case was found in her apartment in proximity to
24 this receipt, 161, correct? You guys found a gun case, gun container?

25 A Yes.

1 Q All right. Now, did you guys fingerprint that gun case to see
2 to see who'd been touching it?

3 A No.

4 Q Did you swipe a DNA swipe on that gun case?

5 A No.

6 Q There was a casing found at the apartment; was there not?

7 A There were cartridges --

8 Q I'm sorry. Clip. I'm one step ahead of myself. I apologize. A
9 clip with some 9 millimeter rounds was found at the apartment, correct?

10 A Yes.

11 Q All right. Now, is my understanding correct that it is now
12 possible to swipe something metal like that to see if there's DNA on it?

13 A That's a possibility, yes.

14 Q All right. Did you, in fact, swipe that case to see if Ms. Parker
15 or Mr. Gibbs' DNA was on the casing?

16 A I don't think so.

17 Q Was not done?

18 A Are we talking about the magazine or the casing?

19 Q The magazine.

20 A No.

21 Q All right. You have the capacity to do that. It's something
22 that gets done at the North Las Vegas Police Department, correct?

23 A Correct.

24 Q All right. Now, if a fistfight or a -- Mr. Tiffith being a
25 significant magnitude larger than Mr. Gibbs, there's no doubt or very

1 little doubt a fistfight, or a fight would -- between the two of them would
2 go; is it?

3 MS. BEVERLY: Your Honor. I'm going to object. This is
4 speculation.

5 THE WITNESS: I don't know their abilities.

6 THE COURT: Hold on, Detective.

7 MR. MUELLER: All right. Well, let me rephrase.

8 THE COURT: Okay.

9 BY MR. MUELLER:

10 Q Detective, you ever watched a pro fight, a professional
11 boxing match?

12 A Yes.

13 Q Okay. Size gives a combatant a lot of advantage; doesn't it?

14 MS. BEVERLY: Your Honor, I'm going to object as to
15 relevance.

16 MR. MUELLER: It's a human experience, Judge. A very large
17 man has a big advantage over a very small man.

18 MS. BEVERLY: It sounds like Mr. --

19 MR. MUELLER: It's a minor point.

20 THE COURT: Okay. I'll allow it. Go ahead.

21 THE WITNESS: That's not necessarily true, depending on
22 their ability to fight and their experience.

23 BY MR. MUELLER:

24 Q All right. Assuming that no one has had any particularly
25 extensive Shelving [phonetic] or MMA fighting. Two guys just bump

1 into each other and get in a brawl, the bigger guy's generally almost got
2 an advantage, correct?

3 A Sure.

4 Q All right. Now, after you had met and talked with Nafira [sic]
5 Searles --

6 A Nasharia?

7 Q Nasharia. Sorry. Searles. You were presented with a
8 potential of having this shooting been a self-defense.

9 MS. BEVERLY: I'm going to object as to calls for a legal
10 conclusion that he --

11 MR. MUELLER: Well, let -- I'm sorry. Sorry. Go ahead.

12 MS. BEVERLY: I'm going to as to calls for a legal conclusion
13 that is not in his purview. That is in the purview of the jury and the
14 jury -- the law that will be read to them shortly.

15 MR. MUELLER: I will rephrase.

16 THE COURT: Okay.

17 BY MR. MUELLER:

18 Q Did you potentially think about that maybe the shooting was
19 done in self-defense?

20 A Not initially on the informa -- based on the information I had
21 received, no.

22 Q Not initially? After you spoke with Nasharia Searles, did the
23 thought occur to you that maybe it had been self-defense?

24 A The thought occurred to me that that could be used as a
25 defense --

1 Q Okay.

2 A -- at trial.

3 Q Now, in your experience, Detective, how someone is shot
4 and how many times they are shot frequently can give you a lead as to
5 what happened, correct?

6 A Correct.

7 Q If someone goes in there and empties an entire clip into
8 somebody who doesn't have -- it kind of comes across like a crime of
9 compassion, correct?

10 A That would indicate --

11 Q Somebody who's mad.

12 A -- a personal connection.

13 Q Yeah. Somebody comes -- bang, bang, bang, bang, bang
14 bang, bang, they're mad, okay? One single shot tends to infer self-
15 defense, doesn't it?

16 MS. BEVERLY: Your Honor, I'm going to again --

17 THE WITNESS: No.

18 MR. MUELLER: Okay.

19 MS. BEVERLY: -- I'm going to again object. Simi --

20 THE COURT: This objection will be sustained, Mr. Mueller.

21 MR. MUELLER: Right.

22 THE COURT: The Court is going to instruct the jury to strike
23 that question.

24 MR. MUELLER: Sure.

25 THE COURT: Disregard it.

1 BY MR. MUELLER:

2 Q Shots -- okay. So how people are shot and in what pattern
3 can suggest a course or motive of a crime, correct?

4 A I'm not sure. I mean, you have to be more specific.

5 Q Well --

6 A What do you mean by pattern?

7 Q Well, a moment ago when someone empties a clip into
8 somebody, if they're mad, that suggests a personal connection. That's
9 something you picked up over your experience, correct?

10 A Correct.

11 Q Okay. Now, there are frequently other patterns that we know
12 from gunshots. All right. Well, let me rephrase. What's defensive
13 wound?

14 A A defensive wound?

15 Q Yes, sir.

16 A It's a wound that somebody incurs in defense of themselves
17 [sic].

18 Q Right. So if you look at a body, and you see generally any
19 arms [sic] on the forearm or any bruises on the forearm, are generally
20 considered defensive wounds?

21 A They can be, yes.

22 Q Okay. Somebody's trying to strike off a blow or wave
23 something away, correct?

24 A Could be, yes.

25 Q All right. Now, there are a number of such things that a

1 detective can use to kind of peace together what happened, correct?

2 A Correct.

3 Q All right. Now, you had reached very early on the conclusion
4 that Mr. Gibbs was involved in a shooting, but a month and a half later,
5 you were presented with additional evidence that you, by your own
6 admission, didn't know existed, correct?

7 A Correct.

8 Q But a month and a half later, you were presented with
9 additional evidence that you by your own admission didn't know existed,
10 correct?

11 A Correct.

12 Q All right. Did you get present -- after you were presented
13 with this statement from -- I want to keep this name straight -- Nashera
14 [sic] Searles, did you do anything or change your investigation or its
15 conclusions?

16 A No.

17 Q Now detective, people have lied to you, have they not?

18 A Yes.

19 Q Okay. And I don't want to be a smart aleck here. People
20 probably lie to you on a fairly regular basis, don't they?

21 A That's fair.

22 Q Okay. Your job is to determine who's lying and why, correct?

23 A Correct.

24 Q All right. Who came to the station the very next day?

25 A Michaela Parker.

1 Q All right. And at that point, did the thought occur to you that
2 perhaps she was being less than 100 percent candid with you?

3 A At times, yes.

4 Q Now, Nesheri [sic] Searles came to your office, or you
5 eventually interviewed her. Did you get pictures of her?

6 A Of Ms. Searles?

7 Q Yes.

8 A Not that I recall.

9 Q All right.

10 MR. MUELLER: Counsel, these are from your 167, that
11 sequence. These are the photographs, the 176 Michaela photos.

12 MS. BEVERLY: Yes.

13 MR. MUELLER: May I approach?

14 THE COURT: Yes.

15 BY MR. MUELLER:

16 Q So, you didn't get any anything from Naferi -- Nashiri [sic]
17 Searles, but you went out of your way to take pictures of Michaela
18 Carter.

19 THE COURT: And for the record, which exhibits did you just
20 give him, Mr. Mueller?

21 MR. MUELLER: It was 167 to 176. It's been marked and
22 admitted. I've them to counsel.

23 THE COURT: Okay.

24 MR. MUELLER: There are two sets.

25 BY MR. MUELLER:

1 Q Sir, you went ahead and got a picture of her, however?

2 A Yes.

3 Q Now, you got a picture of her. Was she a suspect at that
4 time?

5 A No.

6 Q All right. Now, by her own admission, she had been a brawl,
7 and somebody had ended up dead?

8 A Correct.

9 Q Okay. Now, the thought never -- well, you said she was --
10 thought that she was being less than candid, it had occurred to you?

11 A At various points, yes.

12 Q Okay. Did you ever make or reach a conclusion as to who
13 started the brawl?

14 A No.

15 Q All right. Did you figure out why or what -- by what
16 mechanism it was necessary for Mr. Tiffith to get out of the automobile
17 to get involved in this brawl?

18 A He was out of the automo -- he was one of the first people
19 out of the car. By the accounts that I received, he and Ms. Parker both
20 exited to meet and exchange a phone.

21 Q Okay. Now, the -- [indiscernible] just real quick.

22 MR. MUELLER: Counsel, I've pulled these out of sequence.
23 I'll try to get them back in order.

24 MS. BEVERLY: That --

25 MR. MUELLER: These are 41 and 43.

1 MS. BEVERLY: That's fine.

2 MR. MUELLER: Okay.

3 BY MR. MUELLER:

4 Q Sure, I'm showing you --

5 MS. BEVERLY: You got to hit the blue button.

6 MR. MUELLER: Okay.

7 BY MR. MUELLER:

8 Q Showing you what's been marked and admitted by the State
9 as Exhibit 41. Is this the car -- get it back on auto focus again. Sorry.
10 There we go. This is the automobile that was photographed by the
11 North Las Vegas CSI Department, correct?

12 A Correct.

13 Q And unless I missed my guess -- I don't want to put words in
14 your mouth here. You guys wouldn't have moved this before getting the
15 photograph?

16 A No, but --

17 Q This --

18 A -- it was indicated to me that it had been moved since the
19 time of the shooting.

20 Q Okay. So it had been moved -- what had been reported? A
21 couple feet? Where was it --

22 A Ms. Terrell said it was initially close to the front gate. After
23 Mr. Tiffith was lying on the ground, she backed it up close to his body.

24 Q Okay. Let's get a better picture then. See if maybe this is a
25 little more accurate. Showing you 43 for identifica -- or it's been

1 identified, admitted as 43, correct?

2 A Correct.

3 Q Now, you would agree that had a fight not been desired, it
4 would have been very easy to back that car up and just drive away.
5 There was nothing blocking it, correct?

6 A Ms. Terrell indicated to me that Michaela Parker's vehicle
7 was parked behind her.

8 Q Behind her.

9 A I don't know if it was out of the way enough for her to back
10 up or not. I couldn't tell you.

11 Q Well, I thought the vehicle was on the other side.

12 A No.

13 Q The Parker was on the other side.

14 A They were facing the same direction with Ms. Parker's
15 vehicle behind Ms. Terrell's vehicle.

16 Q All right. Well then was there any -- when you were there,
17 did you see any mechanism by which they just couldn't have gone and
18 made a U-turn and driven off?

19 A Like I said, I don't know exactly how far over Ms. Parker's
20 vehicle was, but based on where Ms. Terrell said her vehicle was parked
21 prior to her moving it, she wouldn't have been able to get through the
22 drive connecting the exiting and entrancing -- and entrance roads.

23 Q Right. Now, do you recall when you spoke with Ms. Searles
24 how close she said that the Parker vehicle was to the stand?

25 A I don't remember the distance. She did draw a diagram for

1 me.

2 Q Okay. And would it refresh your recollection to review your
3 interview with Ms. Searles?

4 MS. BEVERLY: Yeah. I'm going to object, Judge.

5 THE COURT: Based on?

6 MS. BEVERLY: Can we approach? It's hearsay.

7 THE COURT: Yeah.

8 [Sidebar at 2:04 p.m., ending at 2:04 p.m., not transcribed]

9 BY MR. MUELLER:

10 Q All right. It might be easier to show you the diagram Ms.
11 Searles drew. Pat, do you have the Searles diagram? What is it -- it's
12 like 40 something, 41, 42.

13 [Court to Clerk]

14 MR. MUELLER: Hats off to you. Very organized.

15 THE COURT: What number is that, Mr. Mueller?

16 MR. MUELLER: Drawing the Court's and the jury's attention
17 to 118.

18 THE COURT: Okay.

19 MR. MUELLER: All right.

20 BY MR. MUELLER:

21 Q Now, Ms. Searles provided you with a diagram where she
22 put the relative location of the cars on a Google map. Do you see that,
23 sir?

24 A Yes.

25 Q Okay. Now, did you collect this from her when it was -- I

1 mean, she was with you when she drove -- drew this, correct?

2 A Yes.

3 Q And is diagram, 118 that's been admitted, does this fairly and
4 accurately represent the recollections of Ms. Searles --

5 A Yes.

6 Q -- that she gave you on the 15th of April --

7 A Yes.

8 Q -- this year? All right. She has car B, the suspect car, she --
9 so named, very close or relatively close to the punch pad, correct?

10 A Correct.

11 Q And did -- do you recall her saying that when the door was
12 open, you couldn't walk between the punch pad and the car? I mean, the
13 car door blocked the path?

14 A I don't recall --

15 Q Okay.

16 A -- her saying that.

17 Q But she said that's where the shooting occurred?

18 A Correct. In that general area.

19 Q All right. And since Mr. Tiffith was the one who was shot, we
20 can assume he was the bigger guy in the discussion of who she saw?

21 A Correct.

22 Q Okay. Now, then for -- by reasoning, if B was where Ms.
23 Searles saw the Parker car, then we can conclude Terrell's car, C, could
24 easily have backed up and left the scene without interference?

25 A Potentially. The drawing's --

1 Q Assuming traffic would let it. I mean --

2 A -- obviously not to scale, so it's possible, yes.

3 Q Not to scale, but it shows that the cars were -- could have
4 gotten -- there could have been -- there was plenty of room to leave, if
5 somebody didn't want to fight?

6 A There may have been.

7 Q Okay. All right. Thank you.

8 MR. MUELLER: And I will return this into the file marked
9 Searles diagram.

10 THE COURT: Okay.

11 MR. MUELLER: If I can get the Court's indulgence for just a
12 moment?

13 THE COURT: Sure.

14 BY MR. MUELLER:

15 Q As part of an investigation, one of the things you do when
16 you've got a case like this is to look people up, correct? Figure out what
17 their background is?

18 A Correct.

19 Q All right. And based on your training and experience --

20 MS. BEVERLY: Can we approach, please?

21 THE COURT: Yes.

22 [Sidebar at 2:08 p.m., ending at 2:09 p.m., not transcribed]

23 THE COURT: That objection is sustained. That question will
24 be stricken. The ladies and gentlemen of the jury are directed to
25 disregard it.

1 MR. MUELLER: And if I can have just one moment, Judge.

2 THE COURT: Okay.

3 [Pause]

4 MR. MUELLER: Thank you, Your Honor. Upon reflection, I
5 don't believe I have any further questions. Thank you for your patience,
6 Detective.

7 THE COURT: Okay. State, any redirect?

8 MS. BEVERLY: Just one.

9 REDIRECT EXAMINATION

10 BY MS. BEVERLY:

11 Q Detective, during the course of your investigation of this
12 case, did you ever have any evidence that Michaela Parker shot
13 Jaylon Tiffith?

14 A No.

15 Q If you did, would you have arrested Michaela Parker as well?

16 A Yes.

17 MS. BEVERLY: Nothing further.

18 THE COURT: Any follow-up based on that, Mr. Mueller?

19 RECROSS-EXAMINATION

20 BY MR. MUELLER:

21 Q You didn't do a paraffin test on anybody in this case, gunshot
22 residue case?

23 A No.

24 MR. MUELLER: All right. Nothing further.

25 THE COURT: Any follow up, State?

1 MS. BEVERLY: No, Your Honor.

2 THE COURT: Do the ladies and gentlemen of the jury have
3 any questions for this witness? You can write your question on a full
4 sheet of paper with your name and your juror number, and the marshal
5 will come over and collect them. Counsel can approach.

6 [Sidebar at 2:11 p.m., ending at 2:11 p.m., not transcribed]

7 THE COURT: Okay. Detective. --

8 THE WITNESS: Yes, ma'am.

9 THE COURT: -- was Michaela Parker's cell phone also
10 tracked?

11 THE WITNESS: Yes.

12 THE COURT: Was it also turned off on March 4th or March
13 8th?

14 THE WITNESS: It was turned off within hours of the
15 shooting.

16 THE COURT: Okay. State, do you have any follow-up based
17 on the juror question?

18 MS. BEVERLY: I do not.

19 THE COURT: Mr. Mueller?

20 FURTHER RECROSS-EXAMINATION

21 BY MR. MUELLER:

22 Q It was also turned off, Detective?

23 A Yes.

24 MR. MUELLER: All right. I have no -- that doesn't bring any
25 questions to mind.

1 THE COURT: Okay. Any other questions from the ladies and
2 gentlemen of the jury? Okay. Can counsel approach?

3 [Sidebar at 2:12 p.m., ending at 2:12 p.m., not transcribed]

4 THE COURT: Detective --

5 THE WITNESS: Yes.

6 THE COURT: -- did shell casings from the victim match the
7 shell casings in the magazine found in the apartment?

8 THE WITNESS: Shell casings from the victim?

9 THE COURT: Yes.

10 THE WITNESS: I don't know that I understand that.

11 THE COURT: Okay.

12 THE WITNESS: Like a shell -- the shell casing from the
13 scene? I don't -- I don't really know what that means.

14 THE COURT: I assume that's what it means. Do the shell
15 casings from the scene match the shell casings from the --

16 THE WITNESS: The headstamp and color matched.

17 THE COURT: Okay.

18 THE WITNESS: And caliber.

19 THE COURT: State, any follow-up questions based on the
20 juror question?

21 MS. BEVERLY: No, Your Honor.

22 THE COURT: Mr. Mueller?

23 MR. MUELLER: No, Your Honor.

24 THE COURT: Any other questions from the ladies and
25 gentlemen of the jury? Seeing no response, sir, you are excused.

1 Thank you very much --

2 THE WITNESS: Thank you.

3 THE COURT: -- for your testimony here today, Detective.

4 State, do you have any further witnesses?

5 MS. BEVERLY: No, Your Honor. Based on the exhibits that
6 have been admitted, at this point the State's going to rest.

7 STATE RESTS

8 THE COURT: Okay. Mr. Mueller, do you have any witnesses
9 or evidence which you wish to present?

10 MR. MUELLER: Your Honor, upon reflection, I do not believe
11 this case requires a defense. We will rest.

12 DEFENDANT RESTS

13 THE COURT: Okay. Okay. Ladies and gentlemen of the jury,
14 we are going to take a brief recess before we go into the closing
15 arguments and the jury instructions of this case.

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

23 You must not make any investigation, test the theory of the
24 case, recreate any aspect of this case, or in any other way investigate or
25 learn about this case on your own, and you must not form or express

1 any opinion regarding this case until it's finally submitted to you.

2 Ladies and gentlemen, it's 2:20. We'll be in recess until 2:35.

3 THE MARSHAL: All rise for the jury.

4 [Jury out at 2:14 p.m.]

5 [Outside the presence of the jury]

6 THE COURT: Okay. May the record reflect we are outside
7 the presence of our jury.

8 Mr. Mueller, in light of the testimony from the cross-
9 examination of the Detective, do you have any additions to the jury
10 instructions?

11 MR. MUELLER: No, Your Honor. I had thought that some of
12 that questioning might go a little differently than it did, and seeing what
13 has now been produced for the jury, I do not have any additional jury
14 instructions.

15 THE COURT: Do you have any further objection -- any
16 objection to the jury instructions one through 45?

17 MR. MUELLER: No, Your Honor.

18 THE COURT: State, do you have any objections to one
19 through 45?

20 MR. PALAL: No, Your Honor.

21 THE COURT: Any additional instructions to provide?

22 MR. PALAL: No, Your Honor.

23 THE COURT: Mr. Mueller, any additional instructions to
24 provide?

25 MR. MUELLER: No.

1 THE COURT: Any objection to the verdict form, State?

2 MR. PALAL: No, Your Honor.

3 THE COURT: Any objection to the verdict form, Mr. Mueller?

4 MR. MUELLER: No, I do not.

5 THE COURT: All right. What I'm going to do, while we're in
6 the recess, I'll print as many of these as I can. I will print packets for you
7 guys and get them right back to you guys ASAP, and so that you guys
8 will have them for your closing -- closings.

9 If we don't get all 14 copies printed for the jurors, I'll just let
10 them know -- I'll read them to them and let them know they'll have their
11 copies when they deliberate. Okay.

12 [Recess taken from 2:16 p.m. to 2:27 p.m.]

13 THE MARSHAL: All rise for the jury.

14 [Jury in at 2:31 p.m.]

15 THE MARSHAL: All present, Your Honor.

16 THE COURT: Okay. You may all be seated. We are back on
17 the record in C-355769 State of Nevada v. Jamel Gibbs. May the record
18 reflect that Mr. Gibbs is presented with his attorney. Deputy district
19 attorneys on behalf of the State. Do both parties stipulate to the
20 presence of our jury?

21 MR. PALAL: Yes, Your Honor.

22 MR. MUELLER: Yes, Your Honor.

23 THE COURT: Ladies and gentlemen, we have now reached
24 the portion of trial where I will read you the instructions on the law that
25 apply to this case. I'm going to read you from a very thick packet, and

1 we are in the process of copying yours right now, but we didn't want to
2 keep you guys waiting and there's 13 of you and we have to copy one for
3 every one of you. So don't worry about writing down verbatim what I'm
4 saying, you will have a verbatim copy of what I'm reading to you in the
5 back when you deliberate this case.

6 Instructions to the jury.

7 Instruction number 1. Members of the jury, it is now my duty
8 as judge to instruct you in the law that applies to this case. It is your
9 duty as jurors to follow these instructions and to apply the rules of law to
10 the facts as you find them from the evidence. You must not be
11 concerned with the wisdom of any rule of law stated in these
12 instructions. Regardless of any opinion you may have as to what the law
13 ought to be, it would be a violation of your oath to base your verdict
14 upon any other view of the law than that given in the instructions of the
15 court.

16 Instruction number 2. If in these instructions any rule,
17 direction or idea is repeated or stated in different ways, no emphasis
18 thereon is intended by me, and none may be inferred by you. For that
19 reason you are not to single out any certain sentence or any individual
20 point or instruction and ignore the others. But you are to consider all the
21 instructions as a whole and regard each in light of all the others. The
22 order in which the instructions are given has no significance as to their
23 relative importance.

24 Instruction number 3. An indictment is but a form of method
25 of accusing a person of a crime and is not of itself any evidence of his

1 guilt. In this case it is charged in an indictment that on or about the 3rd
2 day of March, 2021 the Defendant, Jamel Gibbs committed the offenses
3 of murder with use of a deadly weapon. That the Defendant did willfully
4 and lawfully, feloniously and with malice aforethought kill Jaylon Tiffith,
5 a human being with the use of a deadly weapon to wit a firearm by
6 shooting into the body of the said Jaylon Tiffith. The said killing having
7 been willful, deliberate and premediated. It is the duty of the jury to
8 apply the rules of law contained in these instructions to the facts of the
9 case and determine whether or not the Defendant is guilty of the offense
10 charged.

11 Instruction number 4. To constitute the crime charged there
12 exist a union or joint operation of an act forbidden by law and an intent
13 to do the act. The intent with which an act is done is shown by the facts
14 and circumstances surrounding the case. Do not confuse intent with
15 motive. Motive is what prompts a person to act. Intent refers only to the
16 state of mind with which an act is done. Motive is not an element of the
17 crime charged and the State is not required to prove a motive on the part
18 of the Defendant in order to convict. However you may consider
19 evidence of motive or lack of motive as a circumstance in the case.

20 Instruction number 5. The evidence which you are to
21 consider in this case consists of the testimony of the witnesses, the
22 exhibits and any facts admitted or agreed to by counsel. There are two
23 types of evidence direct and circumstantial. Direct evidence is the
24 testimony of a person who claims to have personal knowledge of the
25 commission of the crime which has been charged, such as an

1 eyewitness. Circumstantial evidence is the proof of a chain of facts and
2 circumstances which tend to show whether the defendant is guilty or not
3 guilty. The law makes no distinction between the weight to be given
4 either direct or circumstantial evidence. Therefore all the evidence in the
5 case including the circumstantial evidence should be considered by you
6 in arriving at your verdict.

7 Statements, arguments and opinion of counsel are not
8 evidence in the case. However if the attorney's stipulate to the existence
9 of a fact you must accept the stipulation as evidence and regard that fact
10 as proved. You must not speculate to be true any insinuation suggested
11 by a question asked a witness. A question is not evidence and may be
12 considered only as it supplies meaning to the answer. You must
13 disregard any evidence to which an objection was sustained by the Court
14 and any evidence ordered stricken by the Court. Anything you may have
15 seen or heard outside the courtroom is not evidence and must also be
16 disregarded.

17 Instruction number 6. In this case the Defendant is accused
18 in an indictment alleging an open charge of murder. This charge
19 includes and encompasses murder of the first-degree, murder of the
20 second-degree and voluntary manslaughter. The jury must decide if the
21 Defendant is guilty of any offense and if so of which offense.

22 Instruction number 7. Murder is the unlawful killing of
23 human being with malice aforethought whether expressed or implied.
24 The unlawful killing maybe effected by any of the various means by
25 which death may be occasioned.

1 Instruction number 8. Malice aforethought means the
2 intention of doing of a wrongful act without legal cause or excuse and
3 what the law considers adequate provocation. The condition of mind
4 described as malice aforethought may arise not alone from anger,
5 hatred, revenge, or from particular ill-will, spite or grudge toward the
6 person killed, but may result from any unjustifiable of unlawful motive or
7 purpose to injure another, which proceeds from a heart fatally bent on
8 mischief or with reckless disregard of consequences and social duty.
9 Malice aforethought does not imply deliberation or the lapse of any
10 considerable time between the malicious intention to injure another and
11 the actual execution of the intent, but denotes rather an unlawful
12 purpose and design in contradiction to -- in contradistinction to accident
13 and mischance.

14 Instruction number 9. Express malice is the deliberate
15 intention unlawfully to take away the life of a fellow creature, which is
16 manifested by external circumstance capable of proof. Malice may be
17 implied when no considerable provocation appears or when all the
18 circumstances of killing show an abandoned and malignant heart.

19 Instruction number 10. The prosecution is not required to
20 present direct evidence of Defendant's state of mind as it existed during
21 the commission of the crime. And the jury may infer the existence of a
22 particular state of mind from the circumstances disclosed by the
23 evidence.

24 Instruction number 11. Murder of the first-degree is murder
25 which is perpetuated by means of any kind of willful, deliberate and

1 premediated killing. All three elements willfulness, deliberation and
2 premeditation must be proven beyond a reasonable doubt before an
3 accused can be convicted of first-degree murder.

4 Instruction number 12. Willfulness in the intent to kill. There
5 need be no appreciable space of time between formation of the intent kill
6 and the act of the killing.

7 Instruction number 13. Deliberation is the process of
8 determining upon a course of action to kill as the result of thought
9 including weighing the reasons for and against the action and
10 considering the consequences of the actions.

11 Instruction number 14. A deliberate determination may be
12 arrived at in a short period of time. But in all cases determination must
13 not be formed in passion or if formed in passion it must be carried out
14 after there's been time for the passion to subside and deliberation to
15 occur. A mere unconsidered and rash impulse is not deliberate even
16 though it includes the intent to kill.

17 Instruction number 15. Premeditation is a design, a
18 determination to kill distinctly formed in the mind at the time of the
19 killing.

20 Instruction number 16. Premeditation need not be for a day,
21 an hour or even a minute. It may be as instantaneous as successive
22 thoughts of the mind. For if the jury believes from the evidence that the
23 act constituting the killing has been preceded by and has been the result
24 of premeditation no matter how rapidly that follows the premeditation, it
25 is premediated.

1 Instruction number 17. The law does not undertake to
2 measure in units of time the length of the period during which the
3 thought must be pondered before it can ripen into an intent to kill which
4 is truly deliberate and premeditated. The time will vary with different
5 individuals and under varying circumstances.

6 Instruction number 18. The true test is not the duration of
7 time but rather the extent of the reflection. A cold calculated judgement
8 and decision may be arrived at in a short period of time, but a mere
9 unconsidered and rash impulse even though it includes an intent to kill is
10 not deliberation and premeditation as will fix an unlawful killing as
11 murder of the first-degree.

12 Instruction number 19. Murder of the second-degree is
13 murder with malice aforethought but without the admixture of
14 premeditation and deliberation. All murder which is not murder of the
15 first-degree is murder of the second-degree.

16 Instruction number 20. Voluntary manslaughter is the
17 unlawful killing of a human being without malice aforethought and
18 without deliberation and premeditation. For the sudden violent impulse
19 of passion to be irresistible resulting in a killing which is voluntary
20 manslaughter, there must not have been an interval between the assault
21 or provocation and the killing sufficient for the voice of reason and
22 humanity to be heard. For if there should appear to be sufficient time for
23 a cool head to prevail and the voice of reason to be heard, the killing
24 shall be attributed to deliberate revenge and determined by you to be
25 murder. The law assigns no fixed period of time for such an interval but

1 leaves its determination to the jury under facts and circumstances of the
2 case.

3 It is a killing upon a sudden quarrel or heat of passion caused
4 by a provocation sufficient to make the passion irresistible. The
5 provocation required for voluntary manslaughter must either consist of a
6 serious and highly provoking injury inflicted upon the person killing,
7 sufficient to excite an irresistible passion in a reasonable person, or an
8 attempt by the person killed to commit a serious personal injury on the
9 person killing.

10 Instruction number 21. The heat of passion which will
11 reduce a homicide to voluntary manslaughter must be such an
12 irresistible passion as naturally would be aroused in the mind of an
13 ordinarily reasonable person in the same circumstances. A defendant is
14 not permitted to set up his own standard of conduct and to justify or
15 excuse himself because his passions were aroused, unless the
16 circumstance in which he was placed and the facts that confronted him
17 were such as would also have aroused the irresistible passion of the
18 ordinarily reasonable man if likewise situated.

19 The basic inquiry is whether or not at the time of the killing
20 the reason of the accused was obscured or disturbed by passion to such
21 an extent as would cause the ordinarily reasonable person of average
22 disposition to act rationally without deliberation and reflection and from
23 such passion rather than from judgement.

24 Instruction number 22. When it is impossible to commit a
25 particular crime without committing at the same time and by the same

1 conduct another offense of a lesser -- greater degree, the ladder is with
2 respect to the former and lesser included offense. If you are not satisfied
3 beyond a reasonable doubt that the Defendant is guilty of the offense
4 charged, he may however be found guilty of a lesser included offense if
5 the evidence is sufficient to establish his guilt of such lesser offense
6 beyond a reasonable doubt.

7 The offense of murder which actually charges the Defendant
8 with first-degree murder necessarily includes the offense of second-
9 degree murder. If you are convinced beyond a reasonable doubt that the
10 crime of murder has been committed by a Defendant, but you have a
11 reasonable doubt whether such murder was of the first or second-
12 degree, you must give the Defendant the benefit of that doubt and return
13 a verdict of murder of the second-degree.

14 Voluntary manslaughter is a lesser included offense of both
15 first and second-degree murder. Thus you may only return a verdict of
16 voluntary manslaughter if you first rule out first and second-degree
17 murder.

18 Instruction number 23. The jury is instructed that upon the
19 question of intent the law presumes a man to intend the reasonable and
20 natural consequences of any act intentionally done and this presumption
21 of law will always prevail unless from a consideration of all the evidence
22 bearing upon the point the jury entertain a reasonable doubt whether
23 such intention did exist.

24 Instruction number 24. You are instructed that if you find the
25 Defendant guilty of voluntary manslaughter -- of murder or voluntary

1 manslaughter you must also determine whether or not a deadly weapon
2 was used in the commission of this crime. If you find beyond a
3 reasonable doubt that a deadly weapon was used in the commission of
4 such an offense than you shall return the appropriate verdict reflecting
5 with use of a deadly weapon. If however you find that a deadly weapon
6 was not used in the commission of such an offense, but you find that it
7 was committed then you shall return the appropriate guilty verdict
8 reflecting that a deadly weapon was not used.

9 Instruction number 25. A deadly weapon is an instrument
10 which if used in the ordinary manner contemplated by its design or
11 construction will or is likely to cause substantial bodily harm or death.
12 Or any weapon, or device, instrument, material, or substance which
13 under the circumstance in which it is used, attempted to be used or
14 threatened to be used is rarely capable of causing substantial bodily
15 harm or death. You are instructed that a firearm is a deadly weapon.

16 Instruction number 26. The State is not required to have
17 recovered the deadly weapon used in an alleged crime or to produce the
18 deadly weapon in court at trial to establish that a deadly weapon was
19 used in the commission of the crime.

20 Instruction number 27. The flight of a person after the
21 commission of a crime is not sufficient in itself to establish guilt.
22 However if flight is proved it is circumstantial evidence in determining
23 guilt or innocence. The essence of flight embodies the idea of
24 deliberately going away with consciousness of guilt and for the purpose
25 of avoiding apprehension or prosecution. The weight to which the

1 circumstance is entailed is a matter for the jury to determine.

2 Instruction number 28. The killing of another person in self-
3 defense is justified and not unlawful when the person who does the
4 killing actually and reasonably believes that there's imminent danger
5 that the assailant will either kill him or cause him great bodily injury and
6 that is absolutely necessary under the circumstances for him to use in
7 self-defense force or means that might cause the death of another
8 person for the purpose of avoiding death or great bodily injury to
9 himself.

10 Instruction number 29. The right of self-defense is not
11 generally available to the original aggressor. That is a person who has
12 sought a quarrel with the design to force a deadly issue and thus
13 through his fraud, contrivance or fault to create a personal or apparent
14 necessity for making a felonious assault. The original aggressor is only
15 entitled to exercise self-defense if he makes a good faith endeavor to
16 decline any further struggle before the mortal blow was given. However
17 where a person without voluntary seeking, provoking, inviting or willfully
18 engaging in a difficulty of his own free will is attacked by an assailant, he
19 has the right to stand his ground and need not retreat when faced with
20 the threat of deadly force.

21 Instruction number 30. A bare fear of death or great bodily
22 injury is not sufficient to justify a killing. To justify taking the life of
23 another in self-defense the circumstances must be sufficient to excite the
24 fears of a reasonable person placed in a similar situation. The person
25 killing must act under the influence of those fears alone and not in

1 revenge.

2 Instruction number 31. Actual danger is not necessary to
3 justify killing in self-defense. A person has the right to defend from the
4 apparent danger to the same extent as he would from actual danger.
5 The person killing is justified if he is confronted by the appearance of
6 imminent danger which arouses in his mind an honest belief and fear
7 that he is about to be killed or suffer great bodily injury and he acts
8 solely upon those appearances and his fear and actual beliefs and a
9 reasonable person in a similar situation would believe him to be in like
10 danger.

11 Instruction number 32. The killing is justified even if it
12 develops afterwards if the person killing was mistaken about the extent
13 of the danger.

14 Instruction 33. If evidence of self-defense is present the State
15 must prove beyond a reasonable doubt that the Defendant did not act in
16 self-defense. If you find that the State has failed to prove beyond a
17 reasonable doubt that the Defendant did not act in self-defense you must
18 find the Defendant not guilty.

19 Instruction number 34. An honest but unreasonable belief
20 and a necessity for self-defense does not negate malice and does not
21 reduce the offense for murder to manslaughter.

22 Instruction number 35. If a person kills another in self-
23 defense it must appear that the danger were so urgent and pressing that
24 in order to save his own life or to prevent his receiving great bodily
25 harm, the killing of the other was absolutely necessary, and the person

1 killed was the assailant or that the slayer had really and in good faith
2 endeavored to decline any further struggle before the mortal blow was
3 given.

4 Instruction number 36. The Defendant is presumed innocent
5 until the contrary is proved. This presumption places upon the State the
6 burden of proof beyond a reasonable doubt every element of the crime
7 charged, and that the Defendant is the person who committed the
8 offense. A reasonable doubt is one based on reason. It is not mere
9 possible doubt but is such a doubt as would govern or control a person
10 in the more weighty affairs of life. If the mind of the jurors after the
11 entire comparison and consideration of all the evidence are in such a
12 condition that they can say they feel an abiding conviction of the truth of
13 the charge, there's not a reasonable doubt. Doubt to be reasonable must
14 be actual, not mere possibility or speculation. If you have a reasonable
15 doubt as to the guilt of the Defendant he is entitled to a verdict of not
16 guilty.

17 Instruction number 37. It is a constitutional right of a
18 Defendant in a criminal trial that he may not be compelled to testify.
19 Thus his decision as to whether he should testify is left to the Defendant
20 on the advice and counsel of his attorney. You must not draw any
21 inference of guilt from that fact that he does not testify. Nor should this
22 fact be discussed by you or enter into your deliberations in any way.

23 Instruction number 38. A witness who has special
24 knowledge, skill, expertise, training or education in a particular science,
25 profession or occupation is an expert witness. An expert witness may

1 give his opinion as to any matter in which he is skilled. You should
2 consider such expert opinion and weigh the reasons if any given for it.
3 You are not bound however by such an opinion. Give it the weight to
4 which you deem it entitled, whether that be great or slight and you may
5 reject if in your judgement the reasons given for it are unsound.

6 Instruction number 39. The credibility or believability of a
7 witness should be determined by his manner upon the stand, his
8 relationship to the parties, his fears, motives, interests or feelings, his
9 opportunity to observe the matter to which he testified, the
10 reasonableness of his statements and his strength and weakness of his
11 recollections. If you believe that a witness has lied about any material
12 fact in this case you may disregard the entire testimony of that witness
13 or any portion of the testimony which is not proved by other evidence.

14 Instruction number 40. Although you are to consider only
15 the evidence in the case in reaching a verdict, you must bring to the
16 consideration of the evidence your everyday common sense and
17 judgement as reasonable men and women. Thus you are not limited
18 solely to what you see and hear as the witnesses testify. You may draw
19 reasonable inferences from the evidence which you feel are justified in
20 the light of common experience. Keep it in mind that such inferences
21 should not be based on speculation or guilt. A verdict may never be
22 influenced by sympathy, prejudice or public opinion. Your decision
23 should be the product of sincere judgement and sound discretion in
24 accordance with these rules of law.

25 Instruction number 41. In arriving at a verdict in this case as

1 to whether the Defendant is guilty or not guilty, the subject of penalty or
2 punishment is not to be discussed or considered by you and should in
3 no way influence your verdict.

4 Instruction number 42. During the course of this trial and
5 your deliberations you are not to; 1) communicate with anyone in
6 anyway regarding the case or its merits either by phone, text, internet or
7 other means; 2) read, watch or listen to any news or media accounts or
8 commentary about the case; 3) do any research such as consult a
9 dictionary, using the internet or using reference materials, and; 4) make
10 any investigation, test any theory of the case, recreate any aspect of the
11 case or in any other way investigate or learn about the case on your
12 own.

13 Number 43. When you retire to consider your verdict you
14 must select one of your number to act as a foreperson who will preside
15 over your deliberation and will be your spokesperson here in court.
16 During your deliberation you will have all of the exhibits which were
17 admitted into evidence, these written instructions and form a verdict that
18 have been prepared for you in your convenience. Your verdict must be
19 unanimous. As soon as you've agreed upon a verdict have it signed and
20 dated by the foreperson and return with it to this room.

21 Number 44. If during your deliberation you should desire to
22 be further informed on any point of law or hear again portions of the
23 testimony, you must reduce your request to writing signed by the
24 foreperson. The officer will then return you to the court where the
25 information sought will be given to you in the presence of and after

1 notice to the district attorney and the Defendant and his counsel.
2 Playbacks of testimony are time consuming and are not encouraged
3 unless you deem it a necessity. Should you require a playback, you
4 must carefully describe the testimony to be played back, so that the court
5 recorder can arrange her notes. Remember the Court is not at liberty to
6 supplement the evidence.

7 Instruction number 45. Now you will listen to the arguments
8 of counsel who will endeavor to aid you to reach a proper verdict by
9 refreshing in your minds the evidence and by showing the application
10 thereof the law -- to the law. But whatever counsel may say you will
11 bear in mind that it is your duty to be governed in your deliberation by
12 the evidence as you understand it and remember it to be and by the law
13 as given to you in these instructions, with the sole fix and steadfast
14 purpose of doing equal and exact justice between the Defendant and the
15 State of Nevada.

16 Ladies and gentlemen, we have now reached the portion of
17 trial where the closing arguments will be given. Since the State has the
18 burden of proof they are allowed to open and close the closing
19 arguments. State, are you prepared to give your closing argument?

20 MS. BEVERLY: Yes, I am.

21 THE COURT: Okay. Whenever you're ready.

22 MS. BEVERLY: Thank you.

23 STATE'S CLOSING ARGUMENT

24 Ladies and gentlemen, on March the 3rd of 2021, Jamel
25 Gibbs shot and killed Jaylon Tiffith and that's what we've been here

1 about the last couple of days. I told you yesterday that this was going to
2 be a fairly short trial, the evidence isn't that complicated and now that
3 you have heard all of the evidence and heard all the testimony, the State
4 is very confident that by the time you go back and deliberate with your
5 fellow jury members you will find Mr. Gibbs guilty of first-degree murder
6 with use of a deadly weapon.

7 We are now at the point of closing arguments where it is
8 now the time to summarize all of the evidence and the testimony that
9 you heard yesterday and today and compare that with law that Judge
10 Jones just read to you.

11 In every criminal case the State always has to prove two
12 different things; that a crime was committed, and that Mr. Gibbs is the
13 person who committed that crime.

14 Now identity is not an issue in this case. Mr. Gibbs is the
15 person who shot and killed Jaylon Tiffith, and we'll talk about that. We
16 know that on March the 3rd of 2021 at approximately 6:45 a 911 call
17 comes out at the address of 3940 Scott Robinson Boulevard involving a
18 shooting involving Mr. Tiffith. We know when we talk about the
19 relationships of who these people are, we know that our victim is Mr.
20 Tiffith, we know that his -- the mother of his child is Michaela Parker. We
21 also know that Mr. Gibbs as of March 3rd of 2021 was now in a
22 relationship with Ms. Parker, okay.

23 I have the same question that I'm sure all of you have and
24 you've probably all had for the last couple of days, which is where is
25 Michaela Parker? Okay. I would like to know where she is too. The

1 State has been trying to find her. The State has issued her a subpoena,
2 which as you heard today from the evidence is not just an invitation like,
3 hey, do you want to come to court. It is a requirement that you come to
4 court. We issued a material witness warrant for her, and the criminal
5 apprehension team has been looking for her all the way up through
6 today.

7 Where is she? I don't know, but you can take that for what
8 you will. But we know that if she were coming here that the State is the
9 one that's been looking for her. The State is the one that wanted to put
10 her on the stand to tell what she saw. And we know from those calls that
11 we heard earlier this morning, that Mr. Gibbs didn't want Michaela here.
12 And you take that for what you will.

13 But we also know that none of the evidence in this case
14 shows that Michaela Parker shot Mr. Tiffith. The evidence all shows that
15 it was Mr. Gibbs.

16 We also know when we're talking about the identity of who
17 shot Mr. Tiffith, we know that paperwork for Mr. Gibbs was found in
18 Michaela's apartment because they're in a relationship. He was there,
19 his birth certificate's there in the master bedroom you heard. We heard
20 from Ms. Terrell yesterday that when she and Jaylon went to drop off
21 Navaya, Mr. Gibbs was there in the garage. We keep saying apartment
22 complex, but it's kind of like a townhouse where there's an upstairs and
23 downstairs. You heard there's an attached garage today. Mr. Gibbs was
24 there.

25 You also heard evidence about those casing. That the casing

1 that was found at the scene involved in the shooting, marker number 4,
2 was GECO 9-millimeter luger. And those bullets found in Michaela's
3 apartment also matched GECO 9-millimeter luger. Okay. The apartment
4 where Mr. Gibbs had belongings, where Mr. Gibbs was five minutes
5 before he drove out of the apartment complex and parked near that
6 (indiscernible).

7 We also know -- you heard the description of that gun case
8 that Michaela had in her apartment. We know that Mr. Gibbs from that
9 video that we saw earlier today, pretty distinctive gun. You can take that
10 for what you will. Okay.

11 What we also know from the testimony that you heard
12 during this trial, is that Mr. Gibbs was driving Michaela's car. He was the
13 only person who had a gun. There were only four people outside of the
14 car at the time this happened. Michaela, Bri, Jaylon and Mr. Gibbs. We
15 know that Ms. Terrell sees Mr. Gibbs with a gun, and he is the only
16 person with a gun.

17 You heard from Ms. Searles, okay. Ms. Searles has no dog in
18 this fight, okay. She doesn't know these people. She's literally driving
19 down the street, a 19-year-old girl and this is what she stumbles across,
20 minding her own business. And now she has to come in here and tell
21 what she saw. And what did she say? Short black male with dreads
22 reaching in the car, grabbing a gun, shooting Jaylon.

23 The car, Michaela's car that Mr. Gibbs had access to, okay.
24 And the shooter that we heard from Ms. Terrell got in Michaela's car and
25 drove off. He drove off so fast in fact Michaela couldn't even get in the

1 car. And poor Navaya was still in the car as he took off. And we know
2 that other than Michaela who didn't get in the car, who didn't have a
3 weapon, the only other person who had access to that car was Mr.
4 Gibbs.

5 We saw evidence in this case that Mr. Gibbs had some items
6 in that vehicle, Michaela's vehicle. And you heard testimony about his
7 cellphone, Mr. Gibbs cellphone records putting him right in that area of
8 Scott Robinson about three minutes after the 911 call came out. You
9 also heard evidence that prior to the actual shooting there had been no
10 calls made, so no data was hitting off of any towers.

11 We also know that Mr. Gibbs is actively avoiding police after
12 he killed Jaylon, okay. He fled the scene so fast Michaela couldn't even
13 get in the car. You heard testimony that the phone number that
14 belonged to Mr. Gibbs stopped making data calls almost immediately
15 after the crime. And you heard and you also have the exhibit to take
16 back with you, it says CDRs on it. I believe it's one of the 300 exhibits.
17 Was deactivated on March the 8th, okay. That does not sound like the
18 conduct of someone who didn't do anything. That sounds like the
19 conduct of someone who committed a crime and is trying to avoid the
20 police.

21 So we know that identity is not an issue in this case, Mr.
22 Gibbs is the shooter, he is the killer of Jaylon Tiffith.

23 Let's talk about a couple of other instructions. I have
24 instructions in this PowerPoint. Sometimes they can get very, very
25 wordy, but you will have the entire packet of instructions to take back to

1 you into the deliberation room, so you may refer to that as you please
2 and as you are deliberating if you have any questions.

3 One of the instructions talks about what a deadly weapons is;
4 a firearm is a deadly weapon. And you also have an instruction that
5 says, the State is not required to have recovered the weapon, okay.
6 Remember that Mr. Gibbs took off right after he shot Jaylon and he was
7 not found for over 20 days. So where that weapon could be, who knows
8 what he did with it between those dates, okay. So that's why the State is
9 not required to have recovered it, for you to still be able to find that in
10 fact a firearm and a deadly weapon was used in this case.

11 We know that a firearm was used because you heard from
12 the coroner yesterday that Mr. Tiffith suffered from a gunshot wound to
13 the face, okay. That's not really in dispute here. And I'm sorry they keep
14 showing these pictures, but we know a projectile was recovered from his
15 skull as we heard the coroner testify yesterday, okay.

16 Let's talk about -- excuse me. The crime that Mr. Tiffith --
17 excuse me, Mr. Gibbs is guilty of, okay. The first instruction you have
18 regarding crimes talks about murder and what murder is. The unlawful
19 killing of a human being with malice aforethought express or implied,
20 okay. And the killing can be done by any means, in this case we're
21 talking about a gunshot wound. Again a lengthy instruction and you will
22 have it, I don't recall the exact number of the top of my head, but it is in
23 the middle of the packet. What malice aforethought means, the
24 intentional doing of a wrongful act without legal cause or excuse that the
25 law considers adequate provocation, okay. And there's a variety of ways

1 that you can have malice aforethought.

2 What's important is that the way that we tell what someone
3 is thinking is by the facts and circumstances of a particular event, okay.
4 We cannot or we don't have tools to look into someone's mind and go
5 back to a particular moment in time and see exactly what they were
6 thinking at a point in time. So the law says you use facts and
7 circumstances surrounding the event to infer what someone is thinking
8 at a particular moment, okay.

9 So let's look at the facts and circumstances of this case. This
10 is a murder, okay. When somebody is shot in the head where the brain
11 is, that is a murder; that is intent to kill. He's not shot in the leg, he's not
12 shot in the arm, he's shot somewhere that we know kills people, okay.
13 And it's first-degree murder, and we'll talk about the elements of first-
14 degree in a moment, but shooting someone in the head is intent to kill, it
15 is murder, it is first-degree murder.

16 What are the elements of first-degree murder? Okay. You've
17 probably, you know -- well when we talked about jury selection, we
18 asked people if they watched crime shows and a lot of people have
19 perceptions of what first-degree murder might be or what murder is. But
20 it's important that you follow the law that is given to you, that the judge
21 read to you and that you will have to take back with you. And follow
22 those elements of what the law is in the State of Nevada.

23 Murder in the first-degree is murder which is perpetrated by
24 means of any kind of willful, deliberate and premeditation, okay. Those
25 are the three elements of first-degree murder that have to be proven that

1 in fact the State has proven beyond a reasonable doubt in this case.

2 First willful, it's the intent to kill, okay. Intent to kill can be
3 formed very rapidly. It is just saying, I am doing something and I'm
4 doing something with the purpose of you dying, okay. Mr. Gibbs came
5 to the front of that apartment complex with a loaded firearm, okay. This
6 was supposed to be an exchange of a cellphone. Why are you coming to
7 meet with someone to exchange a cellphone with a loaded firearm?

8 MR. MUELLER: Objection, that's not in evidence.

9 MS. BEVERLY: It absolutely is.

10 MR. MUELLER: I object, that's not in evidence.

11 MS. BEVERLY: It absolutely is, Judge.

12 THE COURT: What about the loaded firearm? Well, it has to
13 be loaded because somebody got shot, so there was a loaded firearm in
14 evidence.

15 MR. MUELLER: And that it was brought there.

16 THE COURT: Well, what the counsel says is not evidence,
17 ladies and gentlemen of the jury. You make the determination of what
18 the evidence is based on the evidence you have before you.

19 MR. MUELLER: Thank you, Your Honor.

20 MS. BEVERLY: May I proceed?

21 THE COURT: Yes.

22 MS. BEVERLY: So Mr. Gibbs has that loaded firearm in the
23 vehicle that he's driving that belongs to Michaela, but that he is driving
24 in what is supposed to be a simple exchange of a cellphone. Why do
25 you have a gun out in a vehicle if you're just trying to exchange a

1 cellphone? Okay. Because you're intending to kill someone. You're
2 intending to use that firearm. There's no other purpose for having that
3 at that particular moment in time, okay.

4 The next element is deliberation. What is deliberation? It is
5 a process of determining upon a course of action to kill as a result of
6 thought, including weighing the reasons for and against the actions and
7 considering the consequences of the action, okay.

8 I want to give you guys an example of deliberation because
9 deliberation can occur very quickly. You are driving down the street and
10 you're going to work. You had a crazy morning in your household, a
11 lot's been going on, you're running late for work, okay. You're driving
12 down Charleston, and it's light after light after light, and you're like, oh
13 my goodness I keep hitting these lights I'm going to be late for work.
14 You're coming up on a light and the light is turning yellow, okay.

15 So in your mind you start thinking like, okay, here's my
16 options. I can either try to speed up and make the light. I need to get to
17 work a little bit quicker or I have to slow down, then I'm going to be late
18 to work. I've already been hitting these lights. But if I run the light I
19 might get in a car accident. All of these thoughts, you're weighing the
20 decision that you're going to make. But it's happening quickly, right?
21 Because you're approaching the light you're like, okay. I've got to make
22 a decision, I've got to make a decision, and then you make a decision,
23 you decide to run the light, okay. That's deliberation, but it's happening
24 quickly. But it's still -- you are determining upon a course of action.
25 You're determining, okay. I'm going to make the light, I've weighed my

1 decisions, I've weighed the pros and cons and I'm making a decision,
2 okay.

3 And the law says -- that's why the laws says a deliberate
4 determination can be arrived as a -- in a short period of time, but it can't
5 be formed in passion, okay. But you're still weighing the pros and cons,
6 you're still making decisions as you're driving down Charleston.

7 So where's the deliberation in this case? Okay. Ms. Searles
8 she has again, absolutely no dog in this fight. She does not know this
9 people. She's driving down Scott Robison minding her own business.
10 And she watches as a short black male, slender, with dreads go into the
11 driver's side of the car, grab a gun, come out of that car and shoot and
12 kill Jaylon Tiffith, okay. That is deliberation despite the fact that it's
13 happening fast. He makes the decision to go back to that car, to grab
14 that firearm, to get out of that car and to fire into the head of Mr. Tiffith.

15 The next element, premeditation. The determination to kill
16 distinctly formed in the mind at the time of the killing, okay. An
17 instruction you have regarding premeditation is that it need not be for a
18 day, an hour or even a minute. It can be as instantaneous as excessive
19 thoughts of the mind, okay. It is happening fast; it does not matter. If
20 you have the intent to kill it is premeditation no matter how rapidly it
21 forms. And when he made that decision -- well, actually let me stop for
22 one second.

23 A cold calculated judgement and decision may be arrived at
24 in a short period of time as long as it's not a rash or unconsidered
25 impulse, okay. This is not a rash and unconsidered impulse. It is a

1 decision that was made and executed, okay. It was planned, Mr. Gibbs
2 brought that loaded weapon to the location where he was -- knew he
3 was going to be meeting with Jaylon to exchange this cellphone, okay.
4 There's no reason again to bring a gun if you are picking up a cellphone,
5 if that is your only intent, if that's the only thing going through your
6 mind. And remember that he made a conscious and calculated decision
7 to grab that gun, fire that gun and shoot Jaylon in a place -- the brain
8 that is designed for death, okay. When you shoot someone in the head
9 you're not shooting to just to injure them, you're shooting to kill them.

10 That's why Mr. Gibbs is guilty of first-degree murder and
11 then we have a deadly weapon because we know that a firearm was
12 used and is not in dispute, okay.

13 Murder of the second-degree is murder without -- with
14 malice aforethought but without premeditation and deliberation, okay.
15 Doesn't apply in this case because we know that he deliberated, and he
16 premediated. Was it fast? Yes. But the law allows for that. He still
17 made that conscious decision, okay.

18 I don't expect you to read this one the screen, it's very hard
19 to read. It's the voluntary manslaughter instruction, okay. So I'm going
20 to talk about voluntary manslaughter. Does not apply in this case, okay.
21 Voluntary manslaughter is a -- the killing of a human being without
22 malice aforethought, without deliberation, without premeditation. It's
23 about basically provocation. You're provoked to kill someone, okay.
24 Again you will have these lengthy instructions to take back with you. But
25 one thing that is important is that a defendant is not permitted to setup

1 his own standard of conduct to justify or excuse himself because his own
2 passions were aroused. So you can't say like, oh I was upset, so that
3 gave me the right to kill someone, okay. It doesn't work like that, it's an
4 objective standard.

5 I want to give you an example of voluntary manslaughter
6 and what is not voluntary manslaughter, okay. I'm going to use a classic
7 example that I'm sure you have all probably heard before. So I get home
8 from work after a long day and I enter my house expecting my spouse to
9 be there waiting happily for me, maybe with some dinner because I'm
10 tired. But instead I go in the house, and I see -- I go upstairs to my
11 bedroom and I see my husband in bed with another women, okay. I am
12 completely shocked. I am completely bewildered as to how this could
13 happen. It is so inflaming and so -- the passions are so arise as would be
14 the passions of a reasonable person that I take out my gun that I have in
15 my purse, because I can lawfully carry a gun, I take it out and I shoot
16 him, okay. I don't even think about it, I'm just like, oh my gosh I'm so
17 upset. How could this possibly be happening? It's a rash decisions, it's
18 impulsive. I take out my gun and I shoot him, okay.

19 Now what is not voluntary manslaughter is similar situation,
20 I come home from work expecting my spouse to be there, ready to see
21 me come home. I go upstairs and my husband's in bed with another
22 woman. And I'm like, you expletive, expletive, expletive, okay. So I'm
23 like, I go over to my door, open it up, take out my firearm that I'm
24 allowed to have, and I shoot and kill him, okay. Am I upset? Sure. Am I
25 mad? Sure. But I made the decision now after seeing this situation to go

1 over, grab my gun and kill him because I'm very, very mad, okay. Is it
2 happening quickly? Absolutely. Is it a rash impulse? No. Because I
3 made that decision to that, a conscious decision. I thought about it, I'm
4 like, so f'ing mad I'm going to go kill him, grab my gun and then kill him,
5 okay. That's the difference. This is not voluntary manslaughter. This
6 case is first-degree murder with use of a deadly weapon, okay.

7 Here we have our map of the Hidden Canyon Village
8 Apartments. We know several things. You heard from Ms. Terrell that
9 Mr. Tiffith and Mr. Gibbs didn't really like each other, probably over
10 Michaela, okay. Everything went perfectly fine at the drop off, okay. But
11 then Mr. Gibbs took that loaded gun knowing he was going to meet
12 Jaylon to retrieve a cellphone, okay. Why? Why is he doing that? That's
13 not a rash impulsive decision, that's a plan, okay. What do we know?
14 Michaela -- what do we know about that?

15 It's planned immediately as they pull up, they make a U-turn,
16 Mr. Gibbs pulls up by that punch pad and Michaela jumps out of the
17 vehicle and beginnings throwing rocks at Ms. Terrell, okay. While Mr.
18 Gibbs is at the driver's side of the car on the little -- standing up on the
19 little thing on the side of the driver's side of the car that Ms. Terrell
20 described, okay. It's not heat of passion. He knew what was going to
21 happen, he knew that he had that gun, and he knew that he was going to
22 shoot Jaylon.

23 Remember this diagram that Ms. Searles drew during her
24 interview that we presented during this trial? She labelled where
25 everybody was, okay. We have Mr. -- the first car up on the right side,

1 the second car down further on the left side and Mr. Searles driving
2 down Scott Robinson, okay.

3 Mr. Gibbs had time to think about what he was going to do,
4 okay. He sees this argument, fight or whatever you want to call it
5 happening between Ms. Terrell and Michaela, okay. And then he makes
6 the decision that he's going to get the firearm and he's going to shoot
7 Jaylon, okay. He came from -- excuse me. He came prepared for
8 violence and he came prepared for death. There was absolutely no
9 reason for him to shoot Jaylon, okay.

10 Simply because somebody's bigger than another person
11 does not justify them being shot. It does not change the fact that Mr.
12 Gibbs make that conscious decision to go in that car, grab that gun and
13 shoot Jaylon, okay. And he shoots him not in the leg or not in the arm to
14 scare him, he shoots him in the head because any reasonable person
15 knows when you shoot someone in the head you're shooting to kill
16 because when you shoot someone in the brain they're going to probably
17 die, okay.

18 The situation of Jaylon going to the car as well does not
19 diminish this to a voluntary manslaughter, it is still first-degree murder.
20 Do not forget that Navaya is in the car. Mr. Tiffith's daughter is in the
21 car, okay. We don't know what she's looking at. We don't know what
22 she's observing, but we do know that cars are facing the same way. We
23 do know that her mom's out there trying to fight Ms. Terrell for whatever
24 reason. Maybe he's trying to get to his daughter, his eight-year-old
25 daughter that he just dropped off, okay. And now has to witness all of

1 this going on. That does not reduce this to a voluntary manslaughter,
2 okay.

3 Now let's talk for a moment briefly about self-defense and I
4 say briefly because this is again not a self-defense case. It is important
5 to note that there are multiple self-defense instructions that you will have
6 in your packet, okay. And there are so many self-defense instructions
7 because it's not a throw away thing to use. You don't get to just say, oh I
8 was scared, so I shot and killed someone, okay. That is not the law, the
9 law gives very, very specific instructions on the definition of self-defense,
10 so let's talk about those.

11 Number one, the killing of another person in self-defense is
12 justified and not unlawful when a person who does the killing actually
13 and reasonably believes there's imminent danger that assailant will
14 either kill him or cause him great bodily injury and, you have to have
15 both, that is absolutely necessary under the circumstance for him to use
16 in self-defense force or means that might cause the death of another
17 person for the purpose of avoiding death or great bodily injury to
18 himself, okay. You must have both, that is why I circled the word "and".
19 Please, keep that in mind, okay.

20 Number one, where is the imminent danger or death or great
21 bodily injury to Mr. Gibbs? It doesn't exist. You have not heard one
22 person come in here and say that Mr. Gibbs was being threatened, that
23 he was being beat up, that he was in danger for his life. Ms. Searles said
24 she thought they were fighting, but she never actually saw that. I asked
25 her that, did you ever actually see them fight and she said, no. No, I

1 didn't. No one testified that Jaylon was threatening or trying to injure
2 the Defendant. You can't say well he's bigger than me, so that's a threat,
3 that's -- a lot of people would be dead if that were the case, okay. That's
4 ridiculous. It is irrelevant that he's bigger than him. But maybe he
5 thought it was relevant because he -- Mr. Gibbs brought a gun, so maybe
6 he thought it was relevant. And no one saw Mr. Tiffith with any form of
7 weapon.

8 You heard us go through the crime scene photos today. You
9 heard us go through the photos of Ms. Terrell's car. Not one person
10 testified that Jaylon even touched the Defendant, not one single person,
11 not one single piece of evidence. You will have all the photos to take
12 back with you into the jury deliberation room. Mr. Tiffith didn't have any
13 weapons on him. Nothing, not one knife, not one gun, nothing. There
14 was zero threats in this case, okay. The car was searched. The area
15 around this where this happened was processed. Nothing.

16 So there's no imminent danger to Mr. Gibbs. There's no
17 threat of great bodily injury to him. There's no threat of death to him.
18 And here's the car, nothing. There's a picture of the back seat, nothing.
19 Second part of that, where is the absolute necessity based on the
20 circumstances to use deadly force? It doesn't exist. He didn't need to go
21 in that car and shoot Mr. Tiffith. Mr. Tiffith wasn't threatening him. Mr.
22 Tiffith wasn't causing him substantial bodily harm. Mr. Tiffith wasn't
23 causing him -- about to cause him death.

24 He was never in danger; he had a thousand other options.
25 He could have left. You heard questions about like, well why didn't Ms.

1 Terrell leave. Why didn't Mr. Gibbs leave? But Ms. Terrell isn't the one
2 who shot and killed Mr. Tiffith, Mr. Gibbs is, okay. He chose to shoot and
3 kill Jaylon and that is first-degree murder with use of a deadly weapon.

4 Next instruction, generally self-defense is not available to the
5 original aggressor, that's the person who sought a quarrel with the
6 design to use deadly force, okay. Let's talk about that. There's zero
7 evidence that Mr. Gibbs was attacked, none, zero, okay. Now Ms.
8 Searles saying that Mr. Tiffith was following Mr. Gibbs to the car, again,
9 that's not -- there's no evidence that that was a threat. There's no
10 evidence that that was causing him substantial fear of great bodily injury
11 or death, okay. The evidence is, is that the Defendant and Michaela are
12 the original aggressors. Michaela's the one that got out of the car and
13 was starting all this stuff with Ms. -- oh excuse, with Ms. Terrell, okay.
14 It's the Defendant who was propped up on the side of the car. They're
15 the ones that came out of that apartment complex. He's the one that had
16 a gun. No one else. He's the one that had that gun loaded, okay.

17 And the evidence is that the only person with a gun was the
18 Defendant. The evidence is that Jaylon turned to run, and the Defendant
19 shot him in the face as he was turning to run, okay. You heard that from
20 Ms. Searles who had zero dog in this fight. And there's that gunshot
21 wound as he's turning, okay.

22 Next self-defense instruction, a bare fear of death or of great
23 bodily injury is not sufficient to take another's life in self-defense, okay.
24 It must be sufficient to excite the passions of a reasonable person.
25 You've probably heard the expression, you don't bring a knife to a fist

1 fight, okay. First of all there's no evidence that a fight was going on and
2 Ms. Searles did not see a fight, she thought people were arguing, but she
3 never saw Jaylon hit Mr. Gibbs. She never saw Jaylon threaten Mr.
4 Gibbs, okay. You don't get to get into an argument with someone and
5 then decide that you're going to shoot them, okay. Because if you do
6 decide that you're going to shoot somebody in an argument, then you're
7 guilty of first-degree murder with a deadly weapon, which is what
8 happened in this case.

9 Mr. Gibbs is not acting out of some fear, okay. He's acting
10 because he doesn't like what's going on with this situation. All right. He
11 doesn't like Jaylon, he brings a gun, he takes his opportunity to shoot
12 and kill him.

13 Actual danger is not necessary to justify a killing, okay. I
14 want to talk about this for just a second and I want to give you an
15 example of apparent danger, okay. I own a home and I decide -- well it's
16 nighttime, it's about midnight. I have a teenage daughter and in the
17 middle of the night when I think that my teenage daughter is supposed
18 to be at home sleeping under the safe care of my home, I hear some
19 glass breaking in my house, okay. And I'm like, what is -- what's going
20 on, okay.

21 So I grab my firearm that I'm allowed to have, and I go down
22 my stairs and I see a shadowy figure standing by the broken glass, okay.
23 And I'm like, oh my gosh somebody's breaking in my house, like my
24 life's in danger, like the life of my family is in danger. I got to shoot
25 them, I have no other option, right. I don't know if they have a gun, I

1 don't know what's happening. And so I shoot, and I kill the person, okay.

2 As it turns out it's my daughter's little boyfriend that she's
3 been creeping around with, who is coming into the house to kind of
4 sneak my daughter out of the house, but I didn't know that. I thought
5 somebody was breaking in my house. The safety of my home. I have no
6 other option. All right. I have to protect my family. That's what
7 apparent danger is because it turns out I was wrong that there really was
8 no danger because it was just my daughter's boyfriend. But that is what
9 we're talking about when we're talking about the need to use self-
10 defense for apparent danger, okay. This is not that situation. There is no
11 actual danger, there is no apparent danger to the life of Mr. Gibbs. Zero,
12 okay.

13 People who act in self-defense are really the victims, okay.
14 Because they had no other option. They had -- they were in such fear for
15 their life, they were in such fear and danger of great bodily harm that
16 they had no other option, they had to defend themselves against this
17 great danger pressing against them. That is not the circumstances here
18 whatsoever. Mr. Gibbs is not a victim, okay. He is not somebody who
19 had absolutely no other options, who was facing so much great danger
20 that he had to do that. He made a conscious and calculated decision to
21 get that firearm and to shoot his girlfriend's baby's father and to get him
22 out of the way in front of [indiscernible].

23 Let's talk about Mr. Gibbs's conduct after this shooting, okay.
24 If you are acting in self-defense and you are the victim because you had
25 no other choice. I certainly don't think Mr. Gibbs' behavior is a person --

1 is that of a person who's had such a threat to his life that he had no other
2 option. He's taking off, so fast he can't even get his girlfriend in the car
3 whose car it is. He takes off, he doesn't even let the little girl out of the
4 car, he just takes off. Then he stops using his phone, okay. And then the
5 phone gets cut off. Then the CAT team is looking for him. Never makes
6 a 911 call, never comes down to a station, nothing. They have to find
7 him. And they can't find him for a while because he cuts his phones off.
8 Luckily they end up locating him on the 24th of March over at the
9 University address and guess who's also there, his girlfriend Michaela
10 sticking by his side, okay. She comes at first to talk to the police, then
11 she's gone, okay. And guess what, we know that they're still talking after
12 his arrest, okay. You heard those calls; you have them to take back with
13 you.

14 And we know that he doesn't want Michaela coming. He
15 doesn't want the State of Nevada to find Michaela and bring her here
16 and testify against him. He's telling her, break your phone. He's telling
17 whoever he's talking to, tell her to break her phone. He's telling his
18 cousin, yeah Make -- you know, she's doing a good job, like don't want
19 to find her either. Two material witness warrants, okay. Does that sound
20 like the behavior of somebody who's the real victim who had to do
21 something because they had no other choice? I don't think so.

22 The killing is justified even if it develops afterwards the
23 person was mistaken. Similar to my homeowner example, I mistaken it's
24 actually my boyfriend, but again I don't know that. I mean I wasn't really
25 in danger, but I thought I was. Not the situation here. For self-defense

1 the State has to prove beyond a reasonable doubt, okay. We've done
2 that as I've gone through the evidence already. An honest but
3 unreasonable belief and necessity for self-defense does negate malice
4 and does not reduce the offense from murder to manslaughter, okay.
5 You cannot just say, oh well I believe that I was in danger and so I shot
6 and killed. Because a lot of people would say that. All right. You don't
7 get to setup your own standard and use that as a justification. It is not
8 reasonable; his behavior was not reasonable. He did not have to shoot
9 Jaylon, okay. Nobody else had a weapon, only him. Nobody else
10 decided to shoot somebody in the head, only him. That's not reasonable
11 given the facts and circumstances of this case.

12 Last but not least, a person -- if a person kills another
13 person in self-defense it must appear that the danger was so urgent and
14 so pressing that in order to save his own life or prevent him from
15 receiving great bodily harm the killing was absolutely necessary. Those
16 are the key words, absolutely necessary. It doesn't exist, there was no
17 necessity to use deadly force in this case. There is no urgent or pressing
18 danger. There was no threat to Defendant's life. The killing was not
19 absolutely necessary, and it is the Defendant who is the assailant
20 because he is the one that brought that gun, he is the one who went in
21 that car, he is the one who made the decision to bring that gun out of the
22 car and fire into the head of Jaylon Tiffith. He is the only person who
23 had a weapon. He is the person who brought that loaded weapon to the
24 scene. He retrieved that gun. Jaylon turned to run, and he still shot him,
25 okay. And he shot him in the head where we know death is likely.

1 From hearing all of the evidence in this case, from listening
2 to the testimony that was confirmed by the physical evidence in this
3 case, the State's going to ask that you find Mr. Gibbs guilty of first-
4 degree murder with use of a deadly weapon. Thank you so much for
5 your time and thank you for your patience during this process.

6 THE COURT: Mr. Mueller, do you --

7 MR. MUELLER: Thank you, Your Honor. Does the jury --
8 would like a break --

9 THE COURT: I'm sorry?

10 MR. MUELLER: -- or do you want to give the jury a break
11 before we start?

12 THE COURT: Do you guys need a break before we start? No,
13 they want to go.

14 MR. MUELLER: Okay.

15 THE COURT: Go ahead, Mr. Mueller.

16 DEFENDANT'S CLOSING ARGUMENT

17 MR. MUELLER: No break, and we'll get to it. Not guilty,
18 ladies and gentlemen of the jury, not guilty. We spent more time talking
19 about this case than you've heard actually on the case. The reason we
20 need to talk so much or fact the reason we've had only two days of
21 testimony is because there quite literally is no case.

22 Now we're going to go through and take a look at the
23 evidence and give it some thought. We're going to have to start with the
24 proper tools and I want to draw the Court's attention or draw the jury's
25 attention to jury instructions, my favorite instruction, jury instruction

1 number 40. It's the common sense instruction in this particular package.
2 You are only to consider the evidence in reaching a verdict. You must
3 bring to consideration the evidence of your everyday common senses
4 and judgement as reasonable men and women. Jury system works
5 very, very well because the 12 of you all have 10 and 15 and 20 and
6 sometimes a lot more year's life experience. The 12 of you together
7 might very well have 150, 180, 250 years of life experience collectively.
8 And collectively you guys know of exactly how human beings behave,
9 you know exactly how things really operate on this plant and you know
10 not how we wish ourselves to be, not how we project ourselves, but how
11 we really behave.

12 That is why we have jury systems because the group of 12
13 people together are considerably wiser than one individual alone. And
14 that is why the system still in place after a thousand years. Go back in
15 there and you do not need to check into legal land, you do not need to
16 get rid of your common sense and judgement. You are encouraged to
17 use it and use these jury instructions as guidance.

18 Now Madam Clerk, it was 161 that was the diagram that Ms.
19 Surges [sic] --

20 THE COURT: It's in the folder, that same diagram.

21 MR. MUELLER: Yes. Can I have that one? Now I want to
22 construct the framework to analyze this evidence because once you have
23 a proper framework then the decisions and the proper verdict is actually
24 very easy.

25 Now everyone in this case that has any actual knowledge of

1 the case has a point of view and they have their point of view. So when
2 you sit down and you look at it, I would submit to you that Ms. Surges
3 [sic] or --

4 THE COURT: Mr. Mueller, you probably need to push the
5 button to switch it over.

6 MR. MUELLER: Which one's the auto?

7 THE COURT: The blue button, it's in front of the machine.

8 MR. MUELLER: Okay.

9 THE COURT: In the front of the machine, Mr. Mueller.

10 MR. MUELLER: Oh the front, there you go.

11 THE COURT: There you go.

12 MR. MUELLER: Blue button.

13 THE COURT: There you go.

14 MR. MUELLER: Now here is the best framework. I suggest
15 to you if you take this diagram and it put it and use it as your poles and
16 your scaffolding to look at this case. Why? Number one, it was written
17 and given to a detective by someone who has absolutely no interest in
18 the case. No personal effects, no personal bias. Someone who's literally
19 just wants to go home, and these people are brawling in her way. That's
20 why this diagram.

21 Now every one of you who live in Las Vegas, you've all
22 pulled into one of these gated complexes at some time or another. It's
23 an experience that every one of you have maybe daily. So you know
24 how exactly that is. She says her car was there getting to make a left.
25 We've all made left turns and you know that when you make a left turn

1 you hold back a little bit. So her angle is going to be just about as
2 exactly as the place she sees. And the cars are, if you look at some of
3 the photographs, about right where they should be. Tiffith's body's is
4 right where she says the car -- the Parker car was and the other car was a
5 little further forward, which is exactly where the photographs show the
6 effects that were knocked off during the brawl between the women. All
7 right. So that is how I would suggest that you sit down and analyze
8 these facts.

9 Now my colleague has gotten passion a little ahead of the
10 facts of the case, so take a moment and let's look at this. On your verdict
11 sheet you have first-degree murder. Now first-degree murder is the
12 crime of, you know, I've hated you forever, I dislike you, the fact that you
13 still breathe the same air on this planet as me offends me. I'm going to
14 plan, I'm going to scheme, I'm going to wait and when the moment is
15 perfect I'm going to kill you. That's planning, that's aforethought that
16 means I'm thinking about it. I've planned it, I have malice that means I
17 really don't like you, okay. That's first-degree murder. My colleague
18 advocating for first-degree murder is at best disingenuous.

19 How do we know this wasn't first-degree murder and why
20 should you immediately reject that argument? Because they went over,
21 and they dropped off the kid and they left and there was no trouble. If
22 there was going to be problems, if they came loaded for bear, if they
23 came looking for trouble it'd happen on the first visit, it didn't. It didn't
24 happen at all. Everybody says it went just smooth. For this to be first-
25 degree murder they would have had to form a plan and then act it in the

1 moment it took to turn around and come back again. Now that is just
2 patently absurd. In fact they were being helpful, they are trying to get a
3 cellphone back to him. Where is the passion, where's the planning and
4 aforethought, where is the malice necessary for the first -- formation of a
5 first-degree murder and a plot? It doesn't exist. It can't exist, there's no
6 such thing.

7 Second-degree murder, okay. I'm not thinking about it so
8 much, but in a moment or two my anger flairs up and I'm going to kill
9 you. That animal instinct that we all get when you get -- when
10 somebody just gets on your last nerve, you weren't planning on it and
11 kind of get ready to lash out or you're going to hit them. And then it's
12 just like, oh you just kind of -- I can't believe you did it. That's the
13 necessary passion for second-degree murder. I didn't plan, I didn't think
14 about it much, but for a moment or two I was so angry, and I had that
15 gun and I wanted to kill you and I did. Second-degree murder. Well, that
16 didn't happen here. All right.

17 So let's go through and analyze the facts. Terrell's car pulls
18 up, Tiffith is in the passenger seat. Who starts trouble? Parker.
19 Everybody says it was Parker. And what do we know? In this situation
20 you got one girlfriend, an old boyfriend and a new boyfriend and
21 apparently a cousin who'd been talking trash on Facebook. Parker gets
22 out of the car unnecessarily, no need to get out of the car. Parker gets
23 out of the car and what does she start doing? Parker starts throwing
24 rocks. Well, okay. That's an interesting fact. It's verified by the fact that
25 there are pictures of a bunch rocks right in the middle of the road, right

1 where Parker said they -- right where Terrell said Parker was throwing
2 rocks at her car. Now here's the moment, okay. This is Las Vegas, we all
3 know this moment. You throw some chips in the pot or you walk away.
4 Terrell put the car in reverse, and he -- she and Tiffith just drive away.
5 Back up and go away. Does that happen? No. 340-pound, 6'4" Tiffith
6 gets out to go confront his ex-girlfriend and walks around the front of the
7 car.

8 Let's get this diagram down because if you think about this it
9 all actually fits together pretty nicely. It's actually a fairly concise case,
10 it's just not the case that the State wants you to think it is. So Tiffith gets
11 out of his car and where do we know Parker is? Parker's at the side
12 throwing rocks at the side of the car, right here. She's out of the car,
13 she's over here. Tiffith gets out to confront her. And I asked a definitive
14 question. I pull the chair here and in the moment you got your answer,
15 you know exactly what happened when I was sitting here.

16 All right. Ms. Terrell, I want you to explain to me how Parker,
17 and you've seen pictures of Parker she's not a hulking woman, she's not
18 a big woman. How does she pull you out of a car around -- getting
19 around a 340-pound, 6'4 guy intent on controlling her behavior? Think
20 about that. He gets out of the car, damn this girlfriend of mine, this ex-
21 girlfriend. He comes around the other side of the car. Parker's standing
22 next to the car. Here's Tiffith, put his hands on Parker and somehow
23 Parker gets in and manages to pull out -- Terrell out of the car.

24 So how does that happen? And the answer's very simple.
25 There's only other explanation, Sherlock Holmes is found of deductive

1 reasoning, whatever is left however unlikely has to be the truth. Tiffith
2 probably gets tired of fooling with her, steps aside or goes out -- slightly
3 out of the way. Terrell gets out and the brawl is on. And we know they
4 brawled, she said they brawled. There's pictures of Parker showing a
5 brawl. There's bruises on Parker. Terrell says that she was in a brawl,
6 and we see pictures of their personal effects and they're all in the picture
7 about right where you would expect them to have been forward, in the
8 forward part right here in front of the car. The physical evidence
9 matches the testimony. All right.

10 That brings us to the definitive moment. The ladies are
11 brawling, Tiffith is at least for a second or two, or moment or two
12 unaccounted for. Why is he unaccounted for? Because the ladies are
13 brawling and they're not paying attention. There is no security camera
14 and now we have a problem. Testimony gets murky and a little
15 confused. Terrell says, Parker's got something in her hands. Well, we
16 know at least at a moment she had some rocks. We know Parker's
17 brought a gun. We know Parker's the one who's got passionate feelings
18 for at least Mr. Tiffith and his cousin. She's the one who starts the fight.

19 Now in your -- go to jury instruction 4, your everyday
20 common sense and experience. Who starts fights? People who are
21 angry. People who are mad. Who starts a fight? I've never walked up to
22 -- I mean who goes to a car and wants to get someone out of it and start
23 brawling with them? That's not the recollections of a quiet mind, that's
24 someone who is angry. So Parker starts the fight, she's got something in
25 her hands, she's got rocks, it's her car, it's her ex-boyfriend, they're

1 exchanging her kid at her apartment, she's got the gun. Gibbs's got no
2 skin in the game.

3 Now my colleague here missed the trick and don't let them
4 get away with this because they don't want you to pay attention. There
5 is no evidence, not a scintilla of evidence that Gibbs and Tiffith even
6 know each other. That they've even had any contact, let alone that they
7 have any history, let alone that they're mad enough that I'm going to
8 shoot the guy for no particular apparent reason. No. That's not even in
9 this case, nowhere. That's a fact that she assumes, and she was you to
10 think is true, but it's not in evidence.

11 So what, Tiffith is standing around, the women are brawling.
12 You know guys how men are, like oh geez do I really got to deal with
13 this. Can't I go home and watch the game? All right. The two women
14 are fighting. Now Terrell says some unusual things and things that you
15 probably should kind of reject. She says, Gibbons-- Gibbs comes up and
16 gets involved in the fight and kind of pushes me away. But he's flashing
17 a gun. Well, how does she notice he's flashing a gun if she's brawling
18 with Parker? And if the gun doesn't come out, it's not being used.

19 Now go back to the framework. What happens next? First
20 off they haven't even established strictly speaking the gun Gibbs is even
21 -- or Gibbs shot or who actually shot the gun. It's not really ever been
22 established. Terrell didn't say -- does not say she saw him shot. And the
23 other lady -- I don't know why I have such trouble with her name.
24 Searles said she doesn't see the shooter either. So what do we have?
25 We have Terrell says that Gibbs is out of the car. We know Tiffith is out

1 of the car. And so the two men are standing there. There is no evidence
2 as to what transpires between them. There is literally no evidence.
3 Nobody says there's name calling. Nobody says there's punching. No
4 one says there's a fight. And we have to then cut over this gap to
5 Searles saying that the big guy is following the little guy to the car and
6 the little guy pulls out a gun and goes into the car and pulls it out and
7 shoots the big guy. Well, that's kind of an odd set of circumstances.
8 Terrell says Gibbs was already had the gun and was flashing it. He
9 wasn't flashing it if he had to go back into the car and get it.

10 My colleague would have you believe that this was first-
11 degree murder that he went over there with a loaded gun, but then why
12 does he have to go back, why does the independent witness say he goes
13 back and gets the gun?

14 Now in your everyday common sense and experience, we all
15 live in Nevada. This isn't the most sophisticated of places. Everyone
16 knows there's a lot of folks still keep loaded guns in their glovebox.
17 People keep guns in their cars. Some people keep baseball bats, this
18 kind of can be a rough and tumble town, we all know that. What
19 happens? He goes back, in your everyday common sense and
20 experience, there's probably the gun in the -- potentially the gun's in the
21 glovebox or somewhere in the center console. If it was in fact Gibbs
22 which they still haven't really ever established.

23 Now then my colleague wants you to overlook the only one
24 really reliable piece of physical evidence that we cannot argue with, the
25 gunshot. Tiffith is shot, there's no argument there. He's shot, he's shot

1 dead. But he's shot in the face, not in the back. He's not running away.
2 He's not making tracks. He's not going away from somebody, nor is he
3 shot multiple times. He's shot one time and he's shot one time in the
4 face. And then we spent a moment or two in trial time when we talked
5 about it. What was the -- coroner sat up there, the doc sat up there and
6 he said, right to left, up to down, front to back. That was the trajectory of
7 the bullet. One shot right to left, up to back -- up -- or from bottom to
8 top, front to back. All right. That is completely consistent with someone
9 who's walking towards the person who shot them. And being shot from
10 an upwards trajectory, slightly upward trajectory. Which is exactly what
11 Searles said she saw. Now that means it's self-defense.

12 Now it's probably been a few years since any of guys had
13 been in a good old fashion schoolyard brawl, but we all know what
14 happens when a 340-pound guy gets in fist fight with a 135-pound guy.
15 That's what you have as your everyday common sense and experience.
16 340 guy -- pound guy is going to win that fight every single day of the
17 week and twice on Sunday. No doubt about who's going to get really
18 badly beat up in that fight. Tiffith is coming towards Gibbs for whatever
19 reason, if again, it's in fact even Gibbs that was there who was the
20 shooter and if the shots fired and it was Gibbs then it's self-defense. And
21 you can go ahead, Searles actually said it, he was coming towards him.

22 Now flight, unexplained flight. You know, here is a
23 dichotomy and maybe my colleague can explain the reasoning on
24 rebuttal. There's absolutely no meaningful difference between the way
25 Gibbs allegedly behaves, if he -- and Parker behaves. They both leave.

1 They both take off. They both turn off their cellphones. For one person
2 that's an indication of guilt, for the other person it's not. One of the
3 jurors asked a question about that, why? Detective, I asked him,
4 sometimes people lie to you detective. Yeah. Sometimes they do.
5 Sometimes they tell you stuff they want you to hear, not what you need
6 to know. Yeah, that's true. Parker gets an idea; she goes down and talks
7 to the detective the next day. She doesn't get charged with the crime,
8 Gibbs does. Where's the paraffin test? Where's the gunshot residue
9 test? Where is any physical evidence that would support or refute her
10 discussion? Ms. Parker, where is your firearm? She's still got the case;
11 she's still got the casings. If they thought Parker -- or Gibbs had the gun,
12 all they had to do is go do a DNA swab test on him. She goes radio
13 silent exactly the same time and she's gone.

14 And this isn't a murder case, folks. It's not a first-degree
15 murder, it's not a second-degree murder case. It really hasn't even been
16 proven that Mr. Gibbs was in fact the shooter and the only independent
17 eyewitness that thinks the shooter matches his description makes out a
18 very compelling case of self-defense.

19 Forty years, jury instruction for 40 years. All this life
20 experience on the planet. A guy who is two times or maybe two and a
21 quarter times your size is coming after you. Is there anybody think that
22 that's not going to put in a reasonable apprehension for fear of your
23 safety? Of course it would. I mean that's like a comedy line. The first
24 thing you do in a bar, the guy stands up. You bump into the guy in the
25 bar and the first thing he does is he stands and towers over you by a foot

1 and a half or two feet. All right. That's -- everyone knows that universal
2 experience, but that's the exact experience that happened here. And
3 Searles also says something very compelling, the door opened, and the
4 door was so close to the counter that Tiffith couldn't get there. The door
5 was actually so close to the push pad that it was a block.

6 So ladies and gentlemen of the jury, it's a two-day murder
7 case. The reason its only two days is because there literally objectively
8 no evidence. And the practical problems is, and I said this in opening
9 and I'll come back to it in closing, what would be the motivation? Parker
10 tips off a brawl. The brawl ensues. Tiffith apparently makes a casual
11 effort to stop it and then lets it go. Then when Gibbs tries to get involved
12 Tiffith becomes agitated, and the brawl looks like it continues and Tiffith
13 comes for Gibbs and got shot for his efforts because he's the aggressor.

14 So ladies and gentlemen of the jury, when you go back this is
15 not a murder case. You can throw away all the murder, there is not an
16 element sufficient to make a murder charge here. We have literally no
17 evidence at all to support murder. No relationship between the guys.
18 No hard feelings between the guys. No, hell no, I'm going to kill you or
19 screw you, I'm going to kill you. Nothing. There's literally no -- there's
20 not even any yelling between the guys that is in evidence that happened.
21 None of the -- neither -- nobody testified to it, so there's no bad feelings
22 necessarily the two -- or two.

23 Voluntary manslaughter is when you feel the need or -- all
24 right. Is in perfect self-defense you believe that you're afraid, but you
25 really weren't or that you use force, and it wasn't legally necessary. And

1 then there's not guilty.

2 Now I would submit that if a 340-pound guy is coming after
3 me and I ran back to my car and he followed me to my car with malice,
4 that's self-defense. One shot, one reasonable shot to an approaching,
5 and we know its approaching because the physical evidence suggested
6 it's in the face. Doesn't get any more upfront than that. Not in the back,
7 not in the side, in the face. The guy's coming straight at me and he's this
8 much bigger than me. That's self-defense.

9 So I respectfully suggest to you that the proper verdict based
10 on the evidence the State has presented is not guilty. For that I thank
11 you for your time. The jury system is very, very important. Please, go
12 back there and fulfil your oath and take some time to think through this.
13 This package unfortunately as criminal cases go, there's a lot of jury
14 instructions here. You can read them with your common sense, you
15 don't have to check-in to Lala land or legal land or start thinking
16 differently.

17 Use your common sense, read these jury instructions and
18 just think about things. This was two women who got in a brawl, things
19 got out of hand and a 340-pound guy starts running down on a 135-
20 pound guy who tries to run away, and he is being chased. That's what
21 happened, which means it's not guilty by reason of self-defense. Thank
22 you.

23 THE COURT: Thank you, Mr. Mueller. State, are you
24 prepared to give your rebuttal argument?

25 MR. PALAL: Yes, Your Honor.

1 THE COURT: Okay. Go ahead.

2 STATE REBUTTAL CLOSING ARGUMENT

3 MR. PALAL: And I'm returning your diagram of your file. All
4 right, ladies and gentlemen, this is the last lawyer you're going to hear
5 from today. In this case the one thing I'd agree with Mr. Mueller is that
6 facts are easy, but the law is hard. The law is hard, right. And it's not
7 surprising because if I was in Mr. Mueller's position I would also say,
8 don't go to legal land. Just use common sense. Don't go to legal land,
9 don't consider the law of self-defense, just use your common sense.
10 Just do what you think is right.

11 And during our voir dire where we're trying to select this
12 cross-section of the community, part of the things that the judge asked
13 you is, could you follow the law, right. Could you follow the law as
14 given? And so unlike my colleague I'm going to tell you don't ignore --
15 please, go to legal land because when somebody kills somebody else it
16 is worthy of the attention to the law that governs whether or not a killing
17 is legally justified. This is worthy of your time, it's worth of my time, it's
18 certain -- Jaylon at the very least deserves to have you guys consider the
19 actual law in the case.

20 Now let's talk about the law, reasonable doubt. Doubt to be
21 reasonable must be actual, not mere possibility or speculation. I'll
22 submit to you that what you've heard was a lot of possibilities and a lot
23 of speculation, but that is not reasonable doubt. And how do you? How
24 do you know it's possibly speculation? Well, an example that Mr.
25 Mueller brought up is well, you know, it's a comedy skit where you walk

1 up into a bar and the guy stands, you bump into a guy, when he stands
2 up and is 6'4", you know, 300 pounds. You know how that never ends?
3 The person who bumps into him shooting him dead. That's never how
4 that ends. Do you know why? Because that's not reasonable. That's not
5 reasonable.

6 I have to admit I'm a little confused. I'm a little confused
7 because my understanding of what I heard was, well, you know,
8 Michaela may have done it, my guy did do it, but if I did this is what
9 happened. If I did do it this is how it went down. Ladies and gentlemen,
10 the truth is one thing. The truth is -- all right.

11 The other thing we've heard -- and the important -- the
12 reason why I'm going to go over a little bit about the law is because think
13 there's some confusion about what you've heard. For instance, we've
14 heard that premeditation -- for something to be first-degree murder it
15 has to be willful, deliberate and premeditation. And what you heard
16 from defense counsel was, well this obviously can't be first-degree
17 murder because, you know, first-degree murder requires a long-standing
18 plan. It requires you planned out this whole thing well in advanced.
19 Don't go to legal land. Well, let me invite you to legal land.

20 Premeditation need not be for a day, an hour or even a
21 minute. It doesn't even have to be for a minute. It may just be as
22 instantaneous as successive thoughts of the mind. The jury believes
23 from the evidence the acts constitutes the killing has been proceeded by
24 and been the result of premeditation no matter how rapidly the act
25 follows the premeditation, it is premeditated. The relevant example to

1 this case if when the Defendant reaches to grab the gun and turns over
2 to shoot and kill Jaylon, he has had the successive thoughts of you know
3 what I'm going to do, I'm going to kill this guy. That is enough for the
4 instantaneous successive thoughts of the mind so long as been a result
5 of premeditation. It doesn't have to be how rapidly it is.

6 And let's be clear, Jamel Gibbs is the person that shot Jaylon
7 Tiffith. There is literally nothing to suggest otherwise. And I guess part
8 of the attack of, you know, what is true from the evidence, is that Brionte
9 is just not a reasonable person, is not somebody that [indiscernible].

10 Now one thing I'll say, Brionte, she is a young person, right.
11 I mean even the Defendant in his call said, why you got to beat that little
12 girl. Why you got to fight that little girl? She's a young person and she's
13 put in a untenable situation of witnessing her cousin get killed and then
14 having to come to court and testify about it in front of the person that
15 she believes killed him. All right.

16 But the thing I want talk about Brionte is there's a lot that she
17 says that is borne out by other things. For instance, Brionte, well Gibbs
18 and Parker were driving a silver four-door car. Well, that's true, we know
19 that Gibbs and Parker -- or Parker has a silver four-door car. She says
20 that Gibbs was the driver, right? And we have the crime scene analyst
21 Graziano testified, she did say that prints were pulled from the window
22 of the vehicle, of -- that match or were consistent with Parker. And Mr.
23 Mueller on cross-examination said, you know, so what [indiscernible].
24 You've got the prints of Michaela Parker from Michaela Parker's car.
25 That's [indiscernible] where they are, on the passenger window. That's

1 where the print was recovered from, it was recovered from the
2 passenger window. What do we -- what can we deduce from that? That
3 when Brionte said -- Brionte Teller says that -- or Brionte says that, Jamel
4 is the one who drives the car and Michaela is the one that is in the
5 passenger seat. The physical evidence also supports that. The
6 fingerprints are from the passenger window.

7 Brionte says rocks were thrown at her car. And I don't know
8 if remember that cross-examination, but there's a whole lot of
9 skepticism, but wait rocks? Wait what are you talking [indiscernible]
10 she's throwing rock -- like that doesn't even make sense, somebody
11 sitting here throwing rocks, what are you talking about? And then we
12 get to the point later in the day or the next day when he show the rocks.

13 Well, yeah, you know, there may have been rocks. There
14 were rocks. The evidence shows that there were rocks thrown at her car.
15 Said Michaela got out of the car to fight to her. Well, we've got the
16 evidence there. We got all the evidence of the fight. And again the
17 Defendant agrees with that. I love you, I never meant to hurt you and
18 you know the truth or you know the truth that's the thing, I do. And we
19 can talk about that later. You fought that little ass girl. She's a young
20 ass girl.

21 And notably and I want you to think about this as we go.
22 When Defendant talks with Brionte, and you know how these calls and
23 I'd actually ask you to listen these calls again because I'm not sure how
24 great you heard them. Here is -- this is call number two, I love you. I
25 never meant to hurt you and you know the truth. And you can hear what

1 -- I'm sorry, that's not the call [indiscernible] to Michaela. And you say --
2 you hear what Michaela responds, that's the thing, I do. I do. And ask --
3 and listen to that and say how -- what's the manner in which she's
4 answering that. Is it -- that's the thing, I do. I can't believe you're on trial
5 for murder. I can't believe that this is what's happening to you. Well,
6 that's the thing, I do. Jamel was there, you can tell in the call number
7 five said -- Jamel says, that's where we parked. Nah man so like the
8 person he's talking to is like, okay. So let me get this straight, what's
9 happening. You know, they pulled behind you. No, no, no, no. We
10 pulled behind them. We pulled up behind them. He was there, there
11 could be no doubt about that by his own statements.

12 Brionte said, Jamel had a gun. All right. Well, what do we
13 know about that? Well, in the place where he was seen in the garage,
14 where his birth certificate was you have the firearm case, you have the
15 description of the firearm, which is a blue pistol with a black slide which
16 means the bottom part is blue, but the top part of the slide is black, right.
17 Because we heard both Bri and Ms. Searles say they saw a black firearm,
18 right. So what you heard is, is that blue pistol with black is a blue pistol,
19 a blue base with a black slide. You ever seen anybody with something
20 like that? Yeah, we did. We saw the butt of a blue pistol and the
21 magazine sticking out. And whose video is that? The Defendant's. Who
22 is it pulled from? The Defendant's Facebook. He's not shy about walking
23 around with his firearm and if you watch the video he's just at a general
24 store.

25 Brionte says -- she says that Gibbs shot Jaylon. Now this is

1 true in the sense that what Mr. Mueller says is true. That she didn't
2 actually see -- she can't -- she didn't say that she saw -- she says she --
3 she says that Gibbs shot Jaylon and how does she come to that
4 conclusion? Well, at the end of jury selection the Judge instructed you
5 about direct versus circumstantial evidence, and it's part -- also part of
6 your instructions [indiscernible]. And the judge says that there's no
7 distinction between direct and circumstantial evidence. And she gave
8 you the example. It's the example we use in this courthouse every day,
9 which is direct evidence is seeing it rain, that's direct evidence of it
10 rained.

11 Circumstantial evidence that it rained is, you will go to your
12 house, maybe it's a little humid, you -- it's totally dry outside, well dry
13 down the block. You sleep, you wake up, you walk around and see the
14 whole block is covered with water, it's wet, you maybe see some water
15 dripping down from the houses. That's circumstantial evidence that it
16 rained. You didn't see it rain, that's circumstantial evidence that it
17 rained. If somebody were to ask me, did it rain last night? I'd say, yeah,
18 it did.

19 The reason why Brionte could say that Mr. Gibbs shot Jaylon
20 is because there are four people outside, it's her, she's fighting with the
21 other person. Jaylon's dead and Jamel's the only person out there, only
22 other person out there. The only other person out there. He also
23 happens to have the same caliber, same head stamp cartridges of what
24 was recovered from the scene. She says Gibbs shot Jaylon, but the 911
25 caller Ms. Searles, she also says, the shorter guy with dreads shoots the

1 bigger guy and there were only two people there, which also coincides
2 with the evidence as we know it because the two women were fighting in
3 front of the car, so your view would be blocked from them.

4 And she only sees the two people closest to them -- closest
5 to her. She says she thinks they may have been fighting, she didn't see
6 them fighting. She says she thinks they might have been fighting and
7 then she sees both of them running back to the car. In perfect candor, I
8 think she says she sees one of them chasing -- the bigger guy chasing
9 the littler guy back in the car.

10 Now she doesn't have the context that we have, right. She
11 doesn't know that an eight-year-old girl is in the back of the car. She
12 doesn't know what's happening in the front. She doesn't have that
13 context and you can't fault her for not having the context. But she
14 doesn't have that context. And what she sees is two people running to a
15 car and she sees one person, the shorter person with short dreads, a
16 black male go into the car. She comes out -- he comes out with car now.
17 She doesn't say she sees him pull it from the car, she says he comes out
18 with the gun.

19 Now that may mean -- you may draw the inference that he
20 pulled it from the car. You may draw the inference that he had it on him
21 and then was looking for something in the car or trying to get in the car
22 or something else. But the bottom line is he comes out, he's holding the
23 firearm. He's extended it. And then what is the part that Mr. Mueller did
24 not mention to you in his closing that she said, the objective witness?
25 The bigger guy turns around. Turns around, right. Because we hear the

1 prelude, but we don't hear what actually happens when the shot is fired.

2 And Mr. Mueller mentioned the trajectory, the manner in
3 which he was shot and the trajectory of the bullet. Well, let's talk about
4 that. If I'm facing somebody and they shoot me there's no travel right to
5 left, right. Going like this. But if I'm facing somebody and I see a firearm
6 and I turn that explains the right to left, front up and down. So Ms.
7 Searles sees that, right. We don't have to speculate as, well what does
8 the projectile do, because that's what Ms. Searles actually sees. She
9 actually sees the bigger guy stop and try to turn around.

10 She only see the two people, the big guy and the little guy
11 with the dreads. There is no reasonable doubt beyond possibility and
12 speculation that the Defendant is the person that killed Jaylon. Now
13 again there's some reference, well you know Michaela could have been
14 the shooter, right. What's the distinction between Michaela and the
15 Defendant? We know they both left the scene, well true. In little
16 different ways though, right. Because Brionte said that Gibbs left the
17 scene in the vehicle and that Michaela was still there initially. And that
18 granted she didn't know the address, actual address of the apartment
19 complex, so when she called 911 she asked Ms. Parker what the address
20 was. And that makes sense because why would the cousin know what
21 the address is of her cousin's baby's mother, right. She -- Michaela
22 doesn't leave in the vehicle, right. They leave differently.

23 But also let me tell you something else that's a little different,
24 right. They do both flee eventually, although Michaela does go to the
25 police. Does give a statement. And you know what's interesting about

1 that? The big difference between the two, is while Michaela may not be
2 here, the Defendant is the one trying to ensure that she's not here, right.
3 The Defendant is the one that said, okay. She's not going to be here. All
4 right. That's great, tell her to break her phones. If this in fact case is self-
5 defense and you are as my colleague put the victim in this case, wouldn't
6 you want the only other person who witnessed this to be there?

7 Wouldn't you be begging for the only person, other person
8 who witnessed this to be there? Say no, no. This aren't right. The
9 State's committing -- the State has got it wrong. I was there I know. And
10 yet the Defendant is doing everything to ensure she's not, oh we're good
11 man, we're good. All we got is that cousin. All we got is that Brionte --
12 all they got is that Brionte girl. These other girls aren't going to show up,
13 we're good. We're looking great, I'll be out by the end of the week.
14 Because the reasonable inference drawn from there is because what
15 Michaela Parker has to say does not match what the defense would have
16 you believe.

17 THE COURT: Does not match what, Mr. --

18 MR. MUELLER: Objection.

19 MR. PALAL: The defense would have you believe.

20 MR. MUELLER: May we approach?

21 THE COURT: Yes.

22 [Sidebar at 4:17 p.m., ending at 4:18 p.m., not transcribed]

23 MR. PALAL: So as I said the reasonable inference from the
24 defendant not wanting Michaela Parker to be here is that he doesn't want
25 you to hear what she has to say. That's the reasonable inference.

1 And they already talked about the calls. The calls do say
2 [indiscernible], right. Why do you find [indiscernible] make sure she
3 doesn't show.

4 I want to be clear though. I mean, like, again, you do have to
5 go to legal [indiscernible] in this case because the circumstances and
6 when we're allowed to kill somebody else and kill another person, I
7 mean, that's a legal conclusion. I mean, that's something that you folks
8 have to decide. Is he legally justified in killing another person?

9 And the Defense's summation of some cases, if an unarmed
10 man is bigger than you, you shoot him, right? I mean, isn't that
11 essentially what it is? Think about it. Not saying -- there's no evidence
12 or argument that the victim in this case, Jaylon had a firearm. There's
13 no evidence, or testimony, or anything to suggest that he had a knife.
14 There's no evidence or testimony saying he was fighting anybody. And
15 in fact, I had asked the medical examiner, were there any abrasions on
16 Jaylon. He does the full examination, right. And he said, no there was a
17 slight abrasion on his face which we don't know where that came from.
18 It may have come from when he fell. It may have come from a
19 [indiscernible].

20 But nothing on the hands, right. If he is engaged in a fist
21 fight, nothing on the hands. There's no evidence of engaging into a
22 fight. There's literally both of them running to the car. That's it, right? I
23 mean, that's it. That's the evidence. Both of them running to the car.
24 And the defendant -- if Navaya is in the car, and the defendant drove the
25 car, so he knows that eight year old girl was in the car. The dad has just

1 dropped off his daughter. He just had to turn around and give himself
2 [indiscernible]. His eight-year-old daughter is in the back seat while all
3 this craziness is happening. What father wouldn't want to
4 [indiscernible]? What father would not run to his daughter?

5 As Ms. Beverly mentioned, it's not common sense. It's not a
6 comedy show. It's not bigger or smaller. It is -- the standard here is
7 imminent danger and absolutely necessary -- and absolutely necessary.
8 Was it absolutely necessary for Jaylon Tiffith to die? Like, that's what
9 self-defense -- that's what self-defense is. Given the facts that you have
10 -- you have the evidence. Given the facts that you have, was it
11 absolutely necessary for Jaylon Tiffith to die?

12 The bare fear of death, even if you have the fear of death, is
13 not enough to justify a murder, right. Even if I think I'm going -- like,
14 even if I'm afraid, right that by itself is not enough to justify the killing,
15 right. You have to justify the taking of another in self-defense, and that's
16 what it's doing, right. You're taking the life of somebody. To justify the
17 taking the life of somebody, it must be so egregious, sufficient to incite
18 the fears of reasonable person placed in a similar situation.

19 And I think this is kind of the way -- another way to
20 understand it, right. Killing is justified if you're confronted by the
21 appearance of imminent danger, which [indiscernible] honest belief and
22 fear that he's about to be killed. So that's what he's thinking, right. It's
23 an honest fear and belief that I have that I'm going to get killed. That's
24 part one. And he acts solely on those beliefs and a reasonable person in
25 that situation. So it's both a subjective test, what I would have thought

1 when you were -- what I thought when I did -- when the person shooting
2 thought when that was happening, and what a reasonable person would.
3 Both of those have to -- both of those have to exist for it to be self-
4 defense.

5 The person doing the shooting has to think, I'm going to get
6 killed, and a reasonable person has to think I'm going to get killed or
7 severely hurt. In this case, neither is true, right. What would a
8 reasonable person think at facing death? So remember [indiscernible]
9 statement and you know, it's just that he -- we talked about before,
10 [indiscernible] to the car. But the other interesting thing is there's a door
11 blocking the defendants and the victim in this case, right. So I
12 understand that Jaylon was bigger but there was -- his path was blocked.
13 Because he had to open the door. He reached in; he comes out with a
14 firearm.

15 Jaylon is turning away but the path is blocked. Does he think
16 -- does a reasonable person think they're going to be killed if they don't
17 shoot? Would a reasonable person think, I'm going to die, or I have a
18 possibility of dying if I don't shoot this guy? No. And you determine
19 what the reasonable person would think, right. That's why we have this
20 [indiscernible]. You decide. You're the community. You're the ones that
21 say, this is what's reasonable and what's not reasonable. Is it
22 reasonable to kill somebody under these circumstances? And then it's
23 also subject, right. So even if you think a reasonable person would
24 account that way, which I don't [indiscernible] evidence. It's also subject.
25 So he had -- he also has to be thinking that I'm going to die in this

1 moment. It has to be both.

2 And I want to turn you to the flight instruction. The flight of a
3 person after, by itself, is enough to establish guilt; however, the
4 [indiscernible] deliberately going away and consciousness of guilt for the
5 purpose of avoiding apprehension and prosecution. And consciousness
6 of guilt is a fancy, legal way of saying you know you did wrong. You
7 know you did wrong, right. The essence of flight embodies the idea of a
8 person knew they did wrong. The defendant he did wrong. He knew he
9 did. And you know how else he knew he did wrong? Because he'd said
10 he didn't want the witnesses to show up. That's how his subjective
11 understanding of what happened. It's not just the objective
12 [indiscernible].

13 Objectively it's enough to show that objectively he
14 [indiscernible] and that is not [indiscernible]. But subjectively also. Like,
15 if he didn't want Michaela Parker to be here. He didn't want Taylor
16 Wilson and Taylor Wilson if you'll recall, was one of the people that was
17 at the residence where defendant was found. All right. So and on March
18 24th, there was a search warrant done at the residence where Michaela,
19 the defendant. Taylor Wilson was there, and another person was there.
20 They didn't want her to be found.

21 And [indiscernible] necessity for self-defense. Even if you
22 honestly believed that you had to kill, if that's unreasonable, that doesn't
23 give you voluntary manslaughter. You still have to decide between first
24 and second degree murder.

25 Ladies and Gentlemen, I want to think briefly about Jaylon.

1 Jaylon's last half-hour or so of his life. He was returning his daughter to
2 [indiscernible]. He left. He gets a call saying he forgot his cell phone and
3 as a parent I know I sometimes leave stuff behind too that I should've
4 taken with me. And I'm sure he's like anybody else , [indiscernible]
5 frustrated.

6 Okay. Let's turn back. But he doesn't turn back, and they go
7 back, and they [indiscernible]. And if you recall Bri's statement, she
8 says, [indiscernible] meet up on the side and they'd probably just hand it
9 over. You know, just hand it over through that wall and then Michaela
10 said no. And then they go to pull into the apartment complex where the
11 gate is, and they're pulling out, and they're pulling [indiscernible]. These
12 two women, Michaela instigating -- these two women get into a fight.
13 And what did Jaylon do, right? The only evidence -- the only person
14 who says anything [indiscernible] to that is Bri, and Bri said, Jaylon's
15 trying to break up the fight. Jaylon's trying to breaking up the fight and
16 this crazy fight -- this craziness that's happening out in front of
17 [indiscernible].

18 And then the next part that we see that we know, that we
19 have access to is the defendant is running back to the car where Jaylon's
20 daughter is, and Jaylon is running back to the car. Jaylon's last
21 moments was running to the car for his daughter. And he gets shot and
22 gets killed. That's not self-defense; that's murder. That's murder.
23 Jaylon did not [indiscernible].

24 THE COURT: Okay. Ladies and Gentlemen, we have reached
25 the conclusion of the evidence.

1 Okay. The clerk will now swear in the officers to take charge
2 of the jurors and the alternate juror.

3 [Clerk swears in the Officers to take charge of the jury]

4 THE COURT: Okay. Ladies and Gentlemen, as you know a
5 criminal jury is composed of 12 members and there are 13 of you who
6 are here. One of you will serve as an alternate juror. This means that
7 you are not discharged from your jury service. Your service may still be
8 needed if one of the other jurors is no longer able to participate in
9 deliberation. The alternate juror is seat number 14, Ms. Mikaela Bayardi.
10 You are the alternate juror.

11 So I'm going to ask the first 12 of you to please rise, follow
12 the marshal out to the jury deliberation room.

13 Ms. Bayardi, I'm going to ask that you remain and then when
14 they are gone, you can follow my assistant out and she will collect
15 information from you and give you your next steps in the proceeding.

16 THE MARSHAL: All rise for the jury. Please bring all
17 personal belongings, notebooks, everything you have.

18 [Jury retires to deliberate at 4:30 p.m.]

19 [Outside the presence of the jury]

20 THE COURT: Okay. If you could just follow right outside that
21 door, my assistant will meet you right outside that door.

22 Okay. You may all be seated. Okay. Mr. Mueller, may the
23 record reflect we are outside the presence of the jury. You did make a
24 motion during the State's closing --

25 MR. MUELLER: Thank you, Your Honor --

1 THE COURT: -- rebuttal argument, I apologize.

2 MR. MUELLER: Thank you. I do try to very hard not to
3 interrupt my colleagues during their closing statements but in this case I
4 absolutely had to. I'm going to move for a mistrial, and I believe it's
5 appropriate due to prosecutorial misconduct. Specifically, my colleague
6 stood up and said, and the exact phrase was, "Michaela would say," and
7 she both implied that there was evidence that the jury had not heard,
8 that it would be favorable to their case. He was vouching for the
9 evidence and arguing that a conviction should be had based on evidence
10 that is not admissible or admitted to the case.

11 That's just wildly inappropriate on many, many counts.
12 There's no way that this jury, if they come back with a conviction, could
13 we now conclude that it was not based on this statement. And please go
14 back and do a read back because the exact phrase I heard was "Michaela
15 would say," and he's implying very clearly what the testimony would be
16 and that's it's favorable to their case and therefore you should convict
17 Mr. Gibbs. That's prosecutorial misconduct and a mistrial and a dismiss
18 all with prejudice.

19 Secondly, I have to make another record. Navaya was not
20 in that car. It's not in the record anywhere in this case and the facts are
21 that Navaya was in the Parker residence. She was not in either car. She
22 was not sped off and the argument that Tiffith was coming to save his
23 daughter is not -- it's simply spurious. There's not -- it's not in evidence.
24 And B, it's simply not true.

25 THE COURT: Well, why didn't you object to it when they

1 made that statement, Mr. Mueller?

2 MR. MUELLER: Well, because I had already gotten objection
3 in and I figured I didn't want to -- like I said, I don't like interrupting
4 people. I've got an objection, but the objection is -- that's also simply
5 facts not in evidence.

6 THE COURT: Well, Mr. Mueller, but you can't make the
7 objection after they've already done it because I have no way of curing
8 that record with this jury because had you made the objection at the
9 time, and said, there's absolutely no evidence that Navaya was in the
10 car, then we would have had to deal with that at that time and I could've
11 instructed this jury accordingly.

12 However, you guys know everything about this case. I know
13 the same three days' worth of evidence about this case that the jury
14 knows about this case so if that is actual -- first, it was never testified as
15 to where Navaya was located. I have never heard that in the testimony
16 that I heard. But without you making the objection at that time, what is
17 the remedy that you are seeking now?

18 MR. MUELLER: I'm actually -- specifically, I'm asking for a
19 dismissal for prosecutorial misconduct and a mistrial and a dismissal.

20 THE COURT: On both issues?

21 MR. MUELLER: On both issues.

22 THE COURT: Okay.

23 MR. MUELLER: There's the -- they've argued -- there was the
24 argument was A, not supported by the record; he clearly decided to
25 define prejudice. This poor loving father was gunned down trying to get

1 to save his daughter from a gun-crazed maniac. That's not the evidence.
2 He was chasing the independent witness. He's a 345-pound guy is
3 chasing a 130-pound guy. Chasing him. And if -- I got the statement that
4 she had here. Now, he wasn't there to go save his daughter. His
5 daughter wasn't even in the car.

6 So respectfully Judge, on both accounts, there's
7 prosecutorial misconduct sufficient to -- that a reasonable mind would
8 wonder whether the conviction would be based on inflamed prejudice or
9 a thoughtful examination of the evidence. On either count, a mistrial and
10 dismissal is appropriate.

11 THE COURT: Okay. Mr. Palal, your response to the motions
12 for mistrial?

13 MR. PALAL: Yes, Your Honor. So the -- onto the first issue. I
14 began that phrase with, the reasonable inference is the defendant does
15 not want to hear what Michaela Parker has to say. I believe that is
16 something that I am permitted to do. I'm allowed to draw reasonable
17 inferences from the evidence. And so the evidence at hand is the
18 defendant is saying he doesn't want Michaela to be there. And so I'm
19 allowed to reasonably extrapolate from that.

20 Now, if I were to say, Michaela Parker is going to say that the
21 defendant did X, Y, and Z, that of course, would be improper. I did not
22 reference -- and the content of any of her statement. I just drew the jury
23 to what I believe what the reasonable inference would be, that it would
24 be not positive because I think anybody can draw the reasonable
25 inference that if you don't want a witness to show up, it's not going to be

1 positive.

2 With regards to Brionte --

3 THE COURT: Just one second before you go the second, sir.

4 [Sidebar at 4:34 p.m., ending at 4:35 p.m., not transcribed]

5 THE COURT: Okay. Go ahead, Mr. Palal.

6 MR. PALAL: And secondly, Your Honor, and both Ms.

7 Beverly and I were attuned to the Brionte and Navaya situation because
8 the reason why that's not in the record, that you don't have is Michaela's
9 position is that Navaya was not in the vehicle. Brionte's position is that
10 Navaya was in the vehicle that showed up in the car. Brionte is the one
11 that testified and Brionte testified that Navaya was in the vehicle.

12 And so -- and Ms. Beverly and I were particularly attuned to
13 that fact because of the conflict between Michaela and Brionte's
14 recitation of their statements to police as to whether or not Navaya was
15 in the back seat of Ms. Parker's vehicle.

16 So it is our recollection that that is precisely what Brionte
17 said, was that Navaya was in the back seat of the vehicle.

18 THE COURT: Mr. Mueller, any response to the statements
19 of --

20 MR. MUELLER: Your Honor, I don't -- I don't want to get not
21 personal contest with my colleague. What was said is actually recorded.
22 I would encourage before the Court would rule to just get a playback and
23 you can hear exactly what he said. I believe he actually said Michaela
24 would say, and that's when I triggered.

25 THE COURT: Well, he said reasonable inference and I heard

1 him say that. And if you recall when we were up here at the bench,
2 that's exactly what I said is he's allowed to say a reasonable inference
3 that can be drawn based on the defendant's statements about not
4 wanting Michaela there. So the jury is absolutely allowed to draw
5 reasonable inferences as the jury instruction that instructs them.

6 MR. MUELLER: Yes, but the following sentence was
7 Michaela would say. And --

8 THE COURT: A reasonable inference of what she would say.

9 MR. MUELLER: Yes. And that's when I -- he's vouching for
10 what she would say is why I'm objecting, okay. That's when a mistrial
11 comes in.

12 THE COURT: Understood. Well, your motion is going to be
13 denied because he said the jury can draw a reasonable inference of what
14 Michaela could say and this jury is allowed pursuant to the instructions
15 and the law of the state of Nevada, to draw a reasonable inference.

16 In regard to whether or not Navaya was in the car, the State
17 has a good faith basis that the witness testified Navaya was in the car.
18 There was certainly no testimony that she wasn't in the car because if
19 that's Michaela's position, Michaela was not here to testify as to who
20 was in the car and there was no statement made that she wasn't in the
21 car.

22 So the State has a good faith basis to believe that was the
23 testimony. The jury can believe the testimony to be what they
24 remember it to be which is what I instructed them. So for the reasons,
25 the motion for mistrial is denied.

1 In regards to the exhibits. All right. State, you withdrew 245
2 through 276; however, we have located 255 which is the photo of the
3 purse. And I know that was admitted into evidence, the photo of the
4 lady's purse. Oh, that wasn't -- that was a different purse. Because there
5 was another pink purse --

6 MS. BEVERLY: [Indiscernible]

7 THE COURT: Yeah, that was admitted in -- I thought it was
8 that one. Was that ever admitted into evidence?

9 MS. BEVERLY: This was admitted, yes.

10 THE COURT: Oh, it was. Okay. I saw a different -- there's
11 another purse in evidence, right?

12 MS. BEVERLY: Yes, there's two purses. There's a small, little
13 pink purse and then there's this pink purse. Then there's this was paper.
14 This was admitted through the crime scene [indiscernible].

15 THE COURT: Okay. So would you like to mark that as 255A
16 since you withdrew 255?

17 MS. BEVERLY: Sure.

18 THE COURT: Okay. Mr. Mueller, any objection to admitted
19 that?

20 MR. MUELLER: No, Your Honor.

21 THE COURT: All right. That will be -- go back to the jury as
22 255A.

23 [State's Exhibit 255A admitted into evidence]

24 THE COURT: Because it is 4:45, I am going to send the jury
25 home. So I'm asking that you guys just hang out for a few seconds until

1 we get the jury out of here and make sure that they are out of here, so
2 they don't encounter any of you in the hallway. I'm going to send them
3 home. They're going to return tomorrow morning at 9:00 to deliberate
4 this case. And just so you guys know, I have a calendar at 8:30. I have a
5 hearing at 11. So if they do return a verdict, it would probably be after
6 my hearing when I took the verdict and then depending on the verdict,
7 then the State can make a determination as to what happens with the
8 bifurcated portion of the trial.

9 MS. BEVERLY: And just for the record, I did just now send
10 the additional instructions if we were to go forward depending on what
11 happens. Mr. Palal will make that decision once he hears what the
12 verdict is.

13 THE COURT: Okay.

14 MR. PALAL: And Your Honor, this may not surprise you. I
15 have a lot of court appearances tomorrow also, but I will be at my phone
16 ready and make myself available.

17 THE COURT: Okay. I was going to ask you guys, leave
18 numbers where you can actually be reached, not voicemails. We've had
19 attorneys leave numbers where they can receive voicemails. Because
20 we're going to call you guys when there's a verdict and let you know
21 when the Court intends to take the verdict.

22 MR. PALAL: All right. Thank you.

23 /////

24 /////

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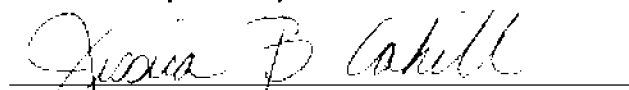
1 THE COURT: Because like if the verdict comes in at 9:30, I'm
2 going to be in the middle of my calendar, so we probably -- we might be
3 able to do it in between my calendar and my 11 o'clock. But Tess will let
4 you guys know when she calls you.

5 MS. BEVERLY: Thank you.

6 THE COURT: Okay. If you could leave your phone number --

7 [Proceedings adjourned at 4:40 p.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio-visual recording of the proceeding in the above entitled case to the
best of my ability.

23 

24 Maukele Transcribers, LLC

25 Jessica B. Cahill, Transcriber, CER/CET-708



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 JAMEL GIBBS,

12 Defendant.

CASE#: C-21-355769-1

DEPT. X

13 BEFORE THE HONORABLE TIERRA JONES
14 DISTRICT COURT JUDGE
FRIDAY, JULY 23, 2021

15 **RECORDER'S TRANSCRIPT OF JURY TRIAL**

16
17 APPEARANCES:

18 For the Plaintiff:

BINU G. PALAL, ESQ.

19 For the Defendant:

CRAIG A. MUELLER, ESQ.

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25 RECORDED BY: STACEY REY, COURT RECORDER

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Verdict4

INDEX OF EXHIBITS

FOR THE PLAINTIFF

MARKED

RECEIVED

None

FOR THE DEFENDANT

MARKED

RECEIVED

None

1 Las Vegas, Nevada, Friday, July 23, 2021

2
3 [Case called at 1:59 p.m.]

4 [Outside the presence of the jury]

5 THE COURT: Mr. Palal is here on behalf of the State. And
6 may the record reflect we are outside the presence of our jurors.

7 You guys can all be seated for now. And I just want to let
8 everybody know that we do have a verdict in this case; however, I know
9 that this is a very emotionally charged situation. Regardless of what the
10 verdict may be at this point, no one in this room knows what the verdict
11 is. Regardless of what the verdict may be, this Court will not tolerate any
12 outbursts by anyone. Anyone who has an outburst is going to be
13 arrested during the remainder of these proceedings. I just want to make
14 sure everyone understands that. If you think that this may be a little bit
15 too emotional then you will need to step outside of the courtroom
16 because we are going to maintain order in this courtroom through the
17 entirety of these proceedings.

18 All right. Teri, can you let Brian know we're ready?

19 THE MARSHAL: All rise for the jury.

20 [Jury in at 2:03 p.m.]

21 THE MARSHAL: All present and accounted for, Your Honor.

22 THE COURT: Okay. You may all be seated.

23 We are back on the record in C-355769, State of Nevada v.
24 Jamel Gibbs. May the record reflect that Mr. Gibbs is present with his
25 attorney, Deputy District Attorney Mr. Palal is here on behalf of the State.

1 Do both parties stipulate to the presence of our jurors?

2 MR. PALAL: Yes, Your Honor.

3 MR. MUELLER: Yes, Your Honor.

4 THE COURT: Ladies and Gentlemen of the jury, has the jury
5 selected a foreperson?

6 IN UNISON: Yes, Your Honor.

7 THE COURT: Okay. Is that you, Mr. Olivares?

8 JURY FOREPERSON: Yes.

9 THE COURT: Okay. Mr. Olivares, has the jury reached a
10 verdict?

11 JURY FOREPERSON: Yes, we have.

12 THE COURT: Will you please hand the verdict form to the
13 Marshal?

14 THE COURT: The Clerk will now read the verdict form out
15 loud.

16 THE CLERK: District Court, Clark County, Nevada. State of
17 Nevada, Plaintiff, v. Jamel Gibbs, Defendant, case number C355769,
18 Department 10. Verdict.

19 We the jury, in the above-entitled case, find the Defendant,
20 Jamel Gibbs, as follows:

21 Count I, murder with the use of a deadly weapon, guilty of
22 second-degree murder with use of a deadly weapon.

23 Dated this 23rd day of July, 2021. Julian Alavarez,
24 foreperson.

25 Ladies and gentlemen of the jury, is this your verdict, as

1 read?

2 JURY: Yes.

3 THE CLERK: So say you one so say you all?

4 JURY: Yes.

5 THE COURT: Does either side desire to have the jury polled?

6 MR. MUELLER: Yes, Your Honor. Defense desires to have
7 the jury polled.

8 THE COURT: Okay. Madame Clerk, if you could poll the jury.

9 THE CLERK: Julian Olivares, is this your verdict, as read?

10 JUROR NO. 1: Yes.

11 THE CLERK: Leticia Saucedo, is this your verdict, as read?

12 JUROR NO. 2: Yes.

13 THE CLERK: Eulogio Ramo, is this your verdict, as read?

14 JUROR NO. 3: Yes.

15 THE CLERK: Dominick Matteucci, is this your verdict, as

16 read?

17 JUROR NO. 4: Yes.

18 THE CLERK: April Gill, is this your verdict, as read?

19 JUROR NO. 5: Yes.

20 THE CLERK: Craig Bragg, is this your verdict, as read?

21 JUROR NO. 6: Yes.

22 THE CLERK: Brandon Rizk, is this your verdict, as read?

23 JUROR NO. 7: Yes.

24 THE CLERK: Monet Gay, is this your verdict, as read?

25 JUROR NO. 8: Yes.

1 THE CLERK: Edward Hourigan, is this your verdict, as read?

2 JUROR NO. 9: Yes.

3 THE CLERK: Robert LaRosa, is this your verdict, as read?

4 JUROR NO. 10: Yes.

5 THE CLERK: Christy Stieve, is this your verdict, as read?

6 JUROR NO. 11: Yes.

7 THE CLERK: Yolando Turner, is this your verdict, as read?

8 JUROR NO. 12: Yes.

9 THE CLERK: The jury polled.

10 THE COURT: Okay. And Ladies and Gentlemen of the jury,

11 I'm going to ask that you follow the Marshal back to the deliberation

12 room and the Court will come with further instructions for you.

13 THE MARSHAL: All rise for the jury. Ladies and gentlemen

14 of the jury, go ahead and follow me.

15 [Jury excused at 2:06 p.m.]

16 [Outside the presence of the jury]

17 THE COURT: Okay. May the record reflect we are outside

18 the presence of our jury.

19 In light of the verdict that was reached by the jury, what is

20 the parties' desire regarding Count 2?

21 MR. PALAL: The State will be voluntarily dismissing Count 2

22 of the indictment.

23 THE COURT: Okay. Count 2 will be dismissed. Mr. Mueller,

24 I'm sure you're not objecting to that?

25 MR. MUELLER: No, Your Honor.

1 THE COURT: Okay. All right.

2 MR. MUELLER: And Your Honor, at this point, pursuant to
3 statute, I'm going to ask the Court for a new trial based on the errors that
4 I complained of on behalf of Mr. Gibbs yesterday in the closing
5 statements. I know the rules require me to put it in writing. I intend to
6 do so.

7 THE COURT: Okay. Mr. Mueller, the rules do require you to
8 put it in writing so you can file any motions that you deem appropriate,
9 get them calendared and I will consider them at that time.

10 We do need to refer this matter to the Division of Parole and
11 Probation, and set it over for sentencing on --

12 THE CLERK: September 10th at 8:30.

13 MR. MUELLER: Thank you.

14 MR. PALAL: Your Honor, if I may address one more thing.
15 I'm not sure of the Defendant's status of bail, but at this point, I ask that
16 he be remanded without bail as he no longer has a presumption of
17 innocence.

18 THE COURT: Mr. Mueller?

19 MR. MUELLER: It's a moot discussion, Judge. He couldn't
20 make the original bail.

21 THE COURT: All right. The motion will be granted. He'll be
22 remanded without bail pending sentencing in this case.

23 And I will go and excuse the jury. And just so you guys
24 know, they will come out the middle area where you guys' buzz in. The
25 jury will come out there. If they desire to talk to you guys -- because now

1 with COVID, we do all of the payments electronically. So they will not be
2 going down to jury services.

3 MR. MUELLER: All right. Thank you.

4 MR. PALAL: Thank you, Your Honor.

5 MR. MUELLER: If you -- I'd like to talk with them for just a
6 brief moment if nothing else --

7 MR. PALAL: Oh, yeah. Yeah, sure.

8 MR. MUELLER: -- if nothing else, just to thank them. If you'd
9 wait for me.

10 THE COURT: Okay.

11 MR. MUELLER: Thank you.

12 THE COURT: Okay. And Mr. Mueller, do you want me to tell
13 them that you're unavailable, that you had a previous engagement?

14 MR. MUELLER: I need to -- oh, no, no, no. I want to talk with
15 him. I need to explain to Mr. Gibbs what happens next.

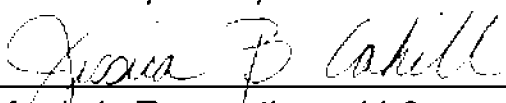
16 THE COURT: Oh, okay. And you will probably be finished by
17 the time I excuse them just so you know.

18 MR. MUELLER: All right. Thank you, Judge.

19 THE COURT: Okay.

20 [Proceedings adjourned at 2:08 p.m.]

21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio-visual recording of the proceeding in the above entitled case to the
23 best of my ability.

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Jessica B. Cahill, Transcriber, CER/CET-708

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JAMEL GIBBS,

12 Defendant.

CASE NO. C-21-355769-1
DEPT. 10

13
14 ***BEFORE THE HONORABLE CHRSTY CRAIG, DISTRICT COURT JUDGE***

15 **MONDAY, JULY 12, 2021**
16 **RECORDER'S TRANSCRIPT RE:**
17 **CALENDAE CALL**

18 **APPEARANCES:**

19 For the State:

LEAH BEVERLY, Esq.
Chief Deputy District Attorney

20
21 For Defendant:

CRAIG MUELLER, Esq.

22
23
24
25 **RECORDED BY: VICTORIA BOYD, COURT RECORDER**

1 Las Vegas, Nevada, Monday, July 12, 2021 at 9:19 a.m.

2
3 THE COURT: C355769. Mr. Gibbs is represented by Mr. Mueller. Mr. Gibbs
4 - - where is he?

5 MR. MUELLER: I know he's there. I just spoke with him at length.

6 THE COURT: Officer, can I have Mr. Gibbs please. Ms. Beverly on behalf of
7 the State.

8 There you are, hi. Thank you. There was a delay on the camera.

9 Mr. Gibbs, can you hear me?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Ms. Beverly, are you good to go?

12 MS. BEVERLY: Yes, Judge.

13 THE COURT: All right. So this is the time set for calendar call. Mr. Mueller, I
14 was inclined to send it to Central Trial Calendar Call on Wednesday at 1:30.

15 MR. MUELLER: Perfect. Defense anticipates being ready for trial pending a
16 final review of the file with Ms. Beverly.

17 THE COURT: Thank you. Ms. Beverly, is the State ready?

18 MS. BEVERLY: Judge, yes. I need to make a record of multiple things
19 though. I don't know if you want me to do that here or you want me to do that in
20 Central Trial Readiness.

21 THE COURT: Is the State ready or are you requesting a continuance?

22 MS. BEVERLY: No, Judge, we're ready but I still need to make a record of
23 several things because I am - - for post-conviction purposes I have a lot of concerns
24 about Mr. Mueller announcing ready.

25 THE COURT: Well, given that it is Judge Jones case and she's going to do

1 Central Trial Readiness I think it's probably appropriate. Ordinarily, I would do it if it
2 was in my Courtroom because I'd want to know those things, but given that it's her
3 case I think it's probably appropriate to do it at Central Trial Calendar Call because
4 that is hers.

5 MS. BEVERLY: Okay. So she will be doing the Central Trial Calendar on
6 Wednesday?

7 THE COURT: She will. She will be back and she will do that at 1:30. Is it
8 stuff that I need to hear today and make a ruling on or you just need to make a
9 record?

10 MS. BEVERLY: Well, it's both. Judge, and I don't know - - it's not necessarily
11 motion work, but I don't know if Your Honor wants me to tell you the various things.

12 THE COURT: Well, let me just ask this. Is it stuff that needs to be decided
13 prior to Wednesday? Is it going to impact the trial date or is it just making a record?

14 MS. BEVERLY: So for example one of the things is that the State is going to
15 be submitting a material witness warrant so that is number one. I can do that on
16 Wednesday. That's fine but I guess the rest of the issues I could address at Central
17 Trial Readiness. I just think it's important to lay out all the facts but I guess I can do
18 that at Central Readiness. It's not stuff that requires motion work other than I'm
19 letting the Court know that I'm going to be submitting a material witness warrant for
20 someone.

21 THE COURT: All right. Let's set this to Central Trial Calendar Call on
22 Wednesday at 1:30.

23 MR. MUELLER: Thank you, Judge. And I was going to propose to Ms.
24 Beverly that I give her a call this afternoon and see if I can get together with her
25 tomorrow and do a file review, make sure there is nothing missing.

1 THE COURT: Fine with me.

2 MS. BEVERLY: And, Judge, that's one of the things is that I have been
3 emailing Mr. Mueller for weeks about coming to get additional discovery that he has
4 not picked up. I don't even know if I can come in tomorrow for various reasons, and
5 I texted Mr. Mueller what those reasons are. So I've been sending emails and I've
6 not been getting responses to my emails so I have a concern - - very big concern
7 about that.

8 THE COURT: Mr. Mueller.

9 MR. MUELLER: I'll check and see if I've missed anything. If not I'll go pick it
10 all up.

11 THE COURT: Well, I will say, Ms. Beverly, that it's Mr. Mueller's - - if he
12 doesn't respond to your emails and hasn't picked up discovery that's on him and his
13 client. I think you can make a record of that. And if you've got a record that you've
14 reached out to him by way of email and he hasn't responded the Court can take that
15 into consideration in the event that there is something in that material that might
16 require him to request a continuance, and that is something that can be addressed
17 with Judge Jones.

18 MR. MUELLER: Thank you, Judge, and thank you, Ms. Beverly. I will double
19 check, make sure I've got everything. I was not intentionally ignoring discovery.

20 THE COURT: Thank you.

21 MS. BEVERLY: Thank you.

22 MR. MUELLER: Thank you.

23 THE COURT: So Wednesday at 1:30.

24 MR. MUELLER: Thank you, Judge. Thank you, Ms. Beverly.

25 THE COURT: Appreciate it.

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(Proceedings concluded at 9:24 a.m.)

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

Victoria W. Boyd

3-29-2022

Victoria W. Boyd
Court Recorder/Transcriber

Date



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JAMEL GIBBS,

12 Defendant.

CASE NO. C-21-355769-1
DEPT. 10

13
14 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

15 ***FRIDAY, SEPTEMBER 10, 2021***
16 ***RECORDER'S TRANSCRIPT RE:***
17 ***SENTENCING***

18 APPEARANCES:

19 For the State:

LEAH BEVERLY, Esq.
Chief Deputy District Attorney

20
21 For Defendant:

CRAIG MUELLER, Esq.

22
23
24
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, September 10, 2021 at 8:25 a.m.

2
3 THE COURT: Let's go to page 11, C355769. State of Nevada v. Jamel
4 Gibbs.

5 MR. MUELLER: Good morning, Your Honor. Craig Mueller on behalf of Mr.
6 Gibbs.

7 THE COURT: Ms. Beverly is here on behalf of the State. This is the date and
8 times set for sentencing. Are you guys ready to go forward?

9 MR. MUELLER: No, Your Honor. Defense is not - -

10 MS. BEVERLY: Yes.

11 MR. MUELLER: No, Your Honor, defense is not ready to proceed to
12 sentencing. At the end of the trial the Court may recall I made a motion for mistrial
13 based on the comments from Mr. Thunell. In his enthusiasm he was speculating on
14 what a witness who had not been called would have testified to. I then followed it up
15 as required by law with a ten-day written notice in the bottom of that paragraph or
16 that motion, I recall, that I specifically asked for a witness motion to pay for the
17 transcripts. I am on this case pro bono, basically pro bono. I did get a very
18 dramatically reduced fee for the case but the transcript costs alone will be in excess
19 of the amount of money I've been paid. I believe that a witness motion was submitted
20 for those transcripts. Having said that in preparation for today's calendar I started
21 trying to trace our motion and cannot locate. I might be open to the possibility that it
22 has not been done or got stuck with another motion. Having said that I need to read
23 those transcripts. I need to renew the motion which is my duty under law and I'm
24 not ready to proceed to sentencing.

25 Additionally, Ms. Beverly has been very diligent on behalf of the State, and

1 she always is, I received a packet of information that she wants to present to the
2 Court at sentencing. I have not had a chance to review it nor had a chance to
3 complete our sentencing memorandum for Mr. Gibbs which is underway. For those
4 variety of reasons I'm going to ask the Court to set sentencing after about 45 days.

5 THE COURT: Well, hold on. Well, first of all in regards to the witeess motion,
6 that has not been submitted to this Court. This Court has signed everything that has
7 been submitted to me that has - - I have two things waiting for my signature but
8 that's because the hearings are not until later this month so I cannot sign those
9 things, so I have not seen that so that is not prepared. When we were here back on
10 August 30th I informed Mr. Maynard that I had not received any request for any
11 transcripts as that is what it appeared the motion to be so I told him that on that
12 date, and I have not received any motion since then.

13 Ms. Beverly.

14 MS. BEVERLY: I don't know what he's talking about with renewing the
15 motion. We already had a hearing for the motion for a new trial in which the motion
16 stated no {inaudible} claims for a motion for a new trial. It was essentially a request
17 for transcripts which was denied, so I'm not sure what he's talking about in reference
18 to that. I don't know what witeess motion he's referring to because I never received
19 anything regarding - - the only motion I've ever received is the motion for a new trial
20 which I responded to and it was denied. So I don't know what other motion he's
21 talking about. And in terms of what I sent to Mr. Mueller and the Court yesterday I'm
22 not intending to present that. I'm filing it with the Court. I'm intending it to say that
23 he in fact does have gang affiliation with P&P - - the PSI said that he does not, so
24 that was the purpose of that.

25 Otherwise I do have speakers here. I am ready to proceed and I object to a

1 continuance.

2 THE COURT: Mr. Mueller, did you get notice of these speakers?

3 MR. MUELLER: No, Your Honor.

4 THE COURT: Ms. Beverly, the speaker notice was not filed until - - it was not
5 filed until yesterday. When did you send that over?

6 MS. BEVERLY: I thought my VWAC sent it before - -

7 THE COURT: It was not filed until yesterday so I mean technically with the
8 notice alone Mr. Mueller is allowed a continuance because that is his remedy for not
9 receiving notice of the speakers which he is saying he didn't, and I show that it was
10 filed yesterday on 9-9 so that would have been when the Court received it. So I'm
11 going to grant Mr. Mueller a continuance and in regards to his motion when he's
12 saying a witness motion that's a motion submitted to the Court to request the Court - -
13 the State of Nevada to pay for the transcripts so that is something he submits
14 through the Court and I can approve or deny in regards to payment of the
15 transcripts. So I am going to give Mr. Mueller a continuance.

16 Mr. Mueller, we're going to continue this matter for 30 days.

17 MR. MUELLER: Thank you, Your Honor.

18 THE COURT: October 8th at 8:30.

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20 (Proceedings concluded at 8:30 a.m.)
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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
proceedings in the above-entitled case to the best of my ability.

Victoria W. Boyd

3-29-2022

Victoria W. Boyd
Court Recorder/Transcriber

Date



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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JAMEL GIBBS,

12 Defendant.

CASE NO. C-21-355769-1
DEPT. 10

13 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

14 ***FRIDAY, MAY 21, 2021***
15 ***RECORDER'S TRANSCRIPT RE:***
16 ***HEARING***

17 APPEARANCES:

18 For the State:

19 LEAH BEVERLY, Esq.
Chief Deputy District Attorney

20
21 For Defendant:

CRAIG MUELLER, Esq.

22
23
24
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, May 21, 2021 at 8:33 a.m.

2
3 THE COURT: C355769. State of Nevada v. Jamel Gibbs.

4 MR. MUELLER: Good morning, Your Honor. Craig Mueller on behalf of Mr.
5 Gibbs.

6 THE COURT: Who is present in custody?

7 Ms. Beverly, are you here on this?

8 MS. BEVERLY: Yes, I am.

9 THE COURT: Ms. Beverly is here on behalf of the State. This was a case - -
10 Mr. Mueller, Mr. Maynard was here last time and I had assigned this case to
11 Department 12. However, this case cannot be assigned to Department 12 so I have
12 reassigned this case here so we just need to set a jury trial date.

13 MR. MUELLER: Thank you, Your Honor. I had another matter that I wanted
14 to brief with the Court. I've got a letter documenting the passing of his mother. She
15 has a memorial service on the 29th. May I approach?

16 THE COURT: Yes.

17 MR. MUELLER: In the past, Your Honor, I have seen humanitarian
18 transports. I would ask the Court to have two guards to escort Mr. Gibbs over to his
19 mother's service and immediately return him.

20 THE COURT: You have to arrange that - - you have to talk to CCDC. CCDC
21 has their own counsel. CCDC has their own Covid issues. I have no idea what the
22 status of that is.

23 MR. MUELLER: Well, Your Honor, respectfully what will happen is the
24 second I pick up the phone to talk to civil counsel at CCDC the first thing they're
25 going to say is what did you say.

1 THE COURT: Well, the thing is, Mr. Mueller, I need a written motion and the
2 State needs an opportunity to respond because Ms. Beverly is not even here and
3 Ms. Beverly has not even had a chance to see that letter. She doesn't know what it
4 says and she has the right to appear on Blue Jeans so I need a written motion from
5 you.

6 MR. MUELLER: There will be today being the 22nd - -

7 THE COURT: Today is the 21st.

8 MR. MUELLER: 21st. The funeral is in six days.

9 THE COURT: Well, the funeral is on the 29th so you can do an order
10 shortening time and get this on next Wednesday.

11 MR. MUELLER: Leah, are you going to be in the office? I'll fax this over to.

12 MS. BEVERLY: I'm sorry, is somebody not on moot - -

13 THE COURT: I need everybody on Blue Jeans to moot your microphone if
14 you're not the person who is speaking.

15 Okay. Ms. Beverly.

16 MS. BEVERLY: Yes, Judge, I didn't hear what Mr. Mueller said.

17 MR. MUELLER: I asked if you were going to be in your office this afternoon. I
18 will fax you over the documentation regarding Mr. Gibbs' mother's passing.

19 MS. BEVERLY: You can email it to me.

20 MR. MUELLER: All right. I will see to it as soon as I get back to the office.

21 THE COURT: So, Mr. Mueller, do you want to set a jury trial in this case?

22 MR. MUELLER: We can, Judge, or - - yeah, that will be fine. Let's do it that
23 way.

24 THE COURT: So your client is in an invoked status, Mr. Mueller.

25 MR. MUELLER: Yes, Judge, we're not going to waive.

1 THE COURT: All right. So what I'm going to do at this time is I'm going to set
2 your jury trial date for July 19th of 2021 at 10:30. And your calendar call date will be
3 July 12th, 2021 at 8:30.

4 MR. MUELLER: Thank you, Your Honor. We'll get the order, the motion and
5 order shortening time over to the chambers this afternoon.

6 THE COURT: All right. Thank you.

7 MS. BEVERLY: Thank you.

8
9 (Proceedings concluded at 8:36 a.m.)

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12 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
13 proceedings in the above-entitled case to the best of my ability.
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17 *Victoria W. Boyd*

3-29-2022

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Victoria W. Boyd
Court Recorder/Transcriber

Date



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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JAMEL GIBBS,

12 Defendant.

CASE NO. C-21-355769-1
DEPT. 10

13
14 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

15 ***WEDNESDAY, JULY 14, 2021***
16 ***RECORDER'S TRANSCRIPT RE:***
17 ***CENTRAL TRIAL READINESS***

18 APPEARANCES:

19 For the State:

LEAH BEVERLY, Esq.
Chief Deputy District Attorney

20
21 For Defendant:

CRAIG MUELLER, Esq.

22
23
24
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, July 14, at 2:28 a.m.

2
3 THE COURT: C355769. State of Nevada v. Jamel Gibbs.

4 MR. MUELLER: Thank you, Your Honor. Ms. Beverly, thank you for giving
5 me the additional discovery. I have it in the file. We are ready for trial.

6 THE COURT: Mr. Gibbs is present in custody. Mr. Mueller is here on his
7 behalf. Ms. Beverly is here on behalf of the State.

8 Mr. Gibbs is present in custody. Mr. Mueller is ready. Ms. Beverly, are you
9 guys ready?

10 MS. BEVERLY: Yes, Judge. I need to make a record of several things
11 though but the State is ready to go.

12 THE COURT: Okay. Go ahead.

13 MS. BEVERLY: Judge, first of all I need to make a record for post-conviction
14 purposes. Record number one, I did extend Mr. Gibbs an offer of second degree
15 murder, right to argue. I would like for him to if he's rejecting that to reject that on
16 the record at this point for purposes of post-conviction.

17 THE COURT: Mr. Mueller, have you talked to your client about that offer?

18 MR. MUELLER: Yes, I have.

19 THE COURT: Mr. Gibbs, you're aware of the second degree murder offer?

20 THE DEFENDANT: Yes.

21 THE COURT: And is it your desire to reject that offer and proceed to trial?

22 THE DEFENANT: Yes.

23 THE COURT: Okay. Ms. Beverly, go ahead.

24 MS. BEVERLY: Okay. Thank you. Record number two, I have been since
25 May the 26th of 2021 been asking that Mr. Mueller - - I have been sending him as

1 well as his associate Mr. Maynard emails requesting that they send me a jump drive
2 to put the additional discovery that I received from North Las Vegas onto a drive for
3 them. I began sending emails on May the 26th. I heard nothing from them. On
4 June the - - sorry, June the 22nd I sent them another email saying I'm requesting that
5 you - - I send the email a month ago requesting that you send me a drive to give you
6 the additional discovery, are you going to send me the drive. I then sent the
7 transcripts that I could via email, however there was still additional discovery that
8 needed to be put on a drive. I then sent another email - - I received no responses to
9 these emails. I then sent another email again on June the 22nd of 2021 saying here
10 is additional transcripts but you need to send me a drive to put the rest of the
11 discovery on. So I did not hear any response from them. I tried to make a record
12 when we were there on Monday. Mr. Mueller just sent me a drive this morning. I
13 immediately copied what I could and I turned it over - - gave it to him about 20
14 minutes ago. So I just want to make a record of that for purposes of post-conviction.
15 Also, I'm going to object strenuously if Mr. Mueller tries to object to something that is
16 legally admissible in the discovery that I just gave him saying that he didn't have
17 time. So I just want to put that on the record as well.

18 THE COURT: Okay. Mr. Mueller, it looks like you have the flash drive. Do
19 you dispute any of the representations just made by Ms. Beverly?

20 MR. MUELLER: No, Your Honor, I'm not quite sure when the practice of law
21 stopped picking up the phone but apparently that has happened so, yes, the answer
22 is we've got everything and I had an investigator to see him. We've been
23 interviewed {inaudible} prepared for the trial.

24 THE COURT: Okay. So you are acknowledging that you just received this
25 discovery flash drive from Ms. Beverly?

1 MR. MUELLER: Yes. It's an eyewitness case, Judge.

2 THE COURT: But in light of - - you received it?

3 MR. MUELLER: Yep.

4 THE COURT: You received it recently in the last 20 minutes?

5 MR. MUELLER: And I'm comfortable going to trial in the case.

6 THE COURT: All right. Ms. Beverly, he's comfortable going to trial with that
7 record being made. Anything else?

8 MS. BEVERLY: Okay. No problem, Judge. Also the last thing I need to
9 make a couple of other things. When this case was first filed the State filed its
10 normal audio, visual technology. I have two witnesses who are out of state who one
11 of them had recently had a stroke and she cannot travel. I intend to use audio,
12 visual technology to allow them to testify. If you need me to refile that notice, it was
13 already filed when the case was originally filed but I want to make a record of that
14 as well.

15 THE COURT: If it was filed and there has been no objection that will be
16 allowed.

17 MR. MUELLER: The fact that the witness has now had a stroke is news to
18 me. What witness is this counsel?

19 THE COURT: Which witness, Ms. Beverly?

20 MS. BEVERLY: Judge, it is the - - hold on one second, let me just pull up her
21 name. it is actually a mother, daughter witness pair. Their names are Ashley
22 Manfire and Jodi Kovak.

23 THE COURT: Mr. Mueller, as long as the notice has been filed and there have
24 been no objections that's going to be allowed.

25 MS. BEVERLY: Thank you.

1 THE COURT: Which one of the two of them had the stroke?

2 MS. BEVERLY: Jodi, the daughter is her caretaker.

3 MR. MUELLER: Jodi has had a stroke, understand, got it.

4 THE COURT: Anything else, Ms. Beverly?

5 MS. BEVERLY: Lastly, Judge, I do not anticipate this trial lasting very long,
6 probably three to four days. But I'm just wondering when we're going to be starting
7 because I have to be done by the 30th.

8 THE COURT: I'm about to tell you that just momentarily. How many
9 witnesses?

10 MS. BEVERLY: 8-9.

11 THE COURT: Mr. Mueller, do you have any witnesses?

12 MR. MUELLER: No, Your Honor.

13 THE COURT: All right 8-9 witness, three to four days. I'm in trial right now so
14 this trial cannot start until Tuesday because I'm not going to close in the case I'm in
15 trial on right now until Monday. So you guys are starting Tuesday morning at 10:00
16 a.m.

17 MR. MUELLER: Tuesday at 10:00. Thank you.

18 MS. BEVERLY: Thank you so much.

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20 (Proceedings concluded at 2:34 p.m.)

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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
proceedings in the above-entitled case to the best of my ability.

Victoria W. Boyd

3-29-2022

Victoria W. Boyd
Court Recorder/Transcriber

Date



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JAMEL GIBBS,

12 Defendant.

CASE NO. C-21-355769-1
DEPT. 10

13 ***BEFORE THE HONORABLE NANCY BECKER, SENIOR DISTRICT COURT JUDGE***

14 ***WEDNESDAY, JUNE 2, 2021***
15 ***RECORDER'S TRANSCRIPT RE:***
16 ***HEARING***

17 **APPEARANCES:**

18 For the State:

19 BINU PALAL, Esq.
Chief Deputy District Attorney

20
21 For Defendant:

JAY MAYNARD, Esq.

22
23
24
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, June 2, 2021 at 10:13 a.m.

2
3 THE COURT: State of Nevada v. Jamel Gibbs. This was on calendar with an
4 order shortening time but didn't reach us, Mr. Gibbs. Mr. Gibbs is present in custody
5 and for the State we have - -

6 MR. PALAL: Binu Palal, 10178.

7 THE COURT: And in the Courtroom we have?

8 MR. MAYNARD: Jay Maynard, Bar Number 14738 with Mueller & Associates
9 representing Mr. Gibbs.

10 THE COURT: So the order shortening time unfortunately did not get signed
11 and filed in time to have this on calendar for your mother's funeral, which I assume
12 did take place over the weekend, is that correct, counsel?

13 MR. MAYNARD: That is our understanding, Your Honor.

14 THE COURT: So the motion to attend the services is obviously moot at this
15 point in time. Mr. Gibbs, I'm sorry that we couldn't process it in a manner for you to
16 attend your mother's funeral. If the request would have been granted - - there is no
17 guaranty it would given the nature of the charges, however it simply did not get on
18 the calendar because it came in too late. So that motion is moot at this point in time
19 and the next date is the calendar call which is set for July 12th, 2021,

20 MR. MAYNARD: Thank you.

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22 (Proceedings concluded at 10:15 a.m.)
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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
proceedings in the above-entitled case to the best of my ability.

Victoria W. Boyd

3-29-2022

Victoria W. Boyd
Court Recorder/Transcriber

Date



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JAMEL GIBBS,

12 Defendant.

CASE NO. C-21-355769-1
DEPT. 10

13
14 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

15 ***MONDAY, AUGUST 30, 2021***
16 ***RECORDER'S TRANSCRIPT RE:***
17 ***DEFENSE MOTION FOR A NEW TRIAL***

18 APPEARANCES:

19 For the State:

LEAH BEVERLY, Esq.
Chief Deputy District Attorney

20
21 For Defendant:

JAY MAYNARD, Esq.

22
23
24
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Monday, August 30, 2021 at 8:28 a.m.

2
3 THE COURT: C355769. State of Nevada v. Jamel Gibbs. May the record
4 reflect that Mr. Gibbs is present in custody. Mr. Maynard is here on his behalf.

5 Ms. Beverly, are you here on this?

6 MS. BEVERLY: I am.

7 THE COURT: Ms. Beverly is here on behalf of the State. This is the date and
8 time set for the defense motion for a new trial.

9 Mr. Maynard, I have no idea what your issue is because you guys didn't put
10 anything in the motion. The motion appears to be somewhat of a request for
11 transcript but you guys didn't file an order requesting the transcripts, so I don't know
12 what it is that you want so I can't grant your motion in its current because there is
13 absolutely no basis for granting a new trial. If you guys want transcripts you guys
14 need to submit your request and submit your order in the ordinary course like we
15 always do.

16 MR. MAYNARD: Absolutely, Your Honor. I would have thought we would
17 have already done that. In that we have not received them yet I was actually just - -

18 THE COURT: You didn't request them. That's why you haven't received
19 them. We don't prepare them until we get a request.

20 MR. MAYNARD: That would be an exceedingly good reason for not receiving
21 them.

22 THE COURT: Yeah, so your motion is going to be denied at this point as you
23 motion makes no cognizable arguments for a new trial. If you guys want transcripts
24 you can prepare an order.

25 MR. MAYNARD: Absolutely, we will prepare an order. Is there any way we

1 can continue the motion just so that it doesn't - -

2 THE COURT: Well, the motion has no cognizable claims. You can't do a
3 motion for a new trial to request transcripts. That's not how it works, and there is
4 nothing in here saying that anything happened in this jury trial that would warrant a
5 new trial. There is nothing in here about what even happened at the jury trial so
6 your motion is going to be denied at this time. If you want the transcripts then you
7 guys can litigate the remainder of this case however you see fit.

8 MR. MAYNARD: Okay.

9 THE COURT: All right. Thank you.

10 MS. BEVERLY: Thank you.

11 MR. MAYNARD: have a good day.

12 THE COURT: You too.

13
14 (Proceedings concluded at 8:30 a.m.)

15
16 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
17 proceedings in the above-entitled case to the best of my ability.
18
19

20 *Victoria W. Boyd*

21 3-29-2022

22 _____
23 Victoria W. Boyd
24 Court Recorder/Transcriber

25 _____
Date

DOCUMENTARY EXHIBITS

Grand Jury Case # 19B6J287X

Exhibit # 1

Date 5-5-21

1 **IND**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565

5 LEAH BEVERLY
6 Chief Deputy District Attorney
7 Nevada Bar #12556
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JAMEL GIBBS, aka,
13 Jamel Jacqkey Gibbs,
14 #2662590

14 Defendant.

CASE NO:

DEPT NO:

INDICTMENT

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

17 The Defendant above named, JAMEL GIBBS, aka, Jamel Jacqkey Gibbs, accused by
18 the Clark County Grand Jury of the crime(s) of MURDER WITH USE OF A DEADLY
19 WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001) and
20 OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B
21 Felony - NRS 202.360 - NOC 51460), committed at and within the County of Clark, State of
22 Nevada, on or about the 3rd day of March, 2021, as follows:

23 COUNT 1- MURDER WITH USE OF A DEADLY WEAPON

24 did willfully, unlawfully, feloniously and with malice aforethought, kill JAYLON
25 TIFFITH, a human being, with use of a deadly weapon, to wit: a firearm, by shooting into the
26 body of the said JAYLON TIFFITH with said firearm, the said killing having been willful,
27 deliberate and premeditated.

28 //

1 COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

2 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
3 his custody or control, a firearm, to wit: a firearm, the Defendant being a convicted felon,
4 having in 2010, been convicted of Attempt Murder with Deadly Weapon With Intent to
5 Promote Further or Assisted a Criminal Gang, in Case No. C256470, in the Eighth Judicial
6 District Court, Clark County, a felony under the laws of the State of Nevada.

7
8 DATED this ____ day of May, 2021.

9 STEVEN B. WOLFSON
10 Clark County District Attorney
Nevada Bar #001565

11
12 BY

13 LEAH BEVERLY
14 Chief Deputy District Attorney
Nevada Bar #12556

15
16
17 ENDORSEMENT: A True Bill

18
19
20 _____
Foreperson, Clark County Grand Jury

1 Names of Witnesses and testifying before the Grand Jury:

2
3 Additional Witnesses known to the District Attorney at time of filing the Indictment:

4 CUSTODIAN OF RECORDS - CCDC

5 CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

6 CUSTODIAN OF RECORDS - LVMPD RECORDS
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26 19BGJ287X/21CRN000371/mcb-GJ
27 NLVPD EV# 2103697
28 (TK)

Grand Jury Case # 19B6J287X

Exhibit # 2

Date 5-5-21

GRAND JURY INSTRUCTIONS:

MURDER WITH DEADLY WEAPON:

Murder is the unlawful killing of a human being, with malice aforethought, either express or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned.

Malice aforethought means the intentional doing of a wrongful act without legal cause or excuse or what the law considers adequate provocation. The condition of mind described as malice aforethought may arise, from anger, hatred, revenge or from particular ill will, spite or grudge toward the person killed. It may also arise from any unjustifiable or unlawful motive or purpose to injure another, proceeding from a heart fatally bent on mischief, or with reckless disregard of consequences and social duty. Malice aforethought does not imply deliberation or the lapse of any considerable time between the malicious intention to injure another and the actual execution of the intent but denotes an unlawful purpose and design as opposed to accident and mischance.

Express malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

Murder of the first degree is murder which is perpetrated by means of any kind of willful, deliberate, and premeditated killing. All three elements – willfulness, deliberation, and

premeditation – must be proven beyond a reasonable doubt before an accused can be convicted of first-degree murder

Willfulness is the intent to kill. There need be no appreciable space of time between formation of the intent to kill and the act of killing

Deliberation is the process of determining upon a course of action to kill as a result of thought, including weighing the reasons for and against the action and considering the consequences of the actions

A deliberate determination may be arrived at in a short period of time. But in all cases the determination must not be formed in passion, or if formed in passion, it must be carried out after there has been time for the passion to subside and deliberation to occur. A mere unconsidered and rash impulse is not deliberate, even though it includes the intent to kill.

Premeditation is a design, a determination to kill, distinctly formed in the mind by the time of the killing.

Premeditation need not be for a day, an hour, or even a minute. It may be as instantaneous as successive thoughts of the mind. For if the jury believes from the evidence that the act constituting the killing has been preceded by and has been the result of premeditation, no matter how rapidly the act follows the premeditation, it is premeditated.

The law does not undertake to measure in units of time the length of the period during which the thought must be pondered before it can ripen into an intent to kill which is truly deliberate and premeditated. The time will vary with different individuals and under varying circumstances.

The true test is not the duration of time, but rather the extent of the reflection. A cold, calculated judgment and decision may be arrived at in a short period of time, but a mere unconsidered and rash impulse, even though it includes an intent to kill, is not deliberation and premeditation as will fix an unlawful killing as murder of the first degree

The prosecution is not required to present direct evidence of a defendant's state of mind as it existed during the commission of a crime. The jury may infer the existence of a particular state of mind of a party or a witness from the circumstances disclosed by the evidence

All murder which is not Murder of the First Degree is Murder of the Second Degree. Murder of the Second Degree is murder with malice aforethought, but without the admixture of premeditation and deliberation.

Manslaughter is the unlawful killing of a human being without malice express or implied and without any mixture of deliberation. It is not divided into degrees but is of two kinds, namely, Voluntary Manslaughter and Involuntary Manslaughter

Voluntary Manslaughter is the unlawful killing of a human being, without malice aforethought and without deliberation or premeditation. It is a killing upon a sudden quarrel or heat of passion, caused by a provocation sufficient to make the passion irresistible.

The provocation required for Voluntary Manslaughter must either consist of a serious and highly provoking injury inflicted upon the person killing, sufficient to excite an irresistible passion in a reasonable person, or an attempt by the person killed to commit a serious personal injury on the person killing.

For the sudden, violent impulse of passion to be irresistible resulting in a killing, which is Voluntary Manslaughter, there must not have been an interval between the assault or provocation and the killing sufficient for the voice of reason and humanity to be heard; for, if there should appear to have been sufficient time for a cool head to prevail and the voice of reason to be heard, the killing shall be attributed to deliberate revenge and determined by you to be murder. The law assigns no fixed period of time for such an interval but leaves its determination to the jury under the facts and circumstances of the case.

The heat of passion which will reduce a homicide to Voluntary Manslaughter must be such an irresistible passion as naturally would be aroused in the mind of an ordinarily reasonable person in the same circumstances. A defendant is not permitted to set up his own standard of conduct and to justify or excuse himself because his passions were aroused unless the circumstances in which he was placed and the facts that confronted him were such as also would have aroused the irresistible passion of the ordinarily reasonable man if likewise situated. The basic inquiry is whether or not, at the time of the killing, the reason of the accused was obscured or disturbed by passion to such an extent as would cause the ordinarily reasonable person of average disposition to act rashly and without deliberation and reflection and from such passion rather than from judgment.

With regard to Voluntary Manslaughter, whether the interval between the provocation and the killing is sufficient for the passions of a reasonable person to cool is not measured exclusively by any precise time. What constitutes a sufficient cooling off period also depends upon the magnitude of the provocation and the degree to which passions are aroused

DEADLY WEAPON:

A "deadly weapon" is:

- 1) any instrument, which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death; or
- 2) any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or
- 3) a pistol, revolver, or other firearm; or
- 4) a pneumatic gun.

OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

A person who has been convicted of a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless he has received a pardon and the pardon does not restrict his right to bear arms, shall not own or have in his possession or under his custody or control any firearm. Neither the concealment of the firearm nor the carrying of the weapon are necessary elements of the offense.

"Firearm" includes any firearm that is loaded or unloaded and operable or inoperable.

Evidence of defendant's prior felony conviction was received and must be considered by you only for the limited purpose to show that he is a felon.

You are not permitted to consider evidence of defendant's felony conviction for any other purpose.

Grand Jury Case # 19BGJ287X

Exhibit # 3

Date 5-5-21

JOC

2010 SEP -1 P 1:25

Chen H. L. Linn
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C256470

-vs-

DEPT. NO. III

JAMEL GIBBS
aka Jamel J. Gibbs
#2662590

Defendant.

08C256470
JOC
Judgment of Conviction
916122



JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
- ATTEMPT MURDER WITH USE OF A DEADLY WEAPON AND WITH THE INTENT
TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG (Category B Felony) in
violation of NRS 200.010, 200.030, 193.330, 193.165, 193.168, 193.169; COUNT 2 -
ATTEMPT MURDER WITH USE OF A DEADLY WEAPON AND WITH THE INTENT
TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG (Category B Felony) in
violation of NRS 200.010, 200.030, 193.330, 193.165, 193.168, 193.169; COUNT 3 -
ATTEMPT MURDER WITH USE OF A DEADLY WEAPON AND WITH THE INTENT
TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG (Category B Felony) in

1 violation of NRS 200.010, 200.030, 193.330, 193.165, 193.168, 193.169; COUNT 4 –
2 ATTEMPT MURDER WITH USE OF A DEADLY WEAPON AND WITH THE INTENT
3 TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG (Category B Felony) in
4 violation of NRS 200.010, 200.030, 193.330, 193.165, 193.168, 193.169; COUNT 5 –
5 ASSAULT WITH A DEADLY WEAPON AND WITH THE INTENT TO PROMOTE,
6 FURTHER OR ASSIST A CRIMINAL GANG (Category B Felony) in violation of NRS
7 200.471, 193.168, 193.169, COUNT 6 – ASSAULT WITH A DEADLY WEAPON AND
8 WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG
9 (Category B Felony) in violation of NRS 200.471, 193.168, 193.169; and the matter
10 having been tried before a jury and the Defendant having been found guilty of the
11 crimes of COUNT 1 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON AND
12 WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG
13 (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165, 193.168,
14 193.169; COUNT 2 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON AND
15 WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG
16 (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165, 193.168,
17 193.169; COUNT 3 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON AND
18 WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG
19 (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165, 193.168,
20 193.169; COUNT 4 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON AND
21 WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG
22 (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165, 193.168,
23 193.169; COUNT 5 – ASSAULT WITH A DEADLY WEAPON AND WITH THE INTENT
24 TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG (Category B Felony) in
25
26
27
28

1 violation of NRS 200.471, 193.168, 193.169, COUNT 6 – ASSAULT WITH A DEADLY
2 WEAPON AND WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A
3 CRIMINAL GANG (Category B Felony) in violation of NRS 200.471, 193.168, 193.169;
4 thereafter, on the 26th day of August, 2010, the Defendant was present in court for
5 sentencing with his counsel, JEANNIE HUA, ESQ., and good cause appearing,
6

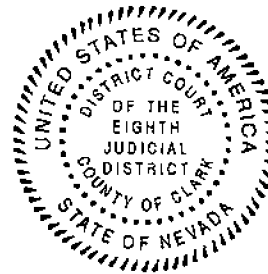
7 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
8 addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis Fee
9 including testing to determine genetic markers and a \$750.00 Indigent Defense Civil
10 Assessment Fee, the Defendant is SENTENCED to the Nevada Department of
11 Corrections (NDC) as follows: AS TO COUNT 1 - TO A MAXIMUM of ONE HUNDRED
12 TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36)
13 MONTHS plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS
14 MAXIMUM with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS for the
15 Use of a Deadly Weapon; AS TO COUNT 2 - TO A MAXIMUM of ONE HUNDRED
16 TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36)
17 MONTHS plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS
18 MAXIMUM with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS for the
19 Use of a Deadly Weapon, COUNT 2 to run CONCURRENT with COUNT 1; AS TO
20 COUNT 3 - TO A MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a
21 MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS plus a CONSECUTIVE term
22 of ONE HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM parole
23 eligibility of TWENTY-FOUR (24) MONTHS for the Use of a Deadly Weapon, COUNT 3
24 to run CONCURRENT with COUNTS 1 & 2; AS TO COUNT 4 – TO A MAXIMUM of
25 ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of
26
27
28

1 THIRTY-SIX (36) MONTHS plus a CONSECUTIVE term of ONE HUNDRED TWENTY
2 (120) MONTHS MAXIMUM with a MINIMUM parole eligibility of TWENTY-FOUR (24)
3 MONTHS for the Use of a Deadly Weapon, COUNT 4 to run CONCURRENT with
4 COUNTS 1, 2 & 3; AS TO COUNTS 5 & 6 -- ADJUDICATION WITHHELD; with FOUR
5 HUNDRED TEN (410) DAYS credit for time served.
6

7
8 DATED this 30th day of August, 2010.
9

10
11 
12 DOUGLAS W. HERNDON
13 DISTRICT JUDGE 
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April 6, 2021



CERTIFIED COPY
ELECTRONIC SEAL (NRS 1.190(3))

Juror # 9

Ed Hourigan

① How much time passed from dropping Naveah off to returning to pass ~~p~~ attempting to pass phone through gate?

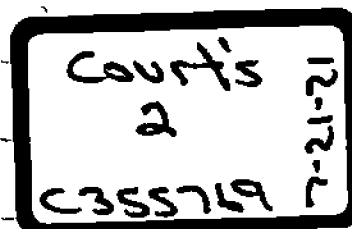
② How much time passed from leaving gate area to going to main gate?

③ Who's idea to move from side gate off road to main driveway?

She (Ms. Terrell) mentioned a fight on
~~the~~ facebook when Makayla was
throwing rocks - what fight? She said
she didn't know Makayla before that
day.

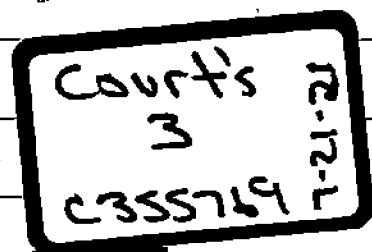
I thought I heard
Ms. Terrell said Makayla mentioned
a facebook fight when throwing rocks -
but said she didn't know Makayla -
what facebook fight is Ms. Terrell
talking about?

April Gill
#5



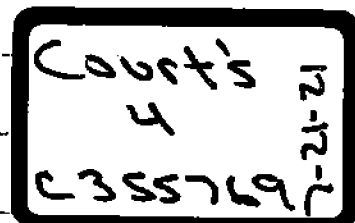
Monet Gay
090

Dick Gibbs grab you
with both hands to
get you off of Mimi
while the gun was
still in his hand?



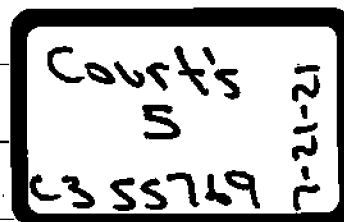
What was the witnesses
motivation for getting
out of the car?

#10



Mikaela Bayardi #14

Did Michaela know who
Brionta was prior to march
3rd?



① THE WITNESS 1ST SAID MR GIBBS, WENT
Back to car and got the gun -

② THEN SAID CAME OUT WAVING THE GUN

③ WHY ~~WERE~~ WAS THERE A CONFRONTATION
when they didn't know each other?

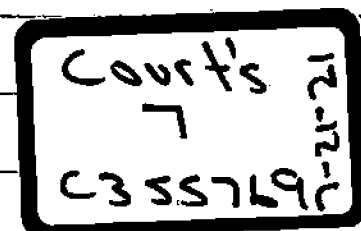
Donna Mottin

00215

Gray

K 6

what happen between the
time they were on the ground
and then they were standing by
the car



#12

Did you ever comment ~~of~~ on
any of the Face book postings

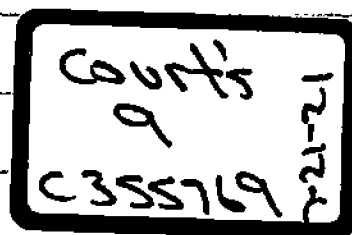
Court's
8
C355769

Monet 090

Did you not say
that he was

waving the gun
with his left
hand while

you and Mini
were brawling?



Who opened the car
door when the
witness was pulled out?

#10

10

Court's
10
C355769 12-21-21

More 090

How did
the victims body
get in front of
the keypad
when Gibbos car
was parked
in front of
the keypad
after the
shot was
heard

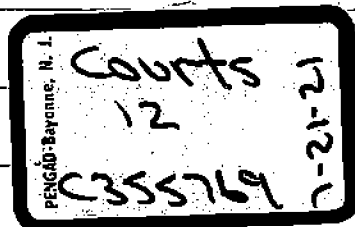
Court's
" 2-2-2
C355769

How far away ~~at~~ was she from
Car B?

where there any shells recovered?

D. M. O. H.
00 ~~00~~

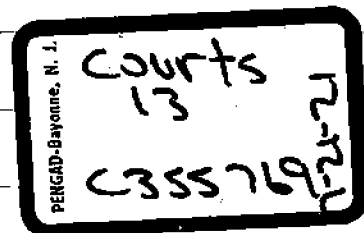
Question #2
not asked as
witness cannot
answer.



Jura #11' Rusty Stone

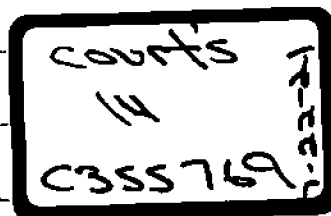
Did both men come around the
front of the car?

Was the car door blocked by
the keypad?



#14 mikaela Bayardi

Was micheala Parker's cell phone
also tracked? If so, was
it also turned off on 3/4 or 3/8?



DID SHELL CASING FROM VICTIM match shells
IN Magazine found: or rpt

D. Mother

0045

Count's
15
C355769
12-22-77

PEREMPTORY CHALLENGES

CASE NUMBER: C355769

TRIAL DATE: 07/20/21

THE STATE OF NEVADA v. JAMEL GIBBS
PLAINTIFF DEFENDANT

COUNSEL FOR PLAINTIFF: B. PALAL, L. BEVERLY

COUNSEL FOR DEFENDANT: : C. MUELLER

PLAINTIFF:

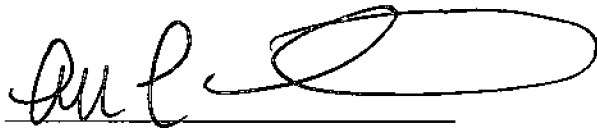
1. 049-HAASE
2. 061-HANES
3. 222-HARRIS
4. 254-JOHNSON
5. 181-GAMBIE-BROWN
6. 082-CAPPERA
7. 047-MENDOZA
8. 109-GUENTHER

DEFENDANT:

1. 062 BITBERA
2. 285 - Pineda
3. 057 - Grey
4. 139 - JOHNSON
5. 103^{CO} Nuygen - 98
6. 214 Orozo - Hamsaw
7. 260 Herman
8. 147 Aldridge

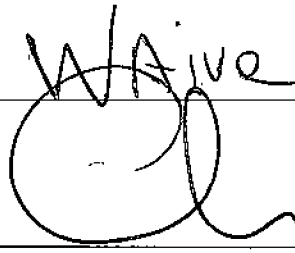
ALTERNATES

1. 197-Fishman



Signature - Counsel for Plaintiff

1. Waive



Signature - Counsel for Defendant

MARKED FOR IDENTIFICATION
PROPOSED EXHIBIT

A
Case No.

Case # 2103036 3667

NORTH LAS VEGAS POLICE DEPARTMENT
VOLUNTARY STATEMENT

Name: <u>OPEN MURDER</u>	Location: <u>3940 SCOTT ROBINSON</u>
Date: <u>Brian Terrell</u>	D.O.B. <u>02/30/97</u> SSN <u></u>
Address: <u></u>	
LE/State: <u></u>	PL <u>5.2</u> HA <u>130</u> Hair <u>BLK</u> Eyes <u>BRN</u>
Cell #: <u></u>	Home #: <u></u>
Employer: <u></u>	Work #: <u></u>
Facebook: <u></u>	Twitter: <u></u>
MAIL address: <u></u>	

Details: We came only to drop off Kevin (Kevin's daughter) after she had been dropped off. We noticed he still had her phone so we turned back around within 5 mins of nothing. We (Kevin and I) stopped at the front gate of Mimi (Kevin's) apartment when we seen Mimi, Kevin and her boyfriend (husband) coming out of the apartment (we didn't see) they turned at then back into the apartment driving at the front gate along with U.S. Kevin got out to hand over the phone but Mimi got out the car saying to fight Kevin's husband and myself. Kevin tried stopping her time from time. One then opened the front car door and Kevin was at the car. Mimi and I began to fuse. Kevin again tried to stop her & he turned around and a gun shot was fired. I tried getting in both in the car not noticing that Kevin was already shot and the shooter left.

(necessarily, continue detail narrative on reverse side.)

I have read this statement consisting of 1 pages and affirm to the truth and accuracy of the facts contained herein. This statement was completed at (location):

Date and time of statement: 9:00 PM

Name of person writing statement if different from above:

[Signature]
Officer Signature

[Signature]
Signature of Person Giving Statement

120.137 (Rev. 10/2014)

GIBBS 21CRN000371 202110694C 4-8-2021 093

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
478 - 488
WILL FOLLOW VIA
U.S. MAIL**

**PLEADING
CONTINUES
IN NEXT
VOLUME**